

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MISC. APPLICATION NO: 142 OF 2014

S W1ST PETITIONER

J H.....2ND PETITIONER

VERSUS

C H.....RESPONDENT

RULING

1. The application I am called upon to determine is dated 31st July 2014. It seeks that the petitioners be appointed interim guardians of the patient pending the hearing and determination of the application.
2. I note that the application is interlocutory; for it filed within a cause commenced by way of petition. The petition is dated 31st July 2014. It seeks substantial orders that the patient be declared to be a person suffering from mental disorder, and that the petitioners be appointed as guardians jointly and personally of the patient. They also seek that the respondent be barred from interfering with anybody that the petitioner's decide to use in taking care of the patient.
3. I note that both the Motion and the petition are not signed. All there is an endorsement, not at the body application, but in the column indicating the person who drew and filed the motion and the petition. The executed of pleading is of crucial importance. It authenticates the pleading and gives effect to it for want it purports to be.
4. The main prayer in the Motion, that is to say Prayer 2, seeks the appointment of the petitioners as interim guardians "pending the determination of this application." "This application" refers to the interlocutory Motion dated 31st July 2014. The said Motion was argued inter parties on 14th August 2014. This ruling will finally determine the said application. The main prayer is vague. Even if I were to grant the ensuing order would be useless for the application will be spent once the final orders are made at the end of this ruling.
5. From what I have stated so far it is clear that the Motion dated 31st July 2014 is misconceived. It is available for dismissal and I do hereby dismiss it with costs.

DATED, SIGNED and DELIVERED at NAIROBI this 30th DAY OF January 2015.

W. MUSYOKA

JUDGE