

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

PETITION NO.39 OF 2015

IN THE MATTER OF THE MENTAL HEALTH ACT CAP 248 LAWS OF KENYA

AND

IN THE MATTER OF P M M (THE SUBJECT)

RULING

I have considered the application before me. In essence the applicant seeks to be appointed as the Guardian of P M M. I have read the affidavit filed together with counsels oral submissions in court. The subject is said to have been diagnosed with a mental illness and that her condition has deteriorated and that she lives with the applicant. It is averred that there is a power of attorney allegedly signed by the subject donating general powers to E N M, the subject's daughter, I note that the said E N M was not served with the application. The applicant claims that monies have been withdrawn and that the subject's daughter has title documents and that the property can be disposed of.

I understand the applicant's fears, however, there is a party who must be made aware of what is happening in court that is E N M. The applicant has not sought an injunction to restrain the said E N M from mismanaging the subject's properties or bank accounts. E must be served with the application so that she can respond to the applicant's request to be made a guardian. I therefore decline to grant the orders sought. No orders as to costs.

It is so ordered.

Dated, signed and delivered this *22nd* Day of *April* 2015.

R. E OUGO

JUDGE

In the presence of:

.....*The Applicant*

.....*Court Clerk*