



REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Miscellaneous Application 92 of 2013

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

IN THE MATTER OF ANTONY MWANGI KAMAU

BANCY WANJIRU KAGUCHIAPETITIONER

RULING

1. I have read the application by **chamber summons dated 6th February 2013** (made under **section 26 (1) (a) & (b)** and **section 28 of the Mental Health Act, Cap 248**) and supporting affidavit (sworn by the Petitioner) filed with the application.
2. I have also read the additional affidavits filed herein on 13th February 2012 as follows -
 - (i) By DOUGLAS MWANGI NG'ANG'A – an uncle of the Subject.
 - (ii) By FLORENCE JACKLINE WANJIRU IRUNGU – an elder sister of the Subject.
 - (iii) By JAMES MAINA KAMAU – an elder brother of the Subject.
3. The Petitioner, BANCY WANJIRU KAGUCHIA, is the wife of the **Subject**, ANTHONY MWANGI KAMAU.
4. There are two medical reports annexed to the Petitioner's aforesaid affidavit. The first one dated 9th January 2012 (by DR. OPIYO O. ANSELMY) while the second one is dated 6th February 2012 (by a DR AUSTINE O). The second medical report, apart from not disclosing the full name of the doctor who made it, is not of much use. It states merely that the Subject "is a patient at our facility currently undergoing treatment". It does not disclose what the treatment is for.
5. The first medical report by Dr. Opiyo Anselmy is useful. It states that the Subject **"has been undergoing treatment for Brain Cancer (Anaplastic Oligodendroglioma) since June 2010. His condition has since deteriorated and (he) is now bed-ridden such that he cannot present himself in person for financial transactions"**.
6. The additional affidavits already referred to all attest to the Subject's serious medical condition.
7. In the circumstances and upon the material now before the court, I am satisfied that the Subject is incapable of taking care of himself or his affairs on account of his serious illness. In the event I hereby grant the application and appoint the Petitioner, BANCY WANJIRU KAGUCHIA, to be the manager of the Estate of ANTHONY MWANGI KAMAU, with power to-

- (a) Operate his **Co-operative Bank, Moi Avenue Branch A/C No 01116121838900** and sign all necessary documents, including cheques, withdrawal slips or other documents to facilitate withdrawal of funds from the account for purposes of treatment and maintenance of the Subject.
- (b) Generally take care of the estate of the Subject.
8. There will be orders accordingly.

DATED AND SIGNED AT NAIROBI THIS 14TH DAY OF FEBRUARY 2013

H. P. G. WAWERU

JUDGE

DELIVERED AT NAIROBI THIS 15TH DAY OF FEBRUARY 2013