



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MILIMANI
MISCELLENOUS CAUSE 107 OF 2012

PARESH JESANG SHAH.....PETITIONER

VERSUS

NEEL PARESH SHAH.....RESPONDENT

JUDGMENT

The petition placed before me is dated 24th August 2012. It seeks the appointment of the petitioner as the manager of the estate or affairs of the respondent, The petition is premised on **Section 26** of the Mental Health Act, Cap 248, Laws of Kenya.

Section 26 provides:-

“(1) The court may make orders

(a) for the management of the estate of any person suffering mental disorder; and

(b) for guardianship of any person suffering from mental disorder by any near relative or by any other suitable person”.

For orders to be made under **Section 26** of the Mental Health Act, it must be demonstrated that the

subject of the proceedings suffers from mental disorder which is so severe as to require that the person or his affairs be managed by another person.

From the material before me, it would appear that the respondent is a young adult born in 1986. He is not married and does not have children. He owns several assets, principally money sitting in named bank accounts and shares in named companies. He quite clearly has an estate requiring management.

There are medical records before me which show his mental disorder status. The medical report by Dr. Juzar Hooker, a neurologist at Kenyatta Hospital, is dated 9th October 2011. It shows that the subject suffered aneurismal subarachnoid hemorrhage which presented as prolonged status epilepticus. The other medical report is by Dr. J.J. Labuschagne, a neurosurgeon at Unitas Hospital, Centurion, South Africa, dated 23rd January 2012. It reveals that the subject had an anterior choroidal artery aneurysm, which was treated by a procedure which was successful. He however remained in a permanent vegetative state. He could open his eyes and was aware of his environment but could not perform any meaningful tasks. He is bed bound and therefore in need of constant supervision, and requiring PEG feeding and indwelling urinary catheter. He concludes that the patient's recovery would be very slow and that he will need lifelong care. These two reports are conclusive that the subject suffers from mental disorder of such degree as to require that he and his affairs be managed by others.

I am therefore satisfied that all the prerequisites for appointment of a manager and guardian of the subject and his affairs under **Section 26** of the Mental Health Act have been met. I hereby appoint the petitioner manager of the estate of the respondent as well as the guardian of the said respondent until such time that the said respondent is able to manage himself and his estate. I also allow the petition in term of prayers (b) and (c).

DATED, SIGNED and DELIVERED AT NAIROBI THIS 27th DAY OF June 2013.

W.M. Musyoka

JUDGE