

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Miscellaneous Application 623 of 2012

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

IN THE MATTER OF R.S.L

(A PERSONS SUFFERING FROM A MENTAL DISORDER OR INCAPACITY); AND

IN THE MATTER OF AN APPLICATION BY J.L. L

TO BE APPOINTED MANAGER OF THE AFFAIRS AND ESTATE OF THE SAID R.S.L

R U L I N G

1. The **Subject** of these proceedings is one **R.S.L**, a person said to be suffering from a mental disorder or incapacity. The proceedings are an application under **section 26(3)** of the **Mental Health Act, Cap 248 (the Act)**. The Applicant, **J.L.L**, is the Subject's husband. He seeks an order to appoint him the Manager of the affairs and estate of the Subject.
2. I have read the application and the supporting affidavit sworn by the Applicant. To that affidavit are annexed various documents, including a **medical report dated 26th April 2012** issued by the HENNEPIN COUNTY MEDICAL CENTER, MINNEAPOLIS, UNITED STATES OF AMERICA.
3. It appears that when the Subject travelled to the United States of America in the year 2000 to see her children who were then living there, she fell ill with **dementia** and **other serious conditions**. She was admitted in hospital and thereafter to a nursing facility, and has been under care for the last 12 years to date. There appears to be no hope of recovery, and she is unable to travel back to Kenya.
4. While in the United States the Subject is under the legal guardianship of one of her daughters.
5. The Applicant and the Subject have five (5) children, all adults. Four of them reside in the United States. They have all sworn affidavits giving consent to the application. The fifth child, who is actually the first-born, **R.L**, is resident in Kenya. She attended court at the hearing of this application and orally gave her consent to the application.
6. I am satisfied from the material before the court that for the last 12 years the Subject has suffered from dementia and other serious medical conditions that render her incapable of taking care of herself or her affairs. For those 12 years she has been outside this country undergoing treatment and nursing care in the United States of America. There are no prospects of a cure or of her returning to Kenya any time soon. The Subject has assets, either held singularly or jointly with her husband, in Kenya.
7. The order sought by her husband, the Applicant, is necessary for the protection of family assets and better management of family affairs.
8. I will in the circumstances allow the application and appoint the Applicant to be the Manager of all the affairs and estate of R.S.L in Kenya. There will be nor order as to costs of this application. It is so ordered.

DATED AT NAIROBI THIS 13TH DAY OF DECEMBER 2012

H.P.G. WAWERU
JUDGE

DELIVERED AT NAIROBI THIS 14TH DAY OF DECEMBER 2012