



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KITALE**  
**Miscellaneous Application 85 of 2009**

**IN THE MATTER OF THE MENTAL HEALTH ACT**  
**IN THE MATTER OF E.M.M ALLEGED TO BE OF UNSOUND MIND**  
**AND**  
**E.M.M...2.....APPLICANT**

**R U L I N G**

By a petition dated 25<sup>th</sup> November, 2009, the petitioner, **E. M.M 2** seeks orders that he be appointed as guardian of the said **E.M.M's** person and/or managing his property.

The ground on which the petition is based is that E.M.M is a person of unsound mind within the meaning of the Mental Health Act. In addition he is a middle aged man of 54 years and suffers from neurological complications leading to right hemiplegia for the last two (2) years and as a consequence thereof became of unsound mind since April 2009.

The application is supported by the annexed affidavit of E. M.M 2 sworn on the 25<sup>th</sup> day of November 2009. The thrust of the applicant's case is that E.M.M requires funds for treatment. The problem is compounded by the fact that he cannot speak, write or sign documents to facilitate the withdrawal of the requisite funds.

I have considered the application and most importantly the disclosure that E.M.M has seven (7) relatives who are resident in Kenya (See paragraph 7 of the petition). In view of the disclosure, I give the applicant leave to file a consent of the seven (7) relatives before making further orders. In addition to filing the consent of the said relatives as aforesaid, the court would like to see all the relatives to confirm if the applicant's application is well founded.

Mention on the 15<sup>th</sup> day of March, 2010 to confirm if the consent has been filed so that a further hearing date can be fixed.

Dated and delivered at Kitale this 2ND day of FEBRUARY 2010.

**N.R.O. OMBIJA**  
**JUDGE**