

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

MISCELLANEOUS CIVIL APPLICATION 37 OF 2008

IN THE MATTER OF: KAKA ZIRO NGOLE

AND

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

R U L I N G

By a motion dated 16th January 2008, taken out pursuant to Section 26(1) (a) and (b) of the Mental Health Act and Order XXXI rule 15 and Order L rule 1 of the Civil Procedure rules, Sulubu Ziro Ngole applied to be appointed as Manager and Guardian of Kaka Ziro Ngole, a person suffering from severe mental disorder. The motion is supported by the affidavit of Sulubu Ziro Ngole sworn on 15th January 2008.

Attached to the aforesaid affidavit is the medical report prepared by Doctor C.M. Mwangome, a Consultant Psychiatrist dated 17th December 2007. In this report, Dr. Mwangome is of the opinion that Kaka Ziro Ngole, aged 50 years is suffering from severe mental illness and that she is not in a position to care for herself. The Consultant Psychiatrist came to the conclusion that the patient needed long-term medical psychiatric care and family support. For this reason Sulubu Ziro Ngole, the patient's son has now applied for the orders to enable him manage the patient's affairs and specifically to dispose of part of Kilifi/Mtwapa/1544 in order to facilitate the patient's medical expenses. A copy of the title deed annexed to the affidavit in support of the motion shows that the same is registered in the name of the patient.

I have considered the oral submissions made by Mr. Maundu, learned advocate for the applicant. I have also perused the grounds set out in the motion and the facts deponed in the affidavit of support. I have carefully considered the provisions of Section 26 of the Mental Health Act and I am satisfied that this court has been given the powers to make the orders sought. I am also satisfied that the conditions required by law before granting the orders have been shown to exist. Consequently I allow the motion as prayed.

Dated and delivered at Mombasa this 28th day of March 2008.

J.K. SERGON

J U D G E

In open court in the presence of Miss Kanaga h/b for Kanyi Juma for

Applicant.