



In re RWM (Subject) & JGN (Deceased) (Miscellaneous Application E042 of 2021) [2025] KEHC 1788 (KLR) (6 February 2025) (Ruling)

Neutral citation: [2025] KEHC 1788 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MISCELLANEOUS APPLICATION E042 OF 2021
SM MOHOCHI, J
FEBRUARY 6, 2025**

**IN THE MATTER OF THE MENTAL HEALTH ACT CAP 248 OF THE LAWS OF KENYA
AND
IN THE MATTER OF RWM- SUBJECT
AND
IN THE MATTER OF JGN - DECEASED**

BETWEEN

AWC APPLICANT

AND

DMM RESPONDENT

RULING

1. The Application before be is a summons dated 25th November 2024 filed pursuant to Section 26, 27, 28, 29 and 33 the *Mental Health Act*, Cap 248 of the Laws of Kenya as well as all other enabling provisions of the law).
2. The Application is supported by the Applicants sworn Affidavit evenly dated seeking the following relief(s);
 - i. That, the court be pleased to allow the Applicant to enter into temporary periodic farming leases with third party lessees in respect to the subject's parcel of land Bahati/Bahati Block x/1384 in order to raise some finances to take care of the subject's basic requirements and health needs.
 - ii. That, the court be pleased to Order any other relief in the best Interest of the subject herein.
 - iii. That, costs of this application be in the cause.



3. The Application is based on the following grounds: -
- i. That, the subject herein is incapable of protecting her own interests hence the appointment of the two guardians.
 - ii. That, the subject is also not capable of giving or withholding consent hence the presence of the two guardians. The Petitioner, DMM is the biological daughter to "the subject" a person suffering from a mental disorder within the meaning of the *Mental Health Act* Cap 248 of the Laws of Kenya and therefore falls within the ambit and jurisdiction of the said Act.
 - iii. That, the property in question is registered absolutely to the subject herein.
 - iv. That, the two guardians are not able to get along, in any way or at all, and the 1st joint guardian has completely withdrawn the support she was giving the subject.
 - v. That, the family is split into two halves, leaving just one half to shoulder all the needs of the subject which situation has proved financially taxing, and requiring other resources to supplement what is at the moment being contributed.
 - vi. That, the legal title to the subject property is registered in the name of the subject herein, and should accordingly be utilized to take care of the needs of the subject herein.
 - vii. That, the respondent has relentlessly refused to execute documents required for the purposes, threatening to harass the intended. lessees, in the process compromising the needs of the subject.
 - viii. That, the respondents are reluctant to allow the supervised use of the subject's sole property to be used to defray the survival needs of the subject herein unless they are compelled to by the Honourable Court hence the present application which the applicant urges the Court to allow in the interest of justice.
 - ix. That, the leases are to be temporary periodic farming leases in their nature and will, in no way transfer the subject's interest in the property.
 - x. That, no prejudice will be occasioned should the prayers be allowed
4. On the 12th November 2024 I directed that the Application shall be disposed off by way of written submissions.

Analysis and Determination

5. All decisions made herein are made in respect to the best interest of the subject "the subject".
6. I note that the motion dated 25th November 2024 is unopposed and accordingly find in favor of and allows the reliefs sought owing to the following reasons;
7. That, the Parcel No. Bahati/Bahati/Block xx /1384 should be utilized to generate income for the subject's upkeep and her daily need requirement.
8. AWC a Joint-Guardian shall be expected to work closely with her co-guardian DMM and furthermore All subleases created shall be executed by the Joint-Guardians.
9. The Joint Guardians shall be personally responsible for an up - to date account all moneys collected and utilized
10. This being a family matter there shall be no orders as to costs.



It is so Ordered.

SIGNED, DATED AND VIRTUALLY DELIVERED AT NAKURU THIS 6TH DAY OF FEBRUARY, 2025.

MOHOCHI S.M

(JUDGE)

