



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re WKT (Civil Miscellaneous Application E001 of 2025)  
[2025] KEHC 7260 (KLR) (23 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7260 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAPSABET  
CIVIL MISCELLANEOUS APPLICATION E001 OF 2025**

**JR KARANJA, J**

**MAY 23, 2025**

**BETWEEN**

**EJ ..... APPLICANT**

**AND**

**ACCOUNT NO [PARTICULARS WITHHELD] ABSA BANK ..... SUBJECT**

**RULING**

1. Order 32 of the Civil Procedure Rules provides for suits by or against minors and person of unsound mind and Rule 15 of the provision provides for application of rules to persons of unsound mind in the following terms: -

“The provisions contained in Rules 1 to 14 so far as they are applicable, shall extend to person adjudged to be of unsound mind and to persons who though not so adjudged are found by the court on inquiry by reason of unsoundness of mind or mental infirmity, to be incapable of protecting their interest when suing or being sued.”
2. The *Mental Health Act* [Cap 248 Laws of Kenya] provides “inter-alia” for treatment and general management of persons with mental illness and for connected purposes. Its purpose and scope includes ensuring that the rights of persons with mental illness are protected and safeguarded.
3. Section 26[1] of the Act states that: -

“An application for an order for the management and administration of the estate of a person with mental illness may be made to the court, in the following order of priority by: -

  - a. A supporter of the person with mental illness, or



- b. The representative of the person where the person with mental illness has not appointed a supporter.”
4. Under Section 2 of the Act a “supporter” means a person appointed under Section 31 by the person with mental illness to make decisions on behalf of the person with mental illness according to the will and preference of the person with mental illness.

Herein, the Applicant, “Emily Jepkemei”, is such supporter and that is why she has applied to be the next friend of the subject Willington Kipkurgat Tek to be allowed to access and withdraw monies and fund in the subject Account No. 204XXXX352 operated by Absa Bank for the subjects’ benefit.

5. The Applicant is the legal spouse of the subject who according to the medical reports availed herein has been confirmed to be mentally ill suffering from schizophrenia with dementia and severe functional impairment.

Indeed, this was confirmed by the court when the subject was presented in court at the hearing of the application. It was evident that he was severely impaired. He could not talk nor hear properly. Neither was he capable of following what was going on in the court room.

6. This application dated 17<sup>th</sup> January 2025 is therefore well merited and is hereby allowed in terms of prayer [3] and [4] of the Notice of Motion

Ordered accordingly.

**DATED AND DELIVERED THIS 23<sup>RD</sup> DAY OF MAY 2025**

**HON. J. R. KARANJAH**

**JUDGE**

