



REPUBLIC OF KENYA



KENYA LAW
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**In re PMC (Family Miscellaneous Civil Case E013 of 2023)
[2025] KEHC 7299 (KLR) (19 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7299 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
FAMILY MISCELLANEOUS CIVIL CASE E013 OF 2023**

GL NZIOKA, J

MAY 19, 2025

RULING

1. Pursuant to the ruling delivered herein on 8th April 2025 and subsequent directions and/or orders given. I have considered the materials placed before the court thereafter. It is evidence that, despite the subject herein disputing his medical report as provided by the applicant, he has not taken any active step and/or opportunity to avail a medical with contrary findings.
2. This otherwise simple and straight forward matter has been in court for unnecessary too long. The applicant was appointed a guardian of the subject vide the afore said ruling. She was also granted authority to manage the subject's affairs and/or operate his bank account. The subject's children supported the applicant's application.
3. It is noteworthy that the subject attended court and stated that the applicant and/or their children have ganged up to inherit his property when he is still alive. That, he does not suffer from any mental or other medical condition that can incapacitate him from managing his affairs.
4. However, in my considered opinion the subject's allegation on his mental status could only be proved by a medical report. But unfortunately none has been availed. Therefore, the court will go by the report submitted by the applicant and confirm the applicant as the subject's guardian as per the orders given in the ruling herein dated 8th April 2023.
5. That said, the issue to consider is the applicant's access to the subject's bank account and the control thereof. In that regard, the court ordered the applicant to provide of the subject's daily needs and the cost thereof. In addition, the bank was directed to indicate the status of the bank account.
6. I note there is letter from the firm of; Chege Kibathi & Co. Advocates requiring the Hon. Deputy Registrar to authenticate the court order dated 4th March 2025. The Hon. Deputy Registrar responded to the letter the same day. It is not clear whether the any bank statement was filed after that date.
7. However, I note from one of the correspondence from that law firm dated 28th February 2025 that a bank statement was attached showing the subject's account had a credit balance of Kshs 499,425.17 as at 26th February 2025.



8. As regards his personal requirements, the applicant filed replying affidavit dated 15th September 2024 stated that she requires a sum of Kshs 150,000 per month to take care of the subject. The subject filed a response dated 17th February and proposed that the applicant be allocated a sum of Kshs 60,000 as a reasonable figure.
9. Pursuant to the afore said and noting the balance on the subject's bank account has been confirmed to be Kshs 499, 000, if the applicant is allowed to withdrawal the Kshs 150,000, the credit balance will be eroded within three (3) withdrawals. Consequently, the sum sought for cannot be allowed
10. Furthermore, some of the items as such as medical bills and associated expenses are not constant and may not be required on a day to day basis. In the same vein, the land rates and KRA dues cannot be awarded on a monthly basis and may be payable on demand.
11. However, items like food, sanitary and/or personal effects are required on a daily basis and so is the caregiver. In that regard I order that the applicant shall have access to the subject's account to enable her withdraw a sum of Kshs 50,000 per month which will be utilized as follows:
 - a. Kshs 15,000 for payment of a care giver;
 - b. Kshs 10,000 for food;
 - c. Kshs 15,000 for personal effects, such as diapers, disposal linen and expenses of the driver;
 - d. Kshs 10,000 for immediate medical expense such as wound dressing, ointments, etc.
 - e. Any other medical expenses not catered for under SHA or a Medical Insurance Cover, (which the applicant should have considered) will be provided for upon an application to court and/or medical evidence to be scrutinized by the court
12. In the meantime, the applicant has no authority to dispose of any of the assets of the subject other than access funds in the bank account as directed and the subject is warned that, any diversion of funds to frustrate this court order will amount to contempt of court.
13. Finally, all expenses associated with maintenance of the property e.g. electricity, water bills and sewage expenses, KRA, Accountant, land rates shall be paid for from funds from the account, upon provision of evidence of demand thereof.
14. The order herein shall remain in force until circumstances relating to the subject's mental state changes or evidence to the contrary is provided. Either party is at liberty to apply.

DATED, DELIVERED AND SIGNED THIS 19TH DAY OF MAY 2025

GRACE L. NZIOKA

JUDGE

In the presence of;

Mr. Owour for the applicant

Mr. Ngunjiri for the respondent/subject

Ms Hannah court assistant

