



**In re PKK (Subject) (Miscellaneous Case E045 of 2025)  
[2025] KEHC 5762 (KLR) (Family) (5 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 5762 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
MISCELLANEOUS CASE E045 OF 2025  
CJ KENDAGOR, J  
MAY 5, 2025**

**IN THE MATTER OF**

**JNG ..... 1<sup>ST</sup> PETITIONER  
JNK ..... 2<sup>ND</sup> PETITIONER**

**JUDGMENT**

1. Before this Court is a Petition dated 20<sup>th</sup> February, 2025, which seeks the following orders: -
  - a. That the subject namely PKK be adjudged to be a person suffering from a mental disorder under Section 26 of the *Mental Health Act* Cap 248 of the Laws of Kenya.
  - b. That the Petitioners namely JNG and JNK be appointed as managers and guardians of the subject namely PKK;
  - c. That the Petitioners shall jointly act as managers and guardians in accordance with the directions and orders of the court and in particular do the following;
    - i. Manage the subject’s health care;
    - ii. Have access and operate the subject’s bank accounts;
    - iii. Execute documents on behalf of the subject;
    - iv. Settle any payment related to the medical costs of Chiro Kinyanjui.
2. The application is supported by an Affidavit dated 20<sup>th</sup> February, 2025 sworn by the Petitioners. The matter was canvassed by way of viva voce evidence in the presence of the subject PKK who was also presented on the court session platform. The Petitioners who testified as PW1 and PW2 respectively told the Court that they are the 4th and 1st born children of the subject PKK.



3. PW1 stated to the Court that the subject has been unwell since 2016, is wheelchair-bound, and cannot take care of himself or comprehend matters around him. He further stated that the subject has not managed his affairs since 2017, and they took over in 2018 to live with him, managing the expenses through family resources.
4. PW2 expressed her willingness to collaborate closely with the second Petitioner, affirming her commitment to their joint endeavour. In attendance at the Court were also the subject's second and third-born children, who took the stand as PW3 and PW4, respectively. Both children voiced their enthusiastic support for the joint appointment of the Petitioners as the managers and guardians of PKK.
5. Medical reports dated 21<sup>st</sup> August, 2024 by Dr. Margaret Makanyengo, a Consultant Psychiatrist, 6<sup>th</sup> February, 2017 by Dr. Pius Kigamwa, a Consultant Psychiatrist, and the one dated 10<sup>th</sup> February, 2017 by Dr. Daniel R. Mukiri Githegi, a Consultant Physician/Cardiologist, were filed in Court. In the reports, the Doctors stated that, upon examination, the subject exhibited features of dementia and Alzheimer's disease, leading to an inability to function physically, mentally, and cognitively, and also lacked testamentary capacity.
6. The Petitioners have sought to be appointed managers and guardians of the affairs of the subject PKK in accordance with the *Mental Health Act* and in particular manage the subject's health care, have access and operate the subject's bank accounts, execute documents on behalf of the subject and settle any payment related to the medical costs.
7. The Petitioners elaborated that their father possesses various accounts, and they are seeking authorization to gain access to these accounts and any other assets owned by him. This access would be utilized to ensure that these resources are managed effectively for his benefit.
8. The Subject who appeared on the court platform exhibited visible signs of illness, requiring assistance from an aide. He remained unresponsive to questions regarding his understanding of the situation and his awareness of the court process. His inability to convey comprehension raises concerns about his well-being.
9. The *Mental Health Act* provides for the care of persons suffering from mental disorders, custody of their persons, and management of their estates.
10. Section 26 of the *Mental Health Act*, Cap 248, Laws of Kenya empowers the Court to make orders relating on such persons:
  - a. "For the management of the estate of any person suffering from mental disorder; and
  - b. For the guardianship of any person suffering from mental disorder by any near relative or any other suitable person."
11. Section 26 (3) of the Act provides as follows;

"Whereupon inquiry it is found that the person to whom the inquiry relates is suffering from mental disorder to such an extent as to be incapable of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or to others or likely to act in a manner offensive to public decency, the Court may make such orders as it may think fit for the management of the estate of such persons, including proper provision for his maintenance..."
12. Section 28 of the same Act provides for the management of the subject's estate.



13. I have carefully considered the Petition, the Affidavit filed in Court, the medical reports, and the evidence adduced in the matter. The Medical Reports by the different doctors demonstrate that the subject needs assistance and a guardian(s) to manage his affairs.
14. From the evidence produced by the Petitioners and the Medical Reports on record, and confirmed by the subject's other children, I am satisfied of the merits of the Petition dated 20<sup>th</sup> February, 2025. This Court's assessment of the Petitioners indicates that they have a genuine desire to provide dedicated guardianship to the Subject and are fit to provide the necessary support and oversight to ensure the Subject's well-being and safeguard his interests.
15. The Court makes the following orders;
  - a. That the Subject namely; PKK is adjudged to be a person suffering from a mental disorder under Section 26 of the *Mental Health Act* Cap. 248 of the Laws of Kenya.
  - b. That the Petitioners namely; JNG and JN
  - c. K are hereby appointed as Managers and Guardians of the Subject namely; PKK.
  - d. That the Petitioners shall jointly act as Managers and Guardians in accordance with the directions and orders of the court and in particular do the following;
    - i. Manage the Subject's health care;
    - ii. Have access and operate the Subject's bank account;
    - iii. Execute documents on behalf of the Subject;
    - iv. Settle any payment related to the medical costs of CK.
  - e. The Managers shall not sell the property of PKK without leave of the Court.
  - f. That costs and legal fees of this application shall be provided for from the Subject's estate.
16. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 5<sup>TH</sup> DAY OF MAY, 2025.**

.....

**C. KENDAGOR**

**JUDGE**

In the presence of:

Court Assistant: Beryl

Ms. Lynn Ng'ang'a, Advocate for the Petitioners

