



**In re Guardianship of SKN (Miscellaneous Application E062 of 2025)
[2025] KEHC 8847 (KLR) (Family) (20 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8847 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
MISCELLANEOUS APPLICATION E062 OF 2025
PM NYAUNDI, J
JUNE 20, 2025
IN THE MATTER OF AN APPLICATION FOR GUARDIANSHIP OF SKN
AND
IN THE MATTER OF MENTAL HEALTH ACT, CHAPTER 248 OF THE LAWS OF KENYA
IN THE MATTER OF
SWN APPLICANT**

JUDGMENT

1. Vide application dated 10th March 2025, the Applicant herein SWN, seeks the following orders-
 1. That she be appointed the Guardian of SKN (subject herein).
 2. That the Applicant be authorized to manage all the properties, assets, bank accounts, and motor vehicles of the subject by collecting, maintaining and doing all that appertains to the preservation of the same.
 3. That the costs of this application be in the cause.
4. That the Honourable Court does issue such Orders as may be necessary in the best interest of the ward.
2. The Application proceeded by way of viva voce evidence. The Applicant is the wife of the subject herein. They have been married since 1981 and solemnized their marriage in 1984 as per marriage Certificate Serial Number XXXXXX. The subject is 72 years old and has been suffering from dementia since 2019, which condition deteriorated to the point he cannot talk or walk.
3. The subject has medium scale estate comprising land, rental houses, bank accounts, motor vehicle which risk going to waste if not managed as he is unable to manage his affairs.



4. The Applicant and the Subject have four Children namely;
 1. AK
 2. JW
 3. NG
 4. JW
5. The children were all in Court and consented the Applicant to be appointed as Guardian of the Subject.
6. The Applicant has been helping to manage the financial affairs of the subject together with overseeing his other personal affairs.
7. The Court observed the subject and it is evident that he was non-responsive.
8. It's Applicant's disposition that the subject needs a representative to be appointed to enable the Applicant manage the affairs of the subject which has direct impact on his daily and medical needs as he deserves.
9. A Medical Report dated 4th March 2025, by Dr. Esther Nafula a Palliative Medicine Physician stated-

The above named person has been diagnosed with dementia which has progressively worsened since 2023. His neurological function is completely impaired with urinary and stool incontinence, loss of mobility, loss of speech and loss of the swallowing reflex. He has become bed ridden since December, 2024 and is fully dependent on his caregivers for activities of daily living.

The subject is unable to make any decisions for himself and requires a proxy decision maker. He noted that the family members have nominated his wife the Applicant to be his medical proxy.
10. Another Medical Report dated 11th September, 2019 prepared by Dr. Ann Lukhoba A/E Medical Officer at Mater Misericordia Hospital. The Doctor stated that the subject is a patient at the Hospital and is well known to have hypertensive with memory loss.
11. Further there is Assistant Chief's report dated 5th March 2025 stating that the subject is well known to him as his resident and he has been sick since 2019 and currently under home based care.

Determination

12. The provisions of the [Mental Health Act](#) ensure that individuals who suffer from mental illness are well cared for and their estates are properly handled. The [Mental Health Act](#), at Section 26 provides that:
 1. The court may make orders—
 - 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 by any other suitable person.



2. Where there is no known relative or other suitable person, the court may order that the Public Trustee be appointed manager of the estate and guardian of any such person.
3. 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 person, including proper provision for his maintenance and for the maintenance of such members of his family as are dependent upon him for maintenance, but need not, in such case, make any order as to the custody of the person suffering from mental disorder.
13. I have considered the evidence cited in Court and I am persuaded that the Applicant is best placed to provide adequate care to the subject and ensure is wellbeing.
14. It is in the subject's best interest that the Applicant is appointed as his personal representative to ensure that funds are available for his upkeep and further medical attention in the future as well as preserve his estate.
15. In the circumstances the Application dated 10th March, 2025 is allowed, with the following orders:
 - a. SKN is hereby declared as suffering from a mental disorder under Section 26 of the *Mental Health Act* (Cap 248).
 - b. SWN is hereby appointed under Section 27 of the *Mental Health Act* as the Guardian of SKN
 - c. SWN is hereby appointed manager of the estate of SKN under Section 28 of *Mental Health Act* to manage his estate including any such description of moveable or immovable property, money, debts and legacies, power to execute, sign all deeds and instruments relating to or evidencing the title or right to any property or giving a right to receive any money or goods.
 - d. Pursuant to this appointment SWN shall deliver to Court and the Public Trustee, within 6 months, an inventory of the property belonging SKN
 - e. In accordance with Section 27(4) of the *Mental Health Act*, 2022 the Applicant shall cause within 30 days the publication of notice in the Gazette, informing the public of her appointment as the manager of the estate of SKN
 - f. As Manager of the Estate of the SKN the Applicant may dispose of the property only with the sanction of the Court.
 - g. The matter will be mentioned before court on 6th November 2025 to confirm compliance.
 - h. Costs to be met out of the Estate of the Subject.

SIGNED, DATED AND DELIVERED VIRTUALLY AT NAIROBI THIS 20TH DAY OF JUNE, 2025.

P. M NYAUNDI

JUDGE

In the presence of:

Ms. Abuga holding brief for Ms. Muchira for Applicant

Fardosa Court Assistant

