



REPUBLIC OF KENYA



**In re JNG (A Person With Mental Illness) (Miscellaneous Application
E146 of 2025) [2025] KEHC 8130 (KLR) (Family) (12 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8130 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

FAMILY

MISCELLANEOUS APPLICATION E146 OF 2025

H NAMISI, J

JUNE 12, 2025

IN THE MATTER OF THE MENTAL HEALTH ACT, CAP 248 OF THE LAWS OF KENYA

AND

IN THE MATTER OF AN APPLICATION FOR AN ORDER FOR THE

**MANAGEMENT AND ADMINISTRATION OF THE
ESTATE OF JNG (A PERSON WITH MENTAL ILLNESS)**

IN THE MATTER OF

SWG PETITIONER

JUDGMENT

1. The Petition herein dated 19 May 2025 seeks:
 - i. That J.N.G be declared to be suffering from a mental disorder as defined in the *Mental Health Act*, Cap 248 of the Laws of Kenya;
 - ii. That the Petitioner be appointed as Guardian of J.N. G;
 - iii. That the Petitioner be appointed as Manager of the estate and all the affairs of the said J.N.G;
 - iv. That the Petitioner be granted access to funds in ABSA Bank, Market Stalls Branch, Account Number 094XXXX4493 and Equity Bank, Ruiru Branch, Account Number 0870XXXX9635 belonging to J.N.G to help offset the high costs incurred in the continued treatment and management of her estate;
 - v. In the interim, the Petitioners be granted access to the sum of Kshs 328,000/= from in ABSA Bank, Market Stalls Branch, Account Number 094XXXX4493 and Equity Bank, Ruiru Branch, Account Number 0870XXXX9635 belonging to J.N.G and the said sum to be



expended in paying the premiums for Kenya Association of Retired Officers Medical Scheme (KARO) for J.N.G set to expire in June 2025;

- vi. That the cost of this Petition be borne by the estate of the said J.N.G
2. The Petitioner is a daughter to the Ward, as evidenced by the letter dated 3 June 2025 from the Assistant Chief, Kahawa Sukari sub location. The Ward has one other child, a son, who suffers from a mental disability.
3. The Petitioner avers that the Ward has been diagnosed with dementia of the Alzheimer's type, which has greatly affected her memory. As a result, the Ward is not in a position to perform daily activities such as grooming and feeding herself. The Petitioner confirmed that the Ward resides in Kahawa Sukari and is assisted by a Nurse Aid and house help. The Petitioner caters for the Ward's upkeep and medical treatment, which expenses are currently rather high.
4. Further, the Petitioner stated that the Ward's current medical insurance cover is about to expire and there is urgent need to renew the same. Attached to her Affidavit is an Invoice dated 19 May 2025 for the sum of Kshs 328,407/=
5. Also attached to the Supporting Affidavit is a copy of a Medical Report from Upperhill Specialist Clinics dated 13 May 2025 prepared by Dr. K. Ndege, Consultant Neurologist. The Report confirms the diagnosis and suggests long term care for the Ward.
6. The Court had a chance to hear from the Ward herself, who appeared very forgetful. She could not recall the name of the Petitioner, who was seated right next to her, or even what she had for breakfast earlier that morning. The Ward became irritable when probed further and often resorted to speaking in Kikuyu, despite the Petitioner confirming that the Ward could converse in English and Kiswahili. From my examination of the Ward, I am convinced that the Ward may not be capable of managing her own affairs.
7. Section 26 of the *Mental Health Act* states 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



8. I have also considered all the material placed before me. It is apparent that the Ward suffers from a mental disorder and that she is incapable of managing complex affairs, although she is not a danger to herself.
9. The definition in Section 2 of the Act provides that:

“A person suffering from mental disorder” means a person who has been found to be suffering under this Act and includes a person diagnosed as a psychopathic person with mental illness and suffering from mental impairment due to alcohol or substance abuse.”
10. In the circumstances, the Petition is allowed as prayed. The Court hereby appoints the Petitioner as the Ward’s Guardian *ad litem*. For the avoidance of doubt, Guardian *ad litem* powers will not include the power of alienation, sale or transfer of the Ward’s immovable assets but will include all the powers necessary for the management of such and other assets, and to plead and prosecute and/or defend any action brought by or against the Ward in respect of any of the assets forming part of her estate.

DATED AND DELIVERED AT NAIROBI THIS 12 DAY OF JUNE 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

Mrs. Maina..for the Applicant

Libertine Achieng.....Court Assistant

