



REPUBLIC OF KENYA



KENYA LAW
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**In re MNC (Miscellaneous Application E065 of 2025)
[2025] KEHC 11079 (KLR) (Family) (25 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 11079 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

MISCELLANEOUS APPLICATION E065 OF 2025

PM NYAUNDI, J

JULY 25, 2025

IN THE MATTER OF THE MENTAL HEALTH ACT

AND

IN THE MATTER OF GUARDINSHIP OF MNC

IN THE MATTER OF

SKC APPLICANT

JUDGMENT

1. Vide application filed under certificate of urgency dated 10th March 2025, the Applicant herein SKC, seeks the following orders-
 1. That he be appointed the Legal Guardian of the subject.
 2. That the Court do grant further orders as it may deem just and fit.
 3. That the costs of this application be in the cause.
2. The Application proceeded by way of viva voce evidence. The Applicant is the son of the subject. The subject was born on 1st January 1937, she is 88 years old. The subject suffers from disability. She was diagnosed with dementia with psychotic features thus unable to live independently. That the Applicant has been taking care of the subject since the death of his father as per the attached copy of death certificate.
3. Further the Applicant intends to carry out Succession of his late father in order to ensure the interests of the subject are well catered for during the Succession Proceedings as advised from the office of the Public Trustee.



4. It's Applicant's averment that the subject needs a representative to be appointed to enable the affairs of the subject which has direct impact on her daily and medical needs as she deserves.
5. A report from Murang'a County Government Ministry of Health, Florence Kamau facility in charge, stated that

The above named person has been diagnosed with dementia with psychotic features since 2023 and has been collecting medication in the facility alongside her treatment. This disease affects her memory, thinking and ability to perform her daily activities. She is also hypertensive patient on follow-up.
6. Another letter from chief's office dated 24th July, 2023 indicates that the subject hails from area of jurisdiction and she suffers from mental retardation.
7. The Court observed that although the subject recognized the Applicant as her son she was completely oblivious to her surroundings.

DETERMINATION

8. 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.
9. I have considered the evidence adduced in Court and I am persuaded that the Applicant is best placed to provide adequate care to the subject and ensure is wellbeing.
10. It is in the subject's best interest that the Applicant is appointed as her personal representative to ensure that funds are available for her upkeep and further medical attention in the future.
11. In the circumstances the Application dated 29th May, 2025 is allowed and with the following orders:
 - a. MNC is hereby declared as suffering from a mental disorder under Section 26 of the *Mental Health Act* (Cap 248).
 - b. SKC is hereby appointed under section 27 of the *Mental Health Act* as the Guardian of MNC



- c. SKC is hereby appointed manager of the estate of MNC 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 SKC shall deliver to Court and the Public Trustee, within 6 months, an inventory of the property belonging MNC.
- 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 MNC.
- f. As Manager of the Estate of MNC the Applicant may dispose of the property only with the sanction of the Court.
- g. The matter will be mentioned before court on 21st January, 2026 to confirm compliance.
- h. Costs to be met out of the Estate of the Subject.

SIGNED, DATED AND DELIVERED VIRTUALLY AT NAIROBI THIS 25TH DAY OF JULY, 2025.

P. NYAUNDI

JUDGE

In the presence of:

Stephen Kiriti Chege in person

Fardosa Court Assistant

