



**In re SRNH (Miscellaneous Application E115 of 2025)  
[2025] KEHC 10528 (KLR) (Family) (18 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10528 (KLR)

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

**MISCELLANEOUS APPLICATION E115 OF 2025**

**H NAMISI, J**

**JULY 18, 2025**

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

**IN THE MATTER OF RNH (A PERSON SUFFERING FROM MENTAL DISORDER)**

**AND IN THE MATTER OF AN APPLICATION BY WGR TO BE APPOINTED  
MANAGER OF THE ESTATE AND GUARDIAN AD LITEM TO THE SRNH**

**IN THE MATTER OF**

**WGR ..... APPLICANT**

**RULING**

1. The Notice of Motion dated 4 April 2025 seeks:
  - i. Spent;
  - ii. That the Applicant herein that is to say WHR be appointed guardian ad litem of RNH and the manager of the estate of RNH;
  - iii. That an order do issue to adjudge that the 1st Respondent is not fit to defend himself in respect of Nairobi MCELRC/ E1274/2024 due to mental illness;
  - iv. That the costs of this Application be in the cause;
2. The Applicant is a son to the Ward. The Ward has four other children. Their consents are attached to the Application.
3. The Applicant wishes to be appointed as Guardian to his father because the Ward suffers from various ailments, including dementia. The Applicant avers that in 2022, the Ward was diagnosed with



- hypertension, stroke, prostate enlargement and dementia. Thus, he is incapable of managing his own affairs. According to the Applicant, the Ward has shown no signs of recovery.
4. Further, the Applicant avers that the Ward is the 1<sup>st</sup> Defendant in ELRC/E1274/2024, but is currently incapable of defending himself. For this reason, the Applicant would like to be the Ward's guardian ad litem in order to defend the suit.
  5. Currently, the Ward resides with the Applicant and his family in Buru Buru, Nairobi. The Petitioner caters for the Ward's upkeep and treatment.
  6. Also attached to the Further Affidavit is a copy of a Medical Report dated 20 February 2025 prepared by Dr. Geoffrey Magada Ala, Metropolitan Hospital, Nairobi. The recommendations therein are regular follow up, and support in activities of daily living since the Ward cannot attend his chores.
  7. The Court had a chance to speak to the Ward. The Ward could recall the names of his children and his wife (Deceased). Though he could recall certain personal information, he did not have good recollection of past events or happenings. From my observation of the Ward, he may suffer some memory lapses and may need assistance in managing his affairs.
  8. 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
  9. I have also considered all the material placed before me. It is apparent that the Ward may experience some challenges with his mental health and that he is incapable of managing complex affairs.
  10. In the circumstances, the Application is merited. The Court hereby appoints the Applicant as the Ward's Guardian ad litem to represent him in ELRC /E1274/2024. For the avoidance of doubt, Guardian ad litem powers will not include the power of alienation, sale or transfer of the Ward's moveable or immovable assets without leave of Court 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 his estate.

**DATED AND DELIVERED AT NAIROBI THIS 18 DAY OF JULY 2025**

**HELENE R. NAMISI**

**JUDGE OF THE HIGH COURT**



Delivered on virtual platform in the presence of:

Applicant: Mr. Lumwachi

Court Assistant: Libertine Achieng

