



**In re RCN (A person suffering from a mental illness) (Miscellaneous Civil Application E005 of 2025) [2025] KEHC 10252 (KLR) (16 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10252 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
MISCELLANEOUS CIVIL APPLICATION E005 OF 2025**

**JK SERGON, J**

**JULY 16, 2025**

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

**IN THE MATTER OF**

**ACK ..... APPLICANT**

**AND**

**RCN ..... SUBJECT**

**RULING**

1. The applicant has moved this court seeking to manage the affairs of the subject herein due to mental incapacity.
2. The applicant filed a chamber summons dated 4th April, 2025 seeking the following orders;
  - (i) That the applicant, ACK, be appointed as the legal guardian and manager of the affairs, finances and property of the said RCN.
  - (ii) That the applicant be authorised to access, operate and manage the bank accounts and financial affairs of the subject held at Kenya Commercial Bank, Imarisha Sacco, Kenya Highlands Sacco and the Public Trustee (related to her late husband), for purpose of ensuring that her medical and daily upkeep needs are met.
  - (iii) That the costs of the application be in the cause.
3. The application is premised on the grounds stated on the face of the Summons and the facts deponed in the affidavit sworn by the applicant.
4. The Applicant avers that she is the biological sister to the subject and has attached a letter from the Chief [Particulars withheld] Location confirming her as such.



5. The Applicant avers that the subject is under medical care and rehabilitation at Kericho County Referral Hospital as a result of chronic medical conditions including Type 2 Diabetes Mellitus, Hypertension and complications arising from two ischemic strokes which have resulted in mental incapacity and attached herewith is a medical report from the consultant physician.
6. The Applicant avers that due to the subject's medical condition, she is unable to attend to her day to day personal and financial affairs.
7. The Applicant avers that the subject has several accounts and entitlements including but not limited to Kenya Commercial Bank, Imarisha Sacco, Kenya Highlands Sacco and the Public Trustee (related to her late husband).
8. The Applicant is therefore seeking to be appointed as the manager of the subject's affairs, including access to and management of her financial accounts and entitlements, solely for the purpose of supporting her medical and personal needs.
9. The Applicant undertakes to render proper care and account for all assets and income belonging to the subject and act in her best interest.
10. The applicant has filed a medical report prepared by Nancy Wendot a Clinical Officer at the Mental Health and Psychiatric Department at Kericho County Referral Hospital in which the Clinical Officer stated inter alia that:-the subject exhibited poor judgment and lack of insight.
11. This court has carefully considered this application, the affidavit filed in this Court as well as the evidence adduced in the matter. Section 26 of the [Mental Health Act](#), Cap 248, Laws of Kenya provides for the circumstances under which a Court may make orders for the Guardianship of a Subject (Patient) and the management of their affairs as follows:-

“Order for custody, management and guardianship

- (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.”
12. The Applicant herein has sought to be declared as Guardian and Manager of the subject. To merit the above orders the Petitioner must adduce evidence sufficient to satisfy the Court first that the subject is a person suffering from a mental disorder under the [Mental Health Act](#) and secondly that the Patient is incapable of managing her own affairs.



13. The subject was presented to this Court for further inquiry, however, she was unable to climb the stairs, however, this court is satisfied by the medical report submitted that the subject is not in a proper mental position to take care of her affairs and her welfare.
14. It is therefore in the subject's best interest that the Applicant be appointed as her legal guardian and manager of her estate.
15. In the circumstances this Court is satisfied of the subject's condition and makes the following orders and declarations:
  - (i) RCN is hereby declared as suffering from a mental disorder under Section 26 of the *Mental Health Act* (Cap 248).
  - (ii) ACK is hereby appointed as the Guardian and Manager of the affairs of the subject's estate and is therefore authorized to access, operate and manage the bank accounts and financial affairs of the subject held at Kenya Commercial Bank, Imarisha Sacco, Kenya Highlands Sacco and Public Trustee for purposes of ensuring that RCN's medical and daily upkeep needs are met.

**DELIVERED, SIGNED AND DATED AT KERICHO THIS 16TH DAY OF JULY, 2025.**

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**J.K. SERGON**

**JUDGE**

In the Presence of:-

C/Assistant – Rutto

ACK – Present in Person.

