



**In re PMG (Subject) (Miscellaneous Application E181 of 2025)
[2025] KEHC 13106 (KLR) (Family) (19 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 13106 (KLR)

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

MISCELLANEOUS APPLICATION E181 OF 2025

PM NYAUNDI, J

SEPTEMBER 19, 2025

**THE MATTER OF SECTIONS 26, 27 AND 28 OF THE
MENTAL HEALTH ACT (CAP 248) LAWS OF KENYA**

AND

IN THE MATTER OF PMG

IN THE MATTER OF

RWG 1ST PETITIONER

JWG 2ND PETITIONER

JUDGMENT

1. Vide application filed under certificate of urgency dated 11th June 2025 and Supporting Affidavit dated the same day respectively, the Petitioners herein RWG and JWG seeks the following orders-
 1. That they be appointed as managers of the Estate and all the affairs of the Ward being PMG.
 2. That they be appointed as the Guardians of the Ward being PMG.
 3. That they be granted access to and authority to operate all the bank accounts operated by the Ward being PMG.
 4. That the costs and legal fees of this application agreed upon be provided for from the estate of the Wards being PMG.
2. Consequently, the Application proceeded by way of viva voce evidence on 17th July, 2025. The subject is 81 years old suffering from Mild Cognitive Impairment and Alzheimer’s Dementia which has rendered him incapable of managing and attending to his personal and business affairs.



3. PW2 – the 1st Petitioner is the wife of the subject. They have been married for 54 years. She averred that the subject is unable to make decisions for himself. The subject is not aware of his surroundings; he does not recognize the petitioner. They are blessed with four (4) children who are all adults namely;
 - a. JWG
 - b. SMG
 - c. JG
 - d. CM
4. PW3- the 2nd Petitioner JWG daughter to the subject states that her father is incapacitated and unable to make decisions to manage his affairs.
5. The Petitioners states that sometime in 2019, the Subject was diagnosed with Epilepsy and in 2021 the subject was also diagnosed with Mild Cognitive Impairment and Alzheimer’s Dementia which has severely incapacitated his mental faculties. The subject is unable to properly manage his affairs. The other family members have nominated the Petitioners to be the Guardian of the subject.
6. The subject’s children testified in Court that they confirmed the subject suffers from Alzheimer’s dementia and that they support the Application by the Petitioners.
7. It’s Petitioners’ averment that the subject needs a representative to be appointed to enable them manage the affairs of the subject which has direct impact on his daily care and medical needs as he deserves.
8. PW1 - Dr. Ekia Herman a Physician, Consultant and Neurologist at Aga Khan University Hospital stated that he has been attending the subject for a number of years. He further stated that he prepared a report dated 17th October, 2024 stated that-

The subject has been on medical follow-up at our facility he was diagnosed with Dementia – loss of ability to make decisions and plan. The subject is on treatment, the condition is progressive and he is unlikely to regain full cognitive abilities.
9. The Court observed the subject and observed that he was jolly but not responsive.

Determination

10. 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.

11. I have considered the evidence adduced in Court as well as signed consent and I am persuaded that the Petitioners are best placed to provide adequate care to the subject and ensure his wellbeing.
12. It is in the subject's best interest that the Petitioners are appointed as their personal representative to ensure that funds are available for his upkeep and further medical attention in the future.
13. In the circumstances the Application dated 11th June, 2025 is allowed and with the following orders:
 - a. PMG is hereby declared as suffering from a mental disorder under Section 26 of the *Mental Health Act* (Cap 248).
 - b. RWG and JWG are hereby appointed under section 27 of the *Mental Health Act* as the Guardians of PMG.
 - c. RWG and JWG are hereby appointed managers of the estate of PMG 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 RWG and JWG shall deliver to Court and the Public Trustee, within 6 months, an inventory of the property belonging to PMG.
 - e. In accordance with Section 27(4) of the *Mental Health Act*, 2022 the Petitioners shall cause within 30 days the publication of notice in the Gazette, informing the public of their appointment as the managers of the estate of PMG.
 - f. As Managers of the Estate of PMG the Petitioners may dispose of the property only with the sanction of the Court.
 - g. The matter will be mentioned before Court on 27th 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 19TH DAY OF SEPTEMBER, 2025.

P. M. NYAUNDI

JUDGE

In the presence of:

Fardosa Court Assistant

