



**In re JKN (Subject) (Family Miscellaneous Civil Case E092 of 2024)  
[2025] KEHC 12720 (KLR) (Family) (18 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 12720 (KLR)

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

**FAMILY**

**FAMILY MISCELLANEOUS CIVIL CASE E092 OF 2024**

**HK CHEMITEI, J**

**SEPTEMBER 18, 2025**

**IN THE MATTER OF SECTIONS 26 AND 28 OF THE  
MENTAL HEALTH ACT CAP 248 OF THE LAWS OF KENYA**

**IN THE MATTER OF JKN(SUBJECT)**

**IN THE MATTER OF**

**JWK ..... PETITIONER**

**JUDGMENT**

1. Before this Court for determination is petition dated 6<sup>th</sup> May, 2024 by which the Petitioner, Jacqueline Waithira Kinuthia, seeks a declaration:-
  - (a) That JKN (hereinafter, “the subject”) be declared as a person suffering from mental disorder under Section 26 of the *Mental Health Act*.
  - (b) That the Petitioner be appointed as guardian over the affairs of the Estate of JKN with powers to sign, access, withdraw execute and carry out any incidentals to the affairs of the subject.
  - (c) That a special permission be granted to the Petitioner to register revocable family trust under the provisions of the Trustee (Perpetual Succession Act and to transfer the titles to properties in the name of the subject JKN to the said formed family trust for better management of the properties for and on behalf of and to the benefit of the subject
2. The Petition is based on the grounds on its face thereof and supported by affidavit sworn by Jacqueline Waithira Kinuthia on 6<sup>th</sup> May, 2024.
3. She avers inter alia that he subject, a 72-year-old man, is her biological father and has been suffering from advanced dementia for several years. He was first diagnosed by neurologist Dr. Ndege on 28<sup>th</sup> July, 2020 and has been under continuous medical supervision since. Prior to his diagnosis, he went missing



from his home, prompting a report at Buru Buru Police Station under OB Number 27/05/03/2020. He was later found disoriented in Kamulu, Machakos County, unable to explain how he got there. The family lives in fear due to past kidnapping attempts against the subject.

4. That in 2021, his wife was arrested by DCI officers in Buru Buru in connection with his earlier disappearance. A second attempted abduction occurred in 2023 on the eve of his mother's burial in Nakuru. Previously residing in Buru Buru, the subject moved to Kayole in 2011 when memory loss symptoms began. Due to a lack of support from his wife, the Applicant relocated him to Rabai Road Estate in 2019 for closer monitoring and ultimately moved him to live with her in 2021.
5. Further that the subject's wife and son have since abandoned him and their whereabouts remain unknown, leaving the Applicant as his sole caregiver. The subject's condition has deteriorated to the extent that he now requires 24-hour nursing care as he is largely immobile and dependent for daily activities. A neurological assessment by Dr. Sylvia Mbugua at Aga Khan Hospital confirmed worsening memory loss since 2019.
6. The subject now gets lost even in familiar places, needs assistance with dressing, eating, bathing and cannot recall banking details or manage finances. His personality has changed; he is withdrawn, struggles to hold conversations and often gives irrelevant responses. An MRI scan on 8<sup>th</sup> November, 2023 confirmed generalized brain atrophy and bilateral medial temporal atrophy, indicative of Alzheimer's Dementia. Due to these mental impairments, the subject is unable to make rational decisions or manage his estate. He experiences frequent confusion, memory lapses and needs repeated explanations to understand basic information.
7. The Applicant she went on incurs about Kshs. 200,000/= monthly for his care, covering expenses such as physiotherapy, medication, special diets, utilities and general upkeep.
8. In view of his condition, the Applicant seeks to be appointed as the subject's legal guardian to continue caring for him and managing his estate. Prior to his mental decline, the subject managed businesses and owned various properties including a National Bank account (Ruiru Branch, Account No. 010205929xxxx ) and several land parcels: Ruiru/xxxx Block 1/T.2839, MutaraxxxxBlock 3/587, Bahati/xxxx Block 3/909 and Kiganjo/xxxx/559.

Under Sections 26 and 28 (1) of the [Mental Health Act](#), the court is empowered to appoint a guardian for individuals suffering from mental disorders. The applicant commits to lawfully managing the subject's estate and acting in his best interests as his guardian.

9. The application is not opposed or objected to.

### **Analysis And Determination**

10. I have carefully considered the petition before the court and its supporting documents and address them as below.
11. In *In re W K G (A Person Suffering From Mental Disorder)* [2019] eKLR the court, at paragraphs 12 and 13, observed that, "... In the circumstances, the Court allows the Petitioner's prayer by appointing them as managers with general powers of management concerning all the immovable assets of the Subject, but with special powers concerning the Subject's movable assets [Emphasis mine], including the Subject's bank accounts and with power to liquidate any movable assets of the Subject for purposes of meeting any medical or living and other expenses concerning the Subject and his estate [Emphasis mine]. This court further directs under Section 33 of the [Mental Health Act](#) that within six months of this appointment, the Petitioners do furnish the Court with a full inventory of the Subject's assets



and a statement of account showing the sums of money realized or received and disbursed by them on account of the Subject's estate. The parties are at liberty to apply further.”

12. When this matter came before the court on 11<sup>th</sup> June 2025 the subject appeared online together with the Applicant. The court demanded the current or the latest medical report. The said report was filed and is dated 27<sup>th</sup> June 2025.
13. Based on the medical history aforesaid and the fact that it has been the Applicant who has been taking care of the subject this court finds the petition merited.
14. The same is hereby allowed with the condition that the applicant complies with the provisions of the *Mental Health Act* and should provide accounts of the estate six months from the date herein.
15. Costs in the cause.

**DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAIROBI THIS 18TH DAY OF SEPTEMBER 2025.**

**H. K. CHEMITEI**

**JUDGE**

