



In re MOO & SNO (Petitioners) (Miscellaneous Application E008 of 2024) [2024] KEHC 12423 (KLR) (17 October 2024) (Ruling)

Neutral citation: [2024] KEHC 12423 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT HOMA BAY
MISCELLANEOUS APPLICATION E008 OF 2024**

KW KIARIE, J

OCTOBER 17, 2024

IN THE MATTER OF

MOO 1ST PETITIONER

SNO 2ND PETITIONER

RULING

1. On the 20th day of June 2024, the petitioners petitioned the court for the following orders:
 - a. The subject LMAO shall be declared and adjudged to be a person with a mental disorder as defined in the *Mental Health Act* Cap 248 Laws of Kenya.
 - b. The petitioners, Michael Oyugi Oima and Salmon Ngege Adongo, be appointed as the next friend’s guardians and managers regarding LMAO and granted custody, care, and management of the subject by the *Mental Health Act*.
 - c. Subsequent to prayer(a) above being granted, the petitioners can represent the subject in high court case number HCC E005 of 2021 at Homabay Law Courts and prosecute the claim on her behalf.
 - d. The said subject’s estate bears the application’s costs.
2. The application is premised on the following grounds:
 - a. That subject herein LMAO suffered, amongst other injuries, a hypertrophic brain injury that left her with neurocognitive impairment, global aphasia, and memory deficit, amongst other impairments.
 - b. The subject’s health challenges have substantially affected her speech and memory and rendered her incapable of effectively protecting her interests and managing her affairs.



- c. Among the subject's affairs that need to be managed is suit HCC E005 of 2021 (Dr Linda Mercy Anyango Oyugi vs Kendu Adventist Hospital), which is currently pending hearing and determination before the High Court in Homabay.
 - d. The 1st petitioner is the subject's father, while the 2nd petitioner is the subject's husband. Both petitioners are thus close relatives of the subject, capable of managing the subject's estate.
 - e. The high court has jurisdiction to "hear and determine petitions brought by persons seeking to be appointed as Guardians over the estates of persons of unsound mind.
3. After perusing the supporting affidavits, the consents attached, and all the annexed documents, I find that the petition has merits. The same is allowed.

DELIVERED AND SIGNED AT HOMA BAY THIS 17TH DAY OF OCTOBER 2024

KIARIE WAWERU KIARIE

JUDGE

