



**In re VOA (Miscellaneous Application E162 of 2023)  
[2023] KEHC 23274 (KLR) (Family) (22 September 2023) (Judgment)**

Neutral citation: [2023] KEHC 23274 (KLR)

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

**MISCELLANEOUS APPLICATION E162 OF 2023**

**PM NYAUNDI, J**

**SEPTEMBER 22, 2023**

**IN THE MATTER OF**

**LAOA ..... PETITIONER**

**JUDGMENT**

1. Vide Notice of Motion dated 2<sup>nd</sup> August 2023, presented under Section 10 of the *Judicature Act* Cap 8 Laws of Kenya, Section 1A,1B and 3A of the *Civil Procedure Act* 2010, Articles 22,28 and 43 of the *Constitution* of Kenya, Section 2 and 20 of the *Persons Living with Disability Act*, the Applicant seeks the following orders
  - a. Spent
  - b. That this Honourable Court do issue an order appointing the Applicant LAOA as the Legal Guardian over the Affairs of VOA
  - c. That this Honourable Court do allow the Applicant, LAOA to access VOA bank accounts, specifically Stanbic Bank Kenya Limited, International Life House Branch, AC No xxxx and KCB Bank Kenya Limited, Moi Avenue Branch a/c No xxxx and apply the same towards medication and maintenance of VOA and family.
2. The Application is supported by the Affidavit of the Applicant.
3. The matter proceeded by *viva voce* evidence on the virtual platform on 23<sup>rd</sup> August 2023.
4. The Applicant LA is the wife of the Subject. She testified that they reside at Syokimau. That consequent to a surgery the subject has been temporarily disabled and has lost the mobility in his hands and feet. He is therefore unable to sign documents.



5. She is unable to meet the costs of the medical treatment and needs to access the subjects bank accounts. She has obtained the consent of the adult children namely, JOO, LAO, DNO and POO. They have signed consent dated 2<sup>nd</sup> August 2023.
6. She has made available to court Discharge Summary dated 13<sup>th</sup> July 2023 from Nairobi Hospital and report from Dr. Benjamin M. Ndeleva dated 13<sup>th</sup> July 2023 that indicate that the subject has ‘a spine pathology for which he has had surgery recently and is currently undergoing physiotherapy. He is unable to use his upper limbs and is therefore unable to write or sign.’
7. The subject was present in court and confirmed that he consents to the Application.

### **Determination**

8. From the foregoing, the issue(s) that are to be determined by the Court are: -
  1. Whether the Applicant should be appointed Legal Guardian over the Affairs of the Subject with access to his bank accounts.
9. From the evidence produced by the Applicant, the Medical Report on record, it is not disputed that the Subject is suffering from a disability as provided for under the persons with disability Act.
10. In light of the above, the Court holds that: -
  - i. VOD (the Subject) is hereby adjudged to be suffering a physical disability as provided for under Section 20 of the *Persons Living with Disability Act*.
  - ii. LAOA is hereby appointed the legal guardian to VOD.
  - iii. LAOA to access VOD bank accounts, specifically Stanbic Bank Kenya Limited, International Life House Branch, AC No xxxx and KCB Bank Kenya Limited, Moi Avenue Branch a/c No xxxx and apply the same towards medication and maintenance of VOD and family.
  - iv. The matter will be mentioned before court on 28<sup>th</sup> March <sup>2024</sup> for review and further orders.

**SIGNED, DATED AND DELIVERED VIRTUALLY IN NAIROBI ON 22<sup>nd</sup> DAY OF SEPTEMBER 2023.**

**P M NYAUNDI**

**JUDGE**

In the presence of:

Otieno holding Brief for Oruenjo for the Applicant

Sylvia Court Assistant

