



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

MISC. APPLICATION NO. E038 OF 2021

NM.....APPLICANT

VERSUS

M'MARETE IBUTU.....1ST RESPONDENT

JOSEPH MUTHURI.....2ND RESPONDENT

M'ITONGA M'MBURUGU.....3RD RESPONDENT

M'NKANATA M'IKIUNGU.....4TH RESPONDENT

MATIRI RUBARA.....5TH RESPONDENT

GERALD MWIRIGI MARETE.....6TH RESPONDENT

THE DISTRICT LAND

ADJUDICATION & SETTLEMENT OFFICER MERU.....7TH RESPONDENT

THE DISTRICT LAND REGISTRAR.....8TH RESPONDENT

THE ATTORNEY GENERAL.....9TH RESPONDENT

RULING

1. By an application dated **12.10.2021** the court is urged to appoint **NM** as a friend and guardian ad litem for **SM** alleged to be suffering some mental illness.

2. The application is based on the grounds on its face and a supporting affidavit sworn on **13.10.2021** in which he attaches a medical report by **Dr. Riungu** which indicates the subject suffers from senile dementia.

3. **Section 26** of the **Mental Health Act** as read together with **Order 32 Rule 4** envisages a situation whereby the court is moved by way of a petition or an originating summons. The court is expected to undertake a judicial inquiry before making an order to appoint a guardian.

4. Similarly there must be consents from the family members and the subject must be submitted to court for the inquiry. The instant application neither an originating summons nor a petition.

5. In the premises I find the application lacking merits.

The same is struck out with no order as to costs.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS AT MERU THIS 15TH DAY OF DECEMBER, 2021

In presence of:

Thuo for applicant

Court Assistant - Kananu

HON. C.K. NZILI

ELC JUDGE