



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY AND PROBATE DIVISION

MISC. APPLICATION NO. 128 OF 2018

IN THE MATTER OF THE MENTAL HEALTH ACT 10 OF 1989

IN THE MATTER OF EOW (A PERSON OF UNSOUND MIND)

AND

VLG.....APPLICANT

RULING

1. The application subject matter of this ruling is dated 20th May 2019. The same sought for various orders and it would appear that prayers 1,2, & 3 have been take over by events.

The only substantive prayer left is prayer 3 that seeks for grant of interim custody, care and control of **EOW** to the Applicant **VLG**.

2. The application is based on grounds that the Applicant is a child of the Subject, she has now relocated to Nairobi, has obtained a job, she had renovated their Langata house and is most suited to take care of her mother.

3. The application is objected to by the sister to the Subject, GWC who states that the Applicant has failed and continues not to act in the best interest of the Subject, the Subject needs proper care, treatment and a free environment, yet the Subject now lives under a terrible condition in her Langata house, the Applicant has failed to allow the Respondent access to the Subject, further the Applicant and the Interested Party are in this matter for selfish gain.

4. The court has seen and engage the Subject severally, it appears to the court that the subject has tremendous improvement in her health over time. At the hearing of this application she appeared well groomed and spoke very well.

5. The court learnt from the Subject that she currently stays in Langata with V. The subject's stay in Langata was not sanctioned by this court. This application therefore seeks to sanitise the applicant's action.

6. The court was initially moved by way of a Petition dated 13th September 2018 with the Petition a Notice of Motion was filed. The same was amended on 26th October 2018 and upon hearing the amended Notice of Motion **GWC, RG and NC** were appointed as interim legal guardians of the Subject pending full hearing and determination of the Petition.

The court further directed that the Subjects children be served and made aware of the matter.

7. The Subject was brought to Kenya on 30th of November 2018 and since then her "family" (The interim guardians, relatives and children) have made accusations and counter accusations against each other, jossling with each other on where the Subject should stay and who should take charge and manage her affairs.

8. In the one year the subject has been in Kenya she has moved from the respondents' house, to the interested party's house and now to her own house where she stays with the current Applicant.

9. Against the above background, for now, I decline to make any firm orders and direct that the main petition be fixed for further hearing. For the sake of the Subject I order that the current status quo be maintained pending further hearing and determination of the petition.

10. I further direct parties who are yet to testify to file and serve witness statements and exchange documents within the next 21 days for hearing of the matter by oral evidence.

Dated and Delivered in Nairobi on this 5TH day of DECEMBER, 2019

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ALI-ARONI

JUDGE