



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

PETITION 2 OF 2018

IN THE MATTER OF THE MENTAL HEALTH ACT CAP 248 LAWS OF KENYA

AND

IN THE MATTER OF P.N.N.

(A PERSON SUFFERING FROM MENTAL DISORDER)

AND

IN THE MATTER OF AN APPLICATION BY JKN AND LKN TO BE APPOINTED

GUARDIAN OVER THE AFFAIRS OF THE ESTATE OF THE SAID PNN

JKN..... 1ST PETITIONER

LKN.....2ND PETITIONER

RULING

1. The petition before court lodged in court by JKN and LKN (petitioners) is dated 20/7/2018 and filed in court on the 9/8/2018.

2. The petitioners seek orders;

i) This Honourable Court be pleased to appoint as Guardians of the affairs of PNN. in accordance with the Mental Health Act with power to sign any documents relating to depositing and withdrawals of monies touching on account number [...] at National Bank of Kenya, Nakuru Branch on behalf of P.N.N. and to carry out other incremental and general functions of PNN.

ii) The costs of this Petition be borne by the Petitioners.

3. It is the petitioners case that PNN has been under medical care since 2005 for dementia and heart disease (aortic dissection) for which surgery was performed.

4. He is unable to stand or walk as a result of weakness of the lower limbs with associated poor bladder control and is under full nursing care at home in the hands of the petitioners. He is currently unable to recognize family members.

5. A medical report by Dr. James Wafula Wanyaa is exhibited. It confirms that the subject suffers severe dementia and is unable to stand or walk with weaknesses of the lower limbs with associated poor bladder control. His dementia has worsened over time with associated forgetfulness.

6. It is averred that the subject has already distributed most of his assets leaving only a bank account at National Bank of Kenya, Nakuru Branch. The funds therein are needed for his medical care and other needs.

7. It is urged that the other children of the subject have agreed and have no objection to the petitioners filing the petition.

8. I have considered the petition and the supporting evidence. It is clear from the record that the subject's mental and physical functionalities are severally diminished. There is therefore need to appoint guardians to take care of his affairs.

9. I further note that a part from the two (2) petitioners, the subject had nine (9) other children. The said children are said to have consented to the appointment of the guardians. I, however, do not find such consents on record.

10. On the material before me, the justice in the matter would require appointment of guardians on specific terms to avoid any incidence of misuse of the powers so granted.

11. I therefore allow the petition but on the following terms:

1. The petitioners are appointed guardians of the affairs of PNN.

2. The appointment is specifically to empower the guardians to sign documents relating to authorization of transfers of monies from account number [...] National Bank Nakuru Branch for the purposes of the medical care of the subject whose transfers shall be *strictly* directed to hospitals, doctors or chemists availing medical services to the subject.

3. The costs of this petition shall be in the cause.

Dated and Delivered at Nakuru this 13th day of December, 2018.

A. K. NDUNG'U

JUDGE