

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY AND PROBATE DIVISION

MISC. APPLICATION NO. 101 OF 2016

IN THE MATTER OF AN APPLICATION FOR GUARDIANSHIP OF W W K (A PERSON OF UNSOUND MIND)

M M W.....APPLICANT/PETITIONER

R U L I N G

1. By a Petition dated 10th October, 2016 brought under **Sections 26, 27, 28 and 29** the **Mental Health Act (Cap 248) laws of Kenya**, the Applicant sought orders of court that:

- a) The Applicant be appointed as guardian/Administrator of the Estate of W W K.
- b) That the Applicant be allowed to administer the entire Estate of W W K.

2. The application is premised on grounds that W W K is the Applicant's husband and that he suffers from dementia, a condition associated with memory loss.

3. The Applicant also states that W W K is incapable of making decisions as a normal adult, thereby exposing his estate to imminent danger of being wasted.

4. In a supporting affidavit sworn on 10th October, 2016 the deponent M M W depones that, she is the legal wife of W W K (hereinafter referred to as the Subject), having been married on 29th December 1974. That some of the close relatives to the Subject have been harassing and threatening the Applicant to the extent of cultivating on the Subject's matrimonial farms. That the Subject's brothers have taken the advantage of the Subject's illness and tried to evict the Applicant from the matrimonial land.

5. The Applicant attached to her application a medical report by Dr. Wang'ombe a Specialist in Psychiatry at Mathari National and Referral Hospital. The Dr. observed that the Subject has bizarre behaviour, Insomnia, forgetfulness and irrelevant speeches and is not able to feed or shower himself. The Doctor's opinion was that the Subject was suffering from dementia, with memory loss, difficulty in communicating and regression of milestones.

6. I have perused the pleadings filed in this matter and heard the submissions of learned counsel Mr. Mulandi for the Applicant, and also read the report of Dr. Wang'ombe. I am persuaded that the Subject is a person who is suffering from a mental disorder. In view of the expert opinion of Dr. Wang'ombe which states that the condition has rendered the Subject incapable of performing his daily activities of functioning I find that he is not therefore able to take care of himself and to conduct his own affairs.

There being merit in the application dated 10th October, 2016, I hereby allow it as prayed by the Applicant.

SIGNED DATED and DELIVERED in open court this **14th day of February 2017.**

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L. A. ACHODE

JUDGE