



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
MISC: APPLICATION NO. 32 OF 2016
IN THE MATTER OF AN APPLICATION BY R W G
AND
IN THE MATTER OF J M G
AND
IN THE MATTER OF THE MENTAL CAP 248 LAWS OF KENYA
BY
R W G.....APPLICANT
RULING

1. This ruling is in respect of the Notice of Motion dated 26th August, 2016

2. R W G seeks orders:

1. That this Honourable Court be pleased to appoint, the Applicant herein guardian of the said **J M G**.
2. That this Honourable court be pleased to place the care, control and custody of the said **J M G** under the Applicant herein.
3. That this Honourable Court do issue an Order allowing the Applicant herein to manage all the affairs of **J M G**.

3. The application is premised on grounds listed on the face thereof namely:

- a. **J M G** is mentally indisposed and incapable of managing his own affairs.
- b. Medical evidence shows that he has a mild mental retardation as a consequence of his intellectual performance being below average not as expected.
- c. The said **J M G** is not expected to recover from his present condition.
- d. Besides his poor and deteriorating medical condition, the said **J M G** is getting elderly and

presently aged 66 years old.

- e. As a consequence of the foregoing, the said **J M G** is incapacitated to make competent decisions with respect to the estate
- f. The Applicant, being the sister, undertakes to properly and diligently take care of the said **J M G**
- g. The other siblings of **J M G** have consented to the appointment of the Applicant.
- h. It is in the best interest of the estate that the Applicant be appointed manager thereof.

It is further supported by the affidavit of the applicant sworn on the 26th August, 2016.

1. Annexed to the affidavit is a consent duly executed by all the siblings of the subject. In addition, all the siblings have filed affidavits of no objection.
2. A medical report annexed by Dr. Onyango indicates that M is mentally challenged. He has a mild mental retardation. He is not able to adopt to daily demands and thus not able lead an independent life.
3. That position is confirmed by the area chief of the subject's residence vide his letter dated 1st December, 2016.
4. I have had regard to the application, the supporting affidavit and grounds, the affidavits of no objection, the consents filed, the Chief's letter and the Medical Report.
5. It is quite clear that the subject is not in a position to lead an independent life. It is in his best interests that he be placed under the guardianship, care, control and custody of the applicant herein.
6. Consequently, I allow the notice of motion dated 26th August, 2016 in terms of prayer 1, 2 and 3.

Costs in the cause.

Dated, Signed and Delivered at Nakuru this 6th day of April, 2017.

A. K. NDUNG'U

JUDGE