



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
FAMILY DIVISION
MISCELLANEOUS APPLICATION NO 4 OF 2014
IN THE MATTER OF S G N
MENTAL HEALTH ACT CAP 248, LAWS OF KENYA

P T G..... 1ST PETITIONER

G W G.....2ND PETITIONER

M W N.....3RD PETITIONER

VERSUS

C M G.....1ST RESPONDENT

D M G.....2ND RESPONDENT

RULING

PLEADINGS:

The genesis of this matter is the Petitioners' certificate of urgency application filed on 16th January 2014 and further amended on 7th April, 2014. The gist of the application was;

- a. S G N (herein after referred to as the subject) an elderly man of 83 years suffers from mental disorder Alzheimer's dementia and is significantly incapacitated and not able to manage himself and put his affairs in order.
- b. The Subject has vast properties and assets that require to be collected, monitored, maintained and preserved to provide sustenance and medical provision
- c. The Respondents took over the properties and assets of the Subject to the exclusion of the other siblings; without authority or consent and collected income amounting to KSH. 2million a month in rent and diverted the same to their personal development to the detriment of the ailing parents;
- d. The Respondents neglected the subject and his wife and failed to provide medical care and other necessities

The Petitioners/ Applicants sought the following orders;

- a. Appointment of guardian to cater for subject's wellbeing;
- b. Appointment of manager (s) of the subject's estate to put the subject's affairs in order and make adequate provision for him and dependents;
- c. Issue an injunction to preserve the listed assets and properties that comprise of the subject's estate;
- d. Order to open a joint account for all proceeds from Subject's properties;
- e. An account of monies and assets used by respondents from the subject's estate

The Respondents filed the Replying Affidavit on 31st January, 2014 and stated as follows;

- a. They are 8 siblings and with 2 deceased they remained 6 siblings;
- b. P T resides in Kasarani on the Subject's developed plot
- c. G W resides in the Subject's home in Langata
- d. M W is married and lives in Banana
- e. C M resides in the Subject's home in Langata
- f. E W is resident in the US
- g. D M runs a business on Kipande Road given by the subject

The Respondents accused the 1st Petitioner of

- a) Mismanaging the subject's estate; he could not pay the Kenya Revenue Authority (KRA) debt;
- b) He neglected the subject and his wife; their stepmother;
- c) He engaged in acts of forgery by transferring the subject's shares to himself;
- d) He transferred the motor vehicles to his name;
- e) He disposed the subject's 2 plots in Kasarani without the family's consent.

The 1st Respondent took over the management of the subject's estate and took care of the subject. She helped to maintain and develop the properties; opened a joint account and took care of the subject and his wife.

The 1st Respondent filed another Replying affidavit of 16th April 2014 and 16th May 2014 respectively and elaborated on the instant issues and attached list of properties of the subject and annexed valuation and rents paid for each property, the Petitioners and Respondents filed rival written submissions on 10th and 17th June, 2014 respectively alluding to the same issues as outlined above.

RULINGS

The 1st Ruling was by Hon. Justice Kimaru on 31st July, 2014 ordered;

- a. **The wife of the subject M W K and the 1st Respondent C M G as legal guardians to the subject and**
- b. **Joint managers of the subject's estate; and**
- c. **Visitation program for the children of the subject**

MEETINGS

On 16th October, 2014 the parties appeared before the present Court. The matter arose out of a consent filed on 9th September 2014 to the effect of provision of nursing care for the subject.

Counsel for the 1st Petitioner; Mr. Kirimi, Counsel for the 1st Respondent; Ms Owino and Counsel for the 2nd Respondent; Ms Kimenyi gave rival oral submissions. Mr. Kirimi informed the Court that from the Ruling of 31st July, 2014 and the Consent of 9th September, 2014 new matters arose and wanted the Court to resolve them. The Petitioners' contacted Sterile Medical Services and got nursing care for the Subject.

The problems arose from the following circumstances;

- a. The 1st Respondent did not pay the nurses their dues;
- b. One Mr. Kariuki denied the siblings privacy during their visits to see the subject.
- c. The subject was not well catered for; he did not have a special diet, as he is also diabetic; his hygiene needs were not adequately addressed.

Ms Owino informed the Court that her client was served with the Nursing care report. The nurses' qualifications were not confirmed; their scope of work in provision of the subject's care was not agreed and payment schedule was questionable. Instead they were presented with a demand for KSH 53,000/- deposit after only 3 days work. The legal guardian incurred various expenses from food, clothing, transport, hospital expenses and necessaries. Therefore unless the deposit was justified she would not pay.

The 1st Respondent informed the Court, the 1st Petitioner was disposing the subject's property and did not file inventory of assets and property of the deceased as ordered by Court in Ruling of 31st July, 2014. The Court scheduled a meeting with all relevant parties on 22nd October, 2014. The Court saw the subject and his wife, the nurse and helper and all siblings were present.

The Court asked them to discuss and explore amicable settlement on the following issues;

- a) Who is to provide ingredients and/or prepare the special diet of the subject?
- b) The visitation program of the subject by the siblings; who will visit when and who will provide care;
- c) Cleaning and hygiene arrangements for the subject;
- d) Payments for food, clothing, subsistence and nursing care;
- e) The subject's doctor's appointments; treatment;
- f) Monthly reports to Deputy Registrar Family Division.

On 25th November, 2014, Counsel for the parties informed Court that the parties met on 20th November, 2014 at All Saints Cathedral Church. They did not agree or resolve the issues that were to be discussed. These were the issues raised;

1. MP Shah Hospital had recommended the special diet but there was no agreement on who would prepare the special diet and who would make adequate provision for the said diet.
2. It was stated that one K and one N would take care of the subject; clean him and his clothes and beddings.
3. The petitioners objected to K as he was very arrogant and rude to those who visited the subject and he impeded the siblings visits.
4. The 1st Respondent took the subject to MP Shah Hospital and the doctor prescribed a special diet. The Applicant informed the Court, Dr. Gikonyo of Karen Hospital treated the subject for 21 years and he has the subject's medical history and was his doctor of choice before he lost his memory. For these reasons he preferred the subject to be treated at Karen Hospital.
5. Access to the subject by all family members was agreed on any day with reasonable notice except for Wednesday when the Subject visits the doctor for medical treatment. It was agreed that during the visits the family members would have privacy with the subject and their mother. There would be unsupervised visits and unhindered access at the subject's home during the visits. Mr. N and

Mr. K would allow privacy during the visits.

6. The Subject's nursing care remained a challenge. The nurses hired by the Applicant were evicted in an inhuman and degrading manner from the premises. The manager of the subject's estate did not pay the 1st Respondent the bills for incurred services. Yet

It was common ground by all parties that the subject requires specialized care.

7. The guardian provides the subject's food, clothing, subsistence nursing care and all expenses for running the home and the subject's business projects.
8. It is also important to note that 1st applicant, 1st Respondent and 2nd Respondent have been running the subject's businesses as gifts from the subject and some on his behalf. The Applicant ceded management of the properties to the manager of the estate. The parties except for the 1st respondent have not disclosed the subject's property value and income generated.
9. It was agreed that the monthly reports to the Deputy Registrar Family Division on the health status care and progress of the subject from the doctor would be shared with family members.

The parties respective Counsel filed written submissions on 9th and 11th December 2104 on the above issues.

The Court delivered Ruling addressing the issues in contention on 11th February 2015. The Court gave orders with regard to rival submissions with a view to amicable resolving the dispute. The Court gave a grace period of 2 months to integrate family members in care and attention of the subject and evaluate progress or address emerging challenges.

The Court orders were;

- a. **The subject shall attend Karen Hospital and be examined by Dr Gikonyo and /or any of the doctors he shall assign to treat him.**
- b. **The Guardian the 1st Respondent remains as manager of the subject's estate in charge of food, clothing, medical expenses, cleaning and hygiene and nursing care expenses;**
- c. **The Court order of 31st July, 2014 is amended to include the 1st Petitioner as co- guardian and assist in taking care of the subject;**
- d. **The Deputy Registrar Family Division to write to the Nursing Council of Kenya to obtain qualified nursing care for the subject;**
- e. **Mr. N to prepare the subject's recommended special diet;**
- f. **Mr. N to undertake the Subject's hygiene and maintenance of clean environment and may alternate with the family members;**
- g. **The subject shall be visited by family members in unsupervised visits and unhindered access as long as there is reasonable notice and agreement**
- h. **A joint account be opened by the 1st respondent and 1st applicant with all proceeds from the subject's properties banked in the said account and the funds will be used to cater for the subject's medical expenses and subsistence.**
- i. **If the medical bills are not settled, the same be remitted to Deputy Registrar Family Division for scrutiny and further Court orders to facilitate payment of the bills**
- j. **The 1st Petitioner to comply with the earlier Court order to give an inventory of the subject's properties**
- k. **The 1st Respondent is restrained from disposing, wasting or alienating the subject's properties without a Court order**
- l. **The matter be mentioned in 2 months for compliance and further directions**

Pursuant to the Ruling, E W G; one of the siblings complained that from when she arrived from the US, she found her father, the subject neglected and the environment he is kept in was in a deplorable state and asked the Court to intervene in securing the wellbeing of the subject.

On 2nd March 2015, the parties through Counsel informed the Court on the progress of the subject's care

and well being. Mr. Kirimi for the 1st applicant informed the Court the subject was treated at Karen Hospital by Dr. Gikonyo and the doctor would file the report in Court later. The 1st Petitioner and 1st Respondent were in the process of opening the joint account and had agreed on monthly payments of the medical bills.

The challenge is that the 1st petitioner has not been accepted as co-guardian and the 2nd Respondent did not comply with the Court orders of being part of the joint account and remitting funds to pay for the subject's medical care. Ms Owino for the 1st Respondent informed the Court the subject was treated at Karen hospital except for a nutritionist to recommend the subject's special diet.

However, there are teething problems. The 1st petitioner wrote to tenants directing them to pay rent to him. The money is not banked in the joint account. Consequently, the funds are insufficient to settle the subject's medical bills. The bills incurred include medical and sustenance bills for the subject and operational expenses for subject's properties.

The 1st Petitioner has properties in Kasarani and Huruma, 1st Respondent has properties in Industrial Area and 2nd Respondent has properties on Kipande Road all are the subject's properties; they hold and run them on his behalf. The 1st Petitioner and 2nd Respondent did not disclose the properties in their custody and revenue generated. They should plough more funds in the joint account to meet settlement of the bills.

The 1st Respondent produced a list of monthly expenses dated 14th April, 2015 that puts monthly expenses at Ksh.1.648.949/= The Court was to clarify if the 1st Petitioner is only co-guardian or he is also manager of the subject's estate.

The Court's Ruling was to the following effect;

- a. **There was progress by parties in the subject's care and wellbeing.**
- b. **The Court would await the doctor's report**
- c. **The medical expenses would be paid monthly by cheque**
- d. **The joint account be opened and operated by the 1st Petitioner, 1st Respondent and 2nd Respondent who are holding and running the subject's properties, to either agree on amount of money deposited in the joint account for the subject's upkeep and medical care; or pay into the account all rent and revenue to defray the subject's medical and upkeep expenses.**
- e. **The parties to pursue specialized nursing care for the subject.**
- f. **The 1st petitioner was appointed a co-guardian to the 1st Respondent so as to allow more access and participation of family members of their father; the subject;**
- g. **In the meantime, the 1st Respondent is not a co-manager of the subject's estate. The issues regarding property shall be heard and determined later. Of priority is the welfare of the subject;**
- h. **Further mention was on 18th March 2015 for any issues to be raised and further orders.**

On 18th March 2015 and 22nd April, 2015, the parties informed the Court on new developments;

Ms Owino reported on the following issues;

The joint account was opened but there were challenges implementing the Court orders, the tenants did not pay rent into the new account and the parties want the Court to be clear on the orders regarding the joint account.

The 1st Petitioner filed the statement of monthly expenses and seeks funds to settle the same. The subject was taken to hospital 4 times and the bills would be settled monthly.

The 1st Petitioner refused to sign the bank cheques and this has resulted in a crisis and lack of essential

services. The manager was running out of resources to cater for the Subject; in one instant, the subject was given food that lasted 3 days. There remains the looming issue of disclosure of the subject's properties and revenue to enable the parties sustain the subject's welfare.

Mr Kirimi informed the Court that following the Court order of 3rd March 2015 he wrote to tenants vide letter dated 6th March 2015 that they were to pay rent into the joint account and not to the 1st petitioner as alluded to in court. He presented the letter in court for confirmation of the position.

New developments were that the subject's diet is not sufficient and the subject is neglected. The issue of specialized nursing care should be fast tracked.

The second complaint was that Mr. K one of the employees was interfering with the subject's visits to Karen Hospital and claiming the hospital staff will kill him and he is traumatized. It is also very difficult to take the subject to hospital, there no transport arrangements made.

The third challenge is with regard to the rent payments to be made into the joint account. The tenants have not been paying rent in the new account. The bank balance is not sufficient to pay the medical bills and operational costs like water and electricity bills.

At various intervals, the Court prevailed upon the parties in the presence of Counsel to attempt amicable settlement of the outstanding contentious issues. The family members met on 9th April 2015 and 14th April 2015 but the talks were a dead-end.

The Court found it useful to outline the chronology of events, parties and Counsel oral and written submissions and correspondence that culminated to the present stage so as to place the claims by each of the parties in proper factual and legal context. This process will inform the legal analysis on the pertaining issues and determination thereof.

ISSUES

- a. Does this Court have jurisdiction to review amend vary or set aside the orders of 31st July, 2014?
- b. Is the subject under proper medical and other care for management of his health and wellbeing?
- c. What comprises of the subject's estate?
- d. Who is in charge and how is the estate managed to ensure adequate provision for the subject and dependents?

ANALYSIS AND DETERMINATION

The preliminary issue for determination is found in paragraph 11 and 12 of the 1st Respondent's affidavit of 3rd September, 2014. The 1st Respondent states that the Court the orders issued by Justice L. Kimaru on 31st July, 2014 were legal and regular orders and any party aggrieved ought to appeal. Further, that there is no basis for review as the application was under wrong provisions of law and irregular processes.

This Court should determine if it has jurisdiction to entertain the various applications that have been made in Court.

The matter at hand is under the **Civil Law process. Order XLIV**

Section 1 (1) (a) & (b) of CPR 2010 prescribes;

‘Any person considering himself aggrieved by a decree or order

from which an appeal is allowed but from which no appeal is preferred.....

and from which from discovery of new and important matter or evidence which after exercise of due

diligence was not within his knowledge or could not be produced at the time the decree or order was passed; or on account of some mistake or error apparent on the face of the record or for any other sufficient reason desires to obtain a review of the decree or order may apply for a review of the judgment of the Court.....without unreasonable delay”.

Section 2 of the same Order provides;

“A party who is not appealing from a decree or order of a Court, may apply for review of judgment notwithstanding the pendency of an appeal by some other party.....”

The Court confirms the Court order of 31st July, 2014 is a valid, legal and regular order of the Court. However, since the order, new developments and unforeseen circumstances have been brought to the attention of the Court regarding the issue of care and support of the subject. These issues arose during the implementation of the Court order and could not have been canvassed before the Court that gave the order as the issues arose with regard to implementation of the Court order.

This Court finds that in order to secure proper and adequate attention, care and support of the subject, the review is mandatory due to new and important matters arising as outlined above and the wellbeing of the subject is priority; There is therefore sufficient reason to review the orders so as to ensure proper care and support of the subject and management of the subject’s estate.

Secondly, the review process is not to prejudice any party, the right to appeal against all Court orders remains intact and available to the parties.

With regard to the second issue; it is common ground that the subject S G N suffers from Alzheimer’s dementia, blood pressure and diabetes and the Court order of 31st July, 2014 confirmed this position and appointed his wife M W K and his daughter, 1st Respondent C M G as guardians of the subject under **section 26 (1) (b) of the Mental Health Act.**

Secondly, the 1st Respondent was appointed temporarily as manager of the subject’s properties. The Petitioners and Respondents were ordered to provide the Court with an inventory of all properties of the subject, including the particulars of each property, and the rental incomes received from each property.

From the onset, there have been rival submissions on complaints, accusations and counter accusations by and against the children of the subject more particularly 1st Petitioner and 1st Respondent on the care and support of the subject.

The summary of issues are as follows;

- a. Where the subject will obtain medical attention, who will take him to hospital, who will provide transport or pay transport expenses, who will pay the medical bills;
- b. Is the subject well taken care of; clean, clothes washed and room and surrounding kept clean? Who should carry out these duties? The daughters, employees and/or specialized nursing aid(s)? Who will provide the toiletries and necessities?
- c. What is the subject’s special diet? What will it consist of and who will provide the ingredients, who will prepare the meals and ensure the subject has them on time as prescribed?
- d. How is the Subject to be visited by all his children and relatives? Can there be unsupervised visits and unhindered access and not hostile and high-handed conduct by employees towards relatives?

The 1st guardian, wife to the subject is herself sick and requires medical attention and care. From the submissions it is not discernable that she is actively involved in the husband’s care and support and if so it is to a very limited extent.

The 1st Petitioner is alleged to have neglected the parents while he was in charge and he was focused on the property and he forged the subject’s signature and transferred property in his name without the

family's knowledge and approval.

The 1st Respondent upon being appointed co-guardian, has neglected the subject, she does not supervise the 2 employees; Mr. N and Mr. K who care for the subject on a day to day basis. The meals are not adequate for a diabetic. She does not ensure the subject's hygiene. Instead it is alleged she travel out of the country leaving the subject unattended to.

She also hinders other family members from visiting the subject and allowing them privacy with their parents by using specifically, Mr. K to oversee everything that goes on and at times he has disallowed the siblings unlimited access. The provisions are not adequate.

The 2nd Respondent is alleged not to care for his parents since the appointment and he is not actively involved in the family matters. He states in his affidavit, he looked after them while his siblings were abroad and left when they took over. He would accept to take his parents away to his home and take care for them.

The 2nd Applicant is accused being brutal to the family members especially the stepmother, she suffers from alcoholism. The 3rd Applicant is married and lives away from the parents home. She visits the parents but she is not involved in the ongoing tussle. She would like to participate in caring for her parents.

The other sibling, Ms. E W has been resident in US. She recently came back to take care of her parents and help in any way she can. She informed the Court, on coming back; she found her father, the subject neglected and his environment in a deplorable state. She requested the Court to allow the siblings access to take care of their father, subject.

These circumstances have arisen after the order of 31st July, 2014 and clearly depicts a scenario where sibling rivalry has adversely impacted on the core issue of this case; the day to day care of the subject.

The court after evaluation of the facts finds it imperative to involve family members in the care of the subject. The shared responsibility will increase access of the siblings to their father and facilitate amiable communication. This process will hopefully encourage partnership, ensure accountability and simmer down the existing rivalry and hostility.

The Court orders as follows;

a. The guardians of the subject are;

i) M W K- She will oversee the care and support of her husband the subject

ii) P T G- He will arrange and facilitate the subject's visits to the doctor at Karen Hospital. He will have the reports and medical bills availed for payment and filed in Court. He will arrange for other siblings to take the subject to hospital too so as to share in the medical care of the father. The Subject may be taken by his children to hospital in turns; P and G the first visit, M & E the second visit and C and D the 3rd visit and so on.

iii) G W G

M W G-N

E W G

The three (3) sisters will share the responsibility of ensuring the subject is clean and has the necessaries, his environment conducive and he is well prepared for hospital and home visits.

They will supervise Mr. N and Mr. K on cleanliness, handling visitors in the subject's home, special meals preparation and intake, medicine intake. They will facilitate family visits of the subject and their mother.

iv) C M G

D M G

They will facilitate and obtain specialized nursing care at first I nurse or nurse aid per day and 1 for the night.

The Deputy Registrar Family Division wrote to Nursing Council of Kenya on 11th March 2015 and the Council sent their Reply on 12th March 2015. The Council does not deal directly with employment of nurses. The Ministry of Health Faith based institutions and private institutions do this.

They will provide adequate provision of the subject's special diet and food for the household and necessities to provide the subject with the care and support he requires.

They will settle the subject's medical bills and fuel/transport expenses for the subject's visits to hospital.

They will settle the subject's specialized nursing care and employees payments who assist in the home.

They will prepare and file in Court monthly reports on the payments.

The third issue for determination is what comprises of the subject's estate? Although the issue of property was relegated so as to focus on the subject's day- to -day care and wellbeing; it is incumbent to address it at this stage as it has a direct bearing on the funds available for the subject's upkeep and well-being.

Secondly, this question is pertinent because all parties have not complied with the Court order of 31st July 2014. The 1st Respondent who filed on 2nd September, 2014 list of properties and rent income. The 1st Petitioner filed on 15th October 2014 the rent revenue and expenditure. On 26th September 2014, the 2nd Respondent filed accounts of payments from June 2010-August 2014 on the properties. These reports do not have sufficient information to enable the Court to make appropriate orders.

The Court Orders As follows;

A reputable , professional land estate and valuation Company to be agreed on by the parties and appointed by Court within 30 days to conduct investigations, interview the family members of the subject and collect documents from them where necessary and verify ;

- a. **existence, ownership, encumbrances of the properties,**
- b. **their situation, acreage, size, value**
- c. **their status, activity and /or development**
- d. **where rent is payable indicate the number of rooms, houses or offices and number of tenants and rent payable each month**
- e. **Where business or agricultural activity taking place confirm and what revenue is paid**
- f. **If residential confirm size and value of residence.**
- g. **The properties are as mentioned in the pleadings but not exclusive; they are;**

Land reference 209/2490/46 -Ngara

Land reference 209/139/4 – Crossroads

Land reference 209/2858- Ndunga Road – Industrial Area

Longonot /Kijabe Block 1/316 (Ereri)

Nairobi /Block 72/1081

Naivasha Maraigushu block 10/2968 (Limuru Nyakinyua)

Ngong/Ngong/7891

Limuru /Bibirioni/1027

Kiambu/Lari/1416

Nairobi /Block 122/369

Nairobi/Block122/16

Nairobi Block 1222/8

Land reference 209/1418/50

Kasarani Plot (details from 1st Petitioner)

Huruma Plot (details From 1st Petitioner)

Any other property found in the process.

- h. The Estate and Valuation Company to prepare a report and file in Court through Deputy Registrar Family Court. The Professional fees be taxed by the Registrar and paid from the subject's estate.**

The final issue is with regard to the management of the Subject's estate. This is crucial in ensuring the properties are maintained and businesses remain operational to generate revenue for the subject's revenue and maintenance of his dependents. The 1st Respondent has been the sole manager of the subject's estate. However, there have been disputes as to payment of the subject's bills and expenses, adequate provision for the subject's home upkeep.

Closely related the subject's estate has been of immense interest focus and acrimony amongst the siblings.

From the submissions in court the Court has found that the subjects estate is the preserve of the Manager, 1st Respondent who holds the purse strings to the exclusion of the other siblings, the 1st petitioner and 2nd respondent hold properties that they claim are gifts inter vivos and have expended their resources in developing the same. More importantly, all or most siblings depend solely on provision from the subject's estate and some feel that some siblings have access and enjoy the subject's property while they are excluded. All these factors have played to the family dispute and impeded availability of funds and payment for adequate provision for the subject's day to day care and well being.

Due to all these issues this Court has considered the submissions and orders as follows;

The managers of the subject's estate are;

- a. **P T G**
- b. **C M**
- c. **D M G**

By virtue of holding or running the subject's properties and businesses that generate revenue.

The 3 managers will open a joint account (if not opened) and will deposit all revenue from the properties and businesses.

They will be co signatories to signing of all cheques issued for payment. Any two (2) signatories may sign.

The 2nd Respondent will have custody of cheque books, facilitate payments and provide monthly accounts in Court.

The payments will be made in order of priority as follows;

- a. **Subject's expenses- medical care, nursing care, special diet expenses and transport expenses, utility bills (electricity and water bills of the subject's residence) adequate provision of necessities in the subject's house;**
- b. **The subject's wife's medical and living expenses;**
- c. **The repair, maintenance and development expenses for the subject's home and properties**
- d. **The grandchildren school fees and expenses**
- e. **Reasonable monthly stipend to mother and all siblings of the subject to be agreed on within 30 days.**

The Court has considered the monthly expenses filed in Court by the 1st Respondent on 14th April 2015. The expenses are both the subject's expenses and businesses' operational costs, which far outweigh the subject's upkeep and well being expenses.

The Court noted from the records that the subject's businesses were in **SIMARY SAFARI HOTEL COMPANY** whose directors are the subject, the 1st petitioner and 1st guardian, their mother. The Company ought to be run on its own capital and revenue. Unfortunately, the Company's operations are comingled with the present funds. The 3 managers should run the Company, independently and pay workers and related expenses but remit funds to the joint account for the subject's upkeep.

The Court finds the expenses in the following items exorbitant;

- a. Food including special diet for the subject KSH. 200,000/= a month. It should be at most KSH. 100,000/= per month.
- b. The auditors report at KSH. 100,000/- is one off and not a monthly expense;
- c. Management payment to the 1st Respondent /guardian at KSH 150,000/- a month and guardian and mother to the siblings and wife to the subject at KSH 100,000/- a month is on the higher side.

FINAL ORDERS

The Court finds that participation by all family members in taking care of the subject shall facilitate proper care and upkeep of the subject.

1. **The guardians of the subject shall include mother and all children of the subject;**
 - a. **M W K**
 - b. **P T G**
 - c. **G W G**
 - d. **M W N**

- e. E W G
- f. C M G
- g. D M G

All parties shall have shared responsibility in taking care of the subject as enumerated hereinabove.

2. The managers of the subject's estate are;

- a) 1st petitioner -P T G,
- b) 1st respondent – C M G,
- c) 2nd Respondent- D M G,

They will jointly open and run an account deposit funds and revenue from the subject's properties they hold and run. They will jointly pay subject's expenses, make adequate provision in his home, pay utility bills as first priority.

They will pay other payments as listed in priority above

They pay out a modest stipend to all siblings for their upkeep as dependents of the subject.

The 2nd Respondent to keep cheque books and prepare accounts and file in Court monthly reports on payments.

3. Further or final orders shall be made when a report from the Estate and valuation body files in Court an comprehensive

report of the properties that comprise the subject's estate.

the meantime all revenue be deposited in the joint account.

4. This is a family matter regarding the upkeep and wellbeing of the subject, there shall be no orders as to costs.

5. The orders be implemented and mention in 2-3 months for compliance or further directions.

6. Any aggrieved party may apply

SIGNED AND DELIVERED AT NAIROBI THIS 5TH DAY OF JUNE, 2015

M. MUIGAI

JUDGE

In the presence of:

Counsel for the Applicant Mr. Kirimi