



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MISCELLANEOUS CIVIL APPLICATION NO. 143 OF 2015**

**IN THE MATTER OF G N K (THE PATIENT)**

**AND**

**IN THE MATTER OF THE MENTAL HEALTH ACT**

**(CAP. 248, LAWS OF KENYA)**

**AND**

**IN THE MATTER OF AN APPLICATION BY L J K AND N E A K FOR THEIR  
APPOINTMENT AS GUARDIANS AND MANAGERS OF THE AFFAIRS OF G N K**

**JUDGMENT**

1. The Petitioners moved the court herein by a petition dated 7<sup>th</sup> October 2015 seeking the orders set out in the said petition, more particularly a declaration that the subject of the proceedings, G N K, be declared to be suffering mental disorder as defined under the Mental Health Act, Cap 248, Laws of Kenya, and that the petitioners be appointed his legal guardians.
2. The subject is the father of the petitioners, and two others who have filed consents to support the petition. The said subject is said to be admitted at the MP Shah Hospital and has been in a comatose state at the said hospital since 22<sup>nd</sup> September 2015. He is thus incapable of managing himself and his affairs. The petitioners indicate that they have exhausted their resources on his treatment and would thus seek leave to access his estate to raise funds for his treatment and upkeep.
3. When the matter was placed before me on 8<sup>th</sup> October 2015, under Certificate of Urgency, I directed that the petition be heard on 14<sup>th</sup> October 2015 and that all the children of the subject be in attendance.
4. On the due date, the petitioners and one of their brothers, B K, attended court. They all testified on oath and gave vent to the averments in the petition and confirmed that their other sibling, T J K, had consented to the petition.
5. I have considered the pleadings filed herein, the documents attached thereto and the oral testimony of the children of the subject. I am satisfied that the subject is currently lying in a coma at the MP Shah Hospital in Nairobi. Due to that he is incapable of managing himself and his affairs.
6. Consequently, I do hereby allow the petition in terms of prayers (a) and (b) thereof.
7. The other prayers are far reaching and ought not be granted in the circumstances. The petitioners by Orders (a) and (b) shall be trustees of the estate of the subject and should access the assets and funds of the subject as and when need arises. They shall be at liberty to move the court appropriately if need be to facilitate access to any specific asset and for its liquidation.
8. As trustees they shall be accountable to the court on behalf of the subject and to their brothers. Consequently, they shall prepare and place before the court an account of the full inventory of the

assets that make up the estate of the subject and their dealings with it. Matter shall be mentioned periodically for that purpose.

9. It is so ordered.

**DATED, SIGNED and DELIVERED at NAIROBI this 15<sup>TH</sup> DAY OF OCTOBER, 2015.**

**W. MUSYOKA**

**JUDGE**