



REPUBLIC OF KENYA



KENYA LAW
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In re IOA - A Person with Mental Illness (Miscellaneous Civil Application E017 of 2025) [2025] KEHC 13361 (KLR) (23 September 2025) (Ruling)

Neutral citation: [2025] KEHC 13361 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
MISCELLANEOUS CIVIL APPLICATION E017 OF 2025**

S MBUNGI, J

SEPTEMBER 23, 2025

**IN THE MATTER OF AN APPLICATION UNDER SECTIONS 2,26,27
AND 28 OF THE MENTAL HEALTH ACT (CAP 248 AS AMENDED BY
ACT NO. 27 OF 2022)**

AND

**IN THE MATTER OF ORDER 32 RULE 15 OF THE VICIL PROCEDURE
RULES, 2010**

AND

**IN THE MATTER OF IOA - A PERSON WITH
MENTAL ILLNESS**

RULING

1. This is a ruling on a notice of motion dated 25th day of July, 2025 brought by SAA under Articles 43(1)(a)&(c), and 57 of the *Constitution* of Kenya, 2010, Sections 26 and 27 of the *mental Health Act*, Cap 248, Order 32 Rule 15, Order 51 of Civil Procedure Rules, 2010, and all enabling provisions of the law seeking for an order that pending the hearing and determination of the Petition the Court do allow the Applicant to withdraw Ksh. 30,000/= from the Bank Account of IOA held at Equity Bank Account No. XXX Kakamega Branch for the Purposes of paying rental arrears, buying food and meeting daily upkeep needs.
2. The Application is supported by the Affidavit, I have looked at the Affidavit, she depones that IOA is mentally incapacitated, such that he cannot manage his own affairs.
3. Further that being an employee of teachers service commission, he has monies held in his bank account and there is need to access such funds to be able to take care of him.
4. I have looked at the affidavit, the annexures thereto which include employment letters and medical reports, disability membership card.



5. When the matter came before the court on 31.7.2025 the court gave directions that her social background report be prepared by the department of probation.
6. The social inquiry report dated 28.8.2025 was filed , I have looked at the report. The report says that IOA is not able to manage his own affairs for he is mentally incapacitated.
7. The court had also a chance to see IO in court, the court noted that he could not comprehend what was happening.
8. Therefore , I find it necessary to allow the Applicant to manage his affairs pending the hearing and determination of the Petition. She is allowed to withdraw ksh. 30,000/= as prayed in prayer 2 of the Application from IO's Equity Bank Account No. XXX Kakamega Branch for the Purposes of paying rental arrears, buying food and meeting daily upkeep needs.

DATED SIGNED, AND DELIVERED IN OPEN COURT AT KAKAMEGA THIS 23RD DAY OF SEPTEMBER, 2025.

S.N. MBUNGI

JUDGE

In The Presence of;

C/A: Edwin Wanjala.

Mr Rabando counsel , present.

