



**In re JMN (Subject) (Miscellaneous Application E135 of 2025)
[2025] KEHC 14522 (KLR) (Family) (16 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 14522 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
MISCELLANEOUS APPLICATION E135 OF 2025
PM NYAUNDI, J
OCTOBER 16, 2025
IN THE MATTER OF THE MENTAL HEALTH ACT 248
IN THE MATTER OF AN APPLICATION ON BEHALF OF JMN**

IN THE MATTER OF

**JSN 1ST APPLICANT
RWT 2ND APPLICANT
PMN 3RD APPLICANT**

JUDGMENT

1. Vide application presented under Section 26 (b) of the [Mental Health Act](#) and Section 3A of the [Civil Procedure Act](#) and All Other Enabling Provisions of the Law) dated 2nd May, 2025 supported by an Affidavit, the Petitioners herein JSN, RWT and PMN seeks the following orders-
 1. That a declaration to the effect that the Respondent is incapable of running her affairs and requires a guardian.
 2. That the Petitioners be appointed as the guardians on behalf of the Respondent.
 3. That the costs be in the cause.
2. The subject is 68 years old. PW1 - 1st Petitioner is the only child of the subject. He states that the subject is unwell, she is unable to manage her affairs, she has been suffering from Alzheimer’s Dementia. The Petitioner stated that his father is deceased. He further stated that he lives together with the subject and a caregiver who assist the subject.



3. The 2nd and 3rd Petitioners are the blood sister and brother to the subject whom they have been taking care of since the subject became unwell in the year 2019 after which her condition has continued to deteriorate.
4. It's their averment that the subject requires constant care and since she is not able to run her businesses, the subject has taken to giving instructions touching on funds from her Bank Accounts which she is unable to remember and account for and the subject is not able to take responsible decisions touching on her operations and hence need of Petitioners to be appointed as guardians to take care of her health and businesses.
5. The Application is supported by a report dated 2nd May, 2025 from Dr. Andras Rozsa Consultant Neurologist and Psychiatrist from Coptic Hospital which diagnosis Dementia Primary progressive.
6. The Court observed the subject and it is evident that she is not aware of her surroundings, it was evident that she is well taken care of.

Determination

7. The provisions of the [Mental Health Act](#) ensure that individuals who suffer from mental illness are well cared for and their estates are properly handled. The [Mental Health Act](#), at Section 26 provides that:
 1. The court may make orders—
 - a. for the management of the estate of any person suffering from mental disorder; and
 - b. for the guardianship of any person suffering from mental disorder by any near relative or by any other suitable person.
 2. Where there is no known relative or other suitable person, the court may order that the Public Trustee be appointed manager of the estate and guardian of any such person.
 3. Whereupon inquiry it is found that the person to whom the inquiry relates is suffering from mental disorder to such an extent as to be incapable of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or to others or likely to act in a manner offensive to public decency, the court may make such orders as it may think fit for the management of the estate of such person, including proper provision for his maintenance and for the maintenance of such members of his family as are dependent upon him for maintenance, but need not, in such case, make any order as to the custody of the person suffering from mental disorder.
8. I have considered the evidence adduced in Court and I am persuaded that the Applicants are best placed to provide adequate care to the subject and ensure is wellbeing.
9. It is in the subject's best interest that the Applicants are appointed as her personal representatives to ensure that funds are available for her upkeep and further medical attention in the future.
10. In the circumstances the Application dated 2nd May, 2025 is allowed and with the following orders:
 - a. JMN is hereby declared as suffering from a mental disorder under Section 26 of the [Mental Health Act](#) (Cap 248).
 - b. JSN, RWT and PMN are hereby appointed under section 27 of the [Mental Health Act](#) as the Guardians of JMN



- c. JSN, RWT and PMN are hereby appointed managers of the estate of JMN under Section 28 of *Mental Health Act* to manage her estate including any such description of moveable or immovable property, money, debts and legacies, power to execute, sign all deeds and instruments relating to or evidencing the title or right to any property or giving a right to receive any money or goods.
- d. Pursuant to this appointment JSN, RWT and PMN shall deliver to Court and the Public Trustee, within 6 months, an inventory of the property belonging JMN
- e. In accordance with Section 27(4) of the *Mental Health Act*, 2022 the Petitioners shall cause within 30 days the publication of notice in the Gazette, informing the public of their appointment as the managers of the estate of JMN
- f. As Managers of the Estate of JMN the Applicants may dispose of the property only with the sanction of the Court.
- g. The matter will be mentioned before Court on 27th November 2025 to confirm compliance.
- h. Costs to be met out of the Estate of the Subject.

SIGNED, DATED AND DELIVERED VIRTUALLY AT NAIROBI THIS 16TH DAY OF OCTOBER, 2025.

P. M. NYAUNDI

JUDGE

In the presence of:

Fardosa Court Assistant

Museve for Applicants

