



REPUBLIC OF KENYA



**In re MWG (A Person Suffering from Mental Disorder) (Petition E202 of 2025)  
[2025] KEHC 14029 (KLR) (Family) (2 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 14029 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY**

**PETITION E202 OF 2025**

**PM NYAUNDI, J**

**OCTOBER 2, 2025**

**N THE MATTER OF MWG (A PERSON SUFFERING FROM MENTAL DISORDER)**

**AND**

**IN THE MATTER OF AN APPLICATION BY EWG, YWG AND PKG TO BE APPOINTED  
AS GUARDIANS OVER THE AFFAIRS AND MANAGERS OVER THE ESTATE OF THE  
SMWG UNDER SECTIONS 26, 28 (1) AND (2) OF THE MENTAL HEALTH ACT (CAP 248)**

**JUDGMENT**

1. The Petition dated 30<sup>th</sup> June, 2025 filed under certificate of urgency and which is supported by the affidavit, the Petitioners seek that: -
  - a. The patient be adjudged to be a person suffering from a mental disorder.
  - b. They be appointed Guardians of the patient.
  - c. They be appointed the Managers of the patient's Estate.
  - d. The appointment of the Petitioners as the Guardians and Managers of the patient's affairs do operate as authority to manage the following Bank Account and properties held in the name of the patient:-
    - i. ABSA Bank Kenya PLC – Account Number xxx
    - ii. Title Number: Limuru/Kamirithu/xxxx
    - iii. Title Number: Limuru/Kamirithu/xxxx
    - iv. Title Number: Limuru/Kamirithu/xxxx
    - v. Title Number: Komothai/Thuita/xxx
    - vi. Title Number: Komothai/Thuita/T.xxx



- vii. Land Reference Number: 13330/xxx
- e. The appointment of the Petitioners as the Guardians of the patient and Managers of the patient's affairs operate as authority to the petitioners to also sign and /or execute documents and/or instruments relating to Conveyance, sale and any other disposition of the patient's Estate for and on behalf of the patient.
- f. The Court do grant the petitioners any further or other relief as deemed fit by this Honourable Court.
2. That on 24<sup>th</sup> July, the matter proceeded by way of viva voce evidence. The subject is 81 years old and has been suffering from old age related illness particularly the neurological disorders that have culminated in dementia.
3. The Petitioners are children of the subject herein. The 1<sup>st</sup> Petitioner resides in Kenya while the 2<sup>nd</sup> and 3<sup>rd</sup> Petitioners work and reside in the United Kingdom. That the Petitioners have all consented to their being appointed as the patient's Guardians and Managers of her affairs. It is their statement that the subject was diagnosed to be suffering from Alzheimer's dementia, which condition has affected her memory, decision making, judgment, interaction with others and the ability to grasp the import of her activities.
4. It is their further statement that the condition has rendered the patient intellectually incapacitated and it has been projected that the condition shall steadily become worse despite treatment.
5. The Petitioners averred that most of the family investments and properties are held in the name of the subject and in view of her said medical condition, the patient is unable to manage and /or oversee the same. That as a result, such investments are now going to waste.
6. That the following are the investments and/or properties held in the name of the subject that needs to be managed include the following Bank Account and properties:-
- a. ABSA Bank Kenya PLC – Account Number xxx
- b. Title Number: Limuru/Kamirithu/xxxx
- c. Title Number: Limuru/Kamirithu/xxxx
- d. Title Number: Limuru/Kamirithu/xxxx
- e. Title Number: Komothai/Thuita/xxx
- f. Title Number: Komothai/Thuita/T. xxx
- g. Land Reference Number: 13330/xxx
7. The Petition is supported by the Reports from the following Doctors: -Dr. Nizam Khodabux a Consultant Psychiatrist, a report dated 12<sup>th</sup> October, 2018Dr. Mangesh Marudkar a Consultant Psychiatrist, a report dated 26<sup>th</sup> February, 2020Dr. Khalid Eitayeb a Consultant Neurologist, a report dated 13<sup>th</sup> April, 2021 andDr. Anthony Nguyen a General Practitioner De Montfort Surgery, a report dated 28<sup>th</sup> May, 2025.



8. The reports confirmed that the subject was diagnosed with Alzheimer’s Dementia. Therefore, the Doctors surmises the subject’s condition as follows: -

“The subject has an Alzheimer’s, Dementia, her memory is poor. The onset of her symptoms started about 2 years ago and progressed initially gradually but with a more rapid decline in the last year. The subject is progressively worsening severe memory impairment, severe impairment of decision making, reasoning and judgment and currently the subject is on several medications but still unstable thus supporting the guardians to be appointed”.

9. Another report from Chief’s letter dated 10<sup>th</sup> February, 2025 indicating that the subject hails from his area of jurisdiction and she has been sick, stays at home and unable to oversee the family businesses. He further averred that the family be allowed to operate the family finances as well as businesses.

10. The Court interviewed the subject and it was evident that she was in jolly spirit, well taken care of, however, she did not recognize the Petitioner.

11. It’s the Petitioners’ averment that they be authorized to take over and manage the subject’s responsibilities and affairs.

### Determination

12. 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.

13. I have considered the evidence adduced in Court and I am persuaded that the Petitioners are best placed to provide adequate care to the subject and ensure is wellbeing.

14. It is in the subject’s best interest that the Petitioners are appointed as her personal representative to ensure that funds are available for her upkeep and further medical attention in the future as well as preserve her estate.

15. In the circumstances the Petition dated 30<sup>th</sup> June, 2025 is allowed, with the following orders:

- a. MWG is hereby declared as suffering from a mental disorder under Section 26 of the *Mental Health Act* (Cap 248).



- b. EWG, VWG and PKG are hereby appointed under Section 27 of the *Mental Health Act* as the Guardians of MWG
- c. EWG, VWG And PKG are hereby appointed managers of the estate of MWG 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 EWG, VWG And PKG Shall deliver to Court and the Public Trustee, within 6 months, an inventory of the properties belonging MWG.
- e. In accordance with Section 27(4) of the *Mental Health Act*, 2022 the Applicants 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 MWG.
- f. As Managers of the Estate of the MWG the Petitioners may dispose of the property only with the sanction of the Court.
- g. The matter will be mentioned before court on 27<sup>th</sup> 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 2<sup>ND</sup> DAY OF OCTOBER, 2025.**

**P. M NYAUNDI**

**JUDGE**

In the presence of:

Court Assistant – Fardosa

Kariuki holding brief for Ms. Nyagah for Applicant

