



**In re JRN (Subject) (Miscellaneous Case E261 of 2025)
[2025] KEHC 14274 (KLR) (Civ) (1 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 14274 (KLR)

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

CIVIL

MISCELLANEOUS CASE E261 OF 2025

CJ KENDAGOR, J

OCTOBER 1, 2025

IN THE MATTER OF THE MENTAL HEALTH ACT

AND

IN THE MATTER OF ARTICLES 28, 43 (1) (A), 43 (2) 46

(1) (C), 57 (D), 159 OF THE CONSTITUTION, 2010

IN THE MATTER OF SECTIONS 3, 3A, 3B (2) 26 (1) (B),

27 (2), 27 (3), 28 (1) OF THE MENTAL HEALTH ACT

AND

IN THE MATTER OF APPOINTMENT OF A

REPRESENTATIVE OF JRN

IN THE MATTER OF

AKN 1ST PETITIONER

SMN 2ND PETITIONER

CWN 3RD PETITIONER

JUDGMENT

1. Before this Court is a Petition dated 8th August, 2025, in which the Petitioners are seeking the following orders: -
 - a. That JRN (the subject) be declared incapable of managing his affairs for the purposes of the *Mental Health Act*.



- b. That AKN, SMN and CWN be appointed as the subject's representatives for the purposes of facilitating his care, managing his financial, legal and personal affairs, and with powers to manage, sign, access, execute and/or carry out any act incidental to the affairs of JRN;
 - c. That AKN, SMN and CWN be appointed as managers of the estate of JRN for the purposes of safeguarding the same.
 - d. That the Honourable Court do issue orders authorizing the Petitioners to do all things that the subject as a proprietor would be entitled to under law, including but not limited to executing all deeds and instruments, evidencing the title or right to the property, to receive or payment and/or claims relating to the businesses and properties.
 - e. That the Court do grant any other orders as may be necessary.
 - f. That the costs of the application be met out of the estate of the subject.
2. The Petition is premised on the grounds on the face of the Petition.
 3. The Petition is supported by an Affidavit dated 8th August, 2025, sworn by the Petitioners, AKN and CWN. The Petitioners stated that they are children of the subject JRN, who is 87 years old and suffers from Alzheimer's dementia affecting his ability to independently execute proper judgment and manage his legal, financial and personal affairs. They stated that their mother, MWN, passed away in the year 2012 while one of their brothers, PKN, passed away on 28th March, 2025. They further stated that before his illness, the subject was actively involved in businesses and owns several properties, which might go to waste as he cannot recall all his properties. Furthermore, he is unable to manage or make proper judgment regarding the day-to-day activities in the different companies that he owns and that he has suffered cognitive decline. The Petition was filed alongside a Notice of Motion dated 8th August, 2025.
 4. The matter was canvassed by way of viva voce evidence on the online platform in the presence of the subject JRN, who was present on the online platform. On examination by the Court, he was able to talk and he told the Court that the Petitioners are his children and that he knew they said that they were in Court and further stated that they agreed. The Petitioners who testified as PW1, PW2 and PW3 told the Court that the subject JRN is their father, has been unwell and that they take care of him. They stated that they try their best to take care of his well-being.
 5. The Petitioners have sought to be authorized to do all things that the subject as a proprietor would be entitled to under law including but not limited to executing all deeds and instruments evidencing the title or right to the property, to receive or payment and/or deliver any money or goods to take over and/or institute any litigation and/or claims relating to the businesses and properties. To merit the above orders, the Petitioners must adduce evidence sufficient to satisfy the Court firstly that the Patient is a person suffering from a mental disorder under the *Mental Health Act* and secondly that the Patient is incapable of managing his own affairs.
 6. In their evidence, the Petitioners stated that they are the son and daughters, respectively, of the subject. They stated that the orders sought will enable them to manage the subject's everyday life, take care of his medical needs and extend decision-making to protect any assets owned by the subject that may be at risk of loss and damage.
 7. The Court was able to observe the subject on the online platform and was able to engage him. The Subject could respond, and he confirmed to the Court that he was aware of the proceedings.



8. The medical reports dated 4th November, 2024 and 18th May, 2025, by Dr Herman Ojuma Ekea, of Aga Khan University Hospital, were filed in Court. In the said reports, the doctor stated that the assessment confirmed advanced Alzheimer’s dementia, rapidly declining cognition, and also demonstrated a lack of awareness of his cognitive challenges with chronic diabetes mellitus, indicating that the neurological impairment has continued to progress to the extent that the patient cannot independently execute proper judgment in his financial, legal and personal affairs. The doctor further indicated that the subject requires family assistance and legal guardianship in all aspects and in activities of daily living.
9. The *Mental Health Act* provides for the care of persons who are suffering from mental disorder, custody of their persons and for the management of the estate of such persons. Section 26 1 (a) and (b) of the Act grants the Court powers to grant orders for management of the estate of subjects and for their guardianship by any near relatives or any suitable persons.
10. 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.
11. Under Section 26 of the Act it provides:-

“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 persons, 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.” [own emphasis]
12. Section 28 of the same Act provides for management of the subject's estate.
13. I have carefully considered the Application, the Affidavit filed in Court, the medical reports as well as the evidence adduced in the matter. Section 26 of the *Mental Health Act*, Cap 248, Laws of Kenya empowers the Court to 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 any other suitable person.”
14. The Medical Reports by the doctor demonstrate that the subject needs assistance and a guardian(s) to manage his affairs.
15. From the evidence produced by the Petitioners and the Medical Reports on record, I am satisfied of the merit of this Application and I hereby allow prayers (a), (b), (c) and (d) of the Petition dated 8th August, 2025. The subject, JRN, is hereby declared incapable of managing his affairs, and the Applicants AKN, SMN and CWN are hereby appointed as guardians and managers of the subject JRN and his estate. As managers, the Petitioners shall not sell any of the subject’s property without the court’s sanction.
16. In accordance with Section 27(4) of the *Mental Health Act*, the Petitioners shall cause, within 30 days, the publication of a notice in the Gazette, informing the public of their appointment as the managers of the estate of JRN.



17. In accordance with the provisions of Section 33 of the *Mental Health Act*, the Applicants will furnish an inventory and annual statements to this Court.

18. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS
ONLINE PLATFORM ON THIS 1ST DAY OF OCTOBER, 2025.**

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Ms. Wambui, Advocate for the Petitioners.

