



In re Guardianship and Management of the Affairs of FA (Family Miscellaneous Civil Case E017 of 2025) [2025] KEHC 14906 (KLR) (24 October 2025) (Ruling)

Neutral citation: [2025] KEHC 14906 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
FAMILY MISCELLANEOUS CIVIL CASE E017 OF 2025
A MABEYA, J
OCTOBER 24, 2025
IN THE MATTER OF AN APPLICATION FOR GURADIANSHIP
AND MANAGEMENT OF THE AFFAIRS OF FA**

IN THE MATTER OF

HHM PETITIONER

RULING

1. FA ('the Subject') is a sister to HHM ('the Petitioner'). On 12/6/2025, the Subject was taken to Kisii Teaching and Referral Hospital with a history of wandering aimlessly, neglect of personal hygiene and hallucinations.
2. A Mental Assessment Report dated 12/6/2025 from the said facility show that she is mentally unstable. Her condition has impaired her occupational, social and cognitive functioning. She is unable to take care of herself or make any cognitive decision.
3. On 16/9/2024 (sic – 2025), the Petitioner took out a Motion on Notice under sections 26 and 27 of the *Mental Health Act* and sought to be appointed as the Guardian of the Subject and therefore her Manager under section 26 of the *Mental Health Act*.
4. On 13/10/2025, she appeared in Court and applied to be so appointed. She confirmed the contents of her Supporting affidavit of 1/8/2025. She relied on the Medical Assessment Report noted above in support of her contestations.
5. The Court has carefully considered the statements in the Supporting affidavit. It has also considered the documentary evidence that was produced.



6. Section 2 of the *Mental Health Act*, Cap 248 defines a person suffering from mental disorders as: -

“... a person who has been found to be suffering under this Act and includes a person diagnosed as a psychopathic person with mental illness and person suffering from mental impairment due to alcohol or substance abuse.”

7. Section 26 of the said Act provides for the orders that this Court can make upon being satisfied that a person is suffering from mental disorder. It provides for the management of his estate and guardianship. Sub-section 3 thereof 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 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. In the present case, I have considered the Assessment Report dated 12/6/2025 from the Kisii Teaching and Referral Hospital. I have also considered the testimony of the applicant as per her supporting affidavit. I am satisfied that the Subject suffers from a disorder that makes her incapable of making cognitive decisions for herself. That it is fair and just that her affairs be managed by a Guardian.

9. Accordingly, I allow the Motion and grant prayer Nos. 1, 2 and 3 of the Motion. No order as to costs. It is so ordered.

DATED AND DELIVERED AT KISUMU THIS 24TH DAY OF OCTOBER, 2025.

A. MABEYA, FCI Arb

JUDGE

