



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Guardianship of LWM (Miscellaneous Application E232 of 2025)  
[2025] KEHC 14881 (KLR) (Family) (23 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 14881 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
MISCELLANEOUS APPLICATION E232 OF 2025  
PM NYAUNDI, J  
OCTOBER 23, 2025  
IN THE MATTER OF THE MENTAL HEALTH ACT 248 OF THE LAWS OF KENYA  
AND  
IN THE MATTER OF GUARDIANSHIP OF LWM(BIOLOGICAL  
GRAND DAUGHTER TO THE APPLICANT  
IN THE MATTER OF  
LWN ..... APPLICANT**

**JUDGMENT**

1. Vide application presented under Certificate of Urgency dated 22nd July, 2025 supported by an Affidavit, the Applicant herein LWN seek the following orders-
  - i. That the Applicant be appointed legal guardian of the subject herein LWN.
  - ii. That the Court do grant further orders as it may deem just and fit.
  - iii. That the costs of this application be in the cause.
2. The Applicant is the maternal grandmother to the subject herein. The subject is 28 years old born to the late MN as per the death certificate Number XXXXXX together with her brothers SM and JM who are adults. The Applicant states that the subject is an autistic hence cannot give, make any decision or stand trial due to her challenged status. The subject's mother passed on 2013 as a result of subarachnoid hematoma due to rupture to berry aneurysm leaving the minor and her siblings under her care.
3. The Applicant has been providing the subject with a primary care giver by ensuring a good stable and nurturing environment.



4. It's her disposition that the subject has a right to medical care and would wish to continue providing that among her basic rights.
5. The Application is supported by a report dated 22nd July, 2025 from Dr. Evanson Mwananje Senior Medical Officer from Mama Lucy Kibaki Hospital which states that the subject is a known case of Autism (mental) illness since birth hence does not have capacity to make any decisions on her own.
6. Another letter dated 8th August, 2025 from the Office of Chief Kanyenyaini Location Kangema, Murang'a County, states that the subject is orphan leaving with disability since birth, she hails from his area of jurisdiction together with her grandmother. The letter also states that the subject's case was registered on the National Council For Persons with Disabilities Registration Number NEPWD/P/XXXXXX.
7. The Court observed the subject cheerful and it is evident that she is mentally challenged but engaged with the Court.

### **Determination**

8. 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.
9. I have considered the evidence adduced in Court and I am persuaded that the Applicant is best placed to provide adequate care to the subject and ensure is wellbeing.
10. It is in the subject's best interest that the Applicant is appointed as her personal representatives to ensure that there is medical attention in the future.
11. In the circumstances the Application dated 22<sup>nd</sup> July 2025, 2025 is allowed and with the following orders:
  - i. LWM is hereby declared as suffering from a mental disorder under Section 26 of the *Mental Health Act* (Cap 248).
  - ii. LWN IS hereby appointed under section 27 of the *Mental Health Act* as the Guardians of LWM



- iii. LWN is hereby appointed manager of the estate of LWM 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.
- iv. Pursuant to this appointment LWN shall deliver to Court and the Public Trustee, within 6 months, an inventory of the property belonging LWM
- v. 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 her appointment as the manager of the estate of LWM
- vi. As Managers of the Estate of LWM the Applicant may dispose of the property only with the sanction of the Court.
- vii. The matter will be mentioned before Court on JANUARY 22<sup>ND</sup> JANUARY 2026 to confirm compliance.

12. Costs to be met out of the Estate of the Subject.

**SIGNED, DATED AND DELIVERED VIRTUALLY AT NAIROBI THIS 23<sup>rd</sup> DAY OF OCTOBER, 2025.**

**P. M. NYAUNDI**

**JUDGE**

In the presence of:

Fardosa Court Assistant

LWN in person

