



**In re CWM (Miscellaneous Application E363 of 2025)
[2025] KEHC 16432 (KLR) (Family) (14 November 2025) (Judgment)**

Neutral citation: [2025] KEHC 16432 (KLR)

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

FAMILY

MISCELLANEOUS APPLICATION E363 OF 2025

H NAMISI, J

NOVEMBER 14, 2025

IN THE MATTER OF THE MENTAL HEALTH ACT, CAP 248 OF THE LAWS OF KENYA

AND

IN THE MATTER OF C W M

AND

IN THE MATTER OF A PETITION FOR GUARDIANSHIP OF C W M

AND

**MANAGEMENT OF HER ESTATE UNDER SECTION 26(1)
AND 27 AND SECTION 29 OF THE MENTAL HEALTH ACT**

IN THE MATTER OF

CGM PETITIONER

JUDGMENT

1. The Petition before the Court was brought by C.G.M, an elder brother to the Ward, C.W.M. The Ward is 52 years old, currently admitted at Life Care Hospital, Kikuyu Branch, in critical condition. She is not married and has no children.
2. The Petition is supported by an Affidavit sworn by the Petitioner, as well as annexures thereto. The Petition seeks the following orders:
 - i. That C.W.M be and is hereby adjudged to be a person suffering from a mental disorder under section 26 of the *Mental Health Act*;
 - ii. That C.G.M be appointed manager of the estate of C.W.M which includes any such description of moveable or immovable property, money, debts and legacies; powers to execute,



sign all deeds and instruments relating to or evidencing the title or right to any property or giving a right to receive money or goods and proceeds to take over and/or institute any litigation or claim(s) and also to include not only such property as has been originally in possession or under the control of any person but also any property into or for which the same has been converted or exchanged, and anything acquired by such conversion whether immediately or otherwise;

- iii. That C.G.M be appointed as guardian of C.W.M;
 - iv. That C.G.M be granted leave to institute suit on behalf of the estate of C.W.M as guardian and to execute all court papers necessary for the filing of any litigation on behalf of and geared towards perseveration protection and realization of the estate of any of its assets;
 - v. That cost of this Petition be provided from the estate of CW.M
3. According to the Petitioner, the Ward was admitted in hospital on 16 October 2025. She became unconscious on or about 21 October 2025, and underwent brain surgery on 23 October 2025. The Ward was then admitted to the Intensive Care Unit (ICU), where she has been since then. The Ward is unconscious and surviving on life support machines.
 4. Attached to the Petition is confirmation of hospitalization dated 3 November 2025, confirming that the Ward is critically ill and on life support, unable to make or execute any decisions.
 5. The Petitioner seeks guardianship orders to enable him access the Ward's bank account held at Co-operative Bank Limited, with a view to settling the ever-growing hospital bill. The attached statement of accounts dated 28 October 2025 puts the bill at Kshs 1,160,054. In his oral testimony, the Petitioner noted that the bill had since grown to over Kshs 2 million.
 6. The Petitioner presented copies of Certificates of Death of their parents as well as the consents of the Ward's siblings. The siblings also appeared before the Court to confirm their consent to the Application. The Court also had an opportunity to see the Ward, who was lying in bed, unconscious, and on life support machines.
 7. In view of the evidence presented and observations made, I am persuaded that this Petition is properly before the Court.
 8. Section 26 of the said Act states 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 also considered all the material placed before me. It is apparent that in her current state, the Ward will not be able to make any decisions concerning her affairs until she recovers.
10. In the circumstances, the Court appoints the said Petitioner as general manager of the estate of the Ward.
11. In view of the foregoing and pursuant to the Petition filed herein, I make the following orders:
 - i. That C.G.M is hereby appointed as the legal guardian and manager of C.W.M;
 - ii. That C.G.M, as Manager, is hereby authorised to access the Ward's bank account number 0xxxxxxxx1 held at Co-operative Bank Ltd and the funds held therein shall be paid directly to Lifecare Hospital Kikuyu Branch in settlement of the outstanding hospital bill for the Ward.
12. For the avoidance of doubt, such Manager's general powers will not include the power of alienation, sale or transfer of any other assets held by the Ward, but will include all the powers necessary for the management of such and other assets, and to plead and prosecute and/or defend any action brought by or against the Ward in respect of any of the assets forming part of her estate.
13. In view of the nature of the case, I make no orders as to costs.

DATED AND DELIVERED AT NAIROBI THIS 14 DAY OF NOVEMBER 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

For Petitioner: Mr. Njogu

Court Assistant: Lucy Mwangi

