



**In re EWK (Miscellaneous Application 165 of 2017)  
[2025] KEHC 17624 (KLR) (Family) (28 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17624 (KLR)

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

**MISCELLANEOUS APPLICATION 165 OF 2017**

**H NAMISI, J**

**NOVEMBER 28, 2025**

**IN THE MATTER OF**

**JTK ..... 1<sup>ST</sup> APPLICANT**  
**SWK ..... 2<sup>ND</sup> APPLICANT**  
**PWK ..... 3<sup>RD</sup> APPLICANT**

**RULING**

1. The Applicants are the legal Guardians of the Ward and Managers of her estates and affairs, having been duly appointed on 30 May 2018.
2. They have filed Chamber Summons dated 6 November 2025 seeking:
  - i. Spent;
  - ii. The Honourable Court be pleased to grant leave to the Applicants to sell the property known as Tittle Number Nairobi Block 2XXXXX hereinafter referred to as ‘the Property’;
  - iii. The proceeds realised from the sale of the Property be utilised as follows:
    - a. In settling the running and intended medical bills of Elvin Wambui Kamau;
    - b. That the remaining funds be applied towards the general upkeep and welfare of Elvin Wambui Kamau as well as settling outstanding or accrued liabilities;
  - iv. The cost of and incidental to this Application be provided for.
3. The Application is premised on the grounds on the face thereof and supported by the joint Affidavit sworn by the Applicants. Attached to the Application is a consent by their sibling, MK.



4. The Ward's husband, IKN, died intestate. He was survived by the Ward, the Applicants and their sibling. The Grant of Letters of Administration was issued to the Applicants and MK, and confirmed on 29 March 2023. In the confirmed Grant, some assets are to be held by the Administrators to cater for the life interest of the widow (the Ward herein) and settle outstanding or accrued liabilities. One such property is Nairobi/Block 2XXXX, formerly referred to as LR 3XXXX.
5. The Applicants aver that the Ward is currently in a state of permanent physical and mental incapacity. The condition had affected her greatly and costs a colossal sum of money to treat and maintain. The Applicants aver that they are in urgent and immediate need of funds to cater for the intended treatment of their mother. As such, they have commenced the process of sale of the Property for a sum of Kshs 42 million.
6. The Court had a chance to see the Ward, who was bedridden, incapable of movement or speech. She is 84 years old. The attached Medical Report dated 5 November 2025 from Nairobi West Hospital indicates that the Ward has a history of progressive dementia. She is fed through a cutaneous gastrostomy tube. She is currently on medication, required 24-hour nursing care, as well as physiotherapy 3-4 times a week. The Ward will require an endoscopic PEG tube in order to allow her to feed better. The Report concludes that it is anticipated that the Ward's medical/care needs will increase as the disease progresses.
7. The *Mental Health Act* provides for care of persons who are suffering from mental disorder, their custody and for the management of the estate of such persons. Section 28 of the Act provides for management of the subject's estate. The subject shall require funds to facilitate and ensure provision of medical care, nutrition, hygiene and upkeep. The Applicants require to dispose of an asset for the purpose of maintaining the Ward to the best possible medical condition.
8. Section 28(2) provides:

“The manager shall not, without the approval of the court—(a)mortgage, charge or transfer by sale, gift, surrender or exchange any immovable property of which the estate may consist; (b)lease any such property for a term exceeding five years; or(c)invest in any securities other than those authorized under the *Trustee Act*.”
9. I have carefully reviewed the Application, Affidavit and documentation provided. It is in the best interests of the Ward to receive the best possible care, and this will require funds. For that reason, I make the following orders:
  - i. The Applicants are hereby authorised to sell the property known as Title Number Nairobi Block 2XXXX;
  - ii. The proceeds of sale shall be utilised for the current and continuing medical treatment of the Ward as well as settlement of accrued liabilities in respect of her estate;
  - iii. The Applicants shall place before the Court at the expiry of 3 months from the date hereof a full and accurate account of their handling of the proceeds from the sale of Title Number Nairobi Block 2XXXX
  - iv. Costs shall be in the cause.

**DATED AND DELIVERED AT NAIROBI THIS 28 DAY OF NOVEMBER 2025**

**HELENE R. NAMISI**

**JUDGE OF THE HIGH COURT**



Delivered on virtual platform in the presence of:

Applicant: Mr. Kofuna

Court Assistant: Lucy Mwangi

