



**In re MSV (Miscellaneous Application E355 of 2025)
[2025] KEHC 18106 (KLR) (Family) (5 December 2025) (Judgment)**

Neutral citation: [2025] KEHC 18106 (KLR)

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

MISCELLANEOUS APPLICATION E355 OF 2025

H NAMISI, J

DECEMBER 5, 2025

**IN THE MATTER OF SECTIONS 26, 27 AND 28 OF THE MENTAL
HEALTH ACT,**

AND

IN THE MATTER OF MSV (A PERSON SUFFERING FROM MENTAL DISORDER)

AND

**IN THE MATTER OF AN APPLICATION BY KV AND RSV TO BE APPOINTED AS
LEGAL GUARDIANS OVER THE AFFAIRS AND MANAGERS OF THE ESTATE OF MSV**

IN THE MATTER OF

KV 1ST PETITIONER

RSV 2ND PETITIONER

JUDGMENT

1. The Petition before the Court dated 3 November 2025 is brought by the Petitioners, son and daughter, respectively, to the Ward. The Ward, who was born on 1 May 1964, is currently admitted at Aga Khan University Hospital. She was diagnosed with neurological disability which has caused cognitive impairment. The Ward was previously married, but has since divorced. She has 3 children, 2 of whom are the Petitioners herein.
2. The Petition is supported by an Affidavit sworn by the Petitioners, as well as annexures thereto. The Petition seeks the following orders, inter alia:
 - i. That MSV be adjudged as a person suffering from a mental disorder under section 26 of the [Mental Health Act](#);



- ii. That the Petitioners, namely KV and RSV be appointed as the legal guardians to MSV;
 - iii. That the Petitioners be appointed managers of the estate of MSV under section 28 of the *Mental Health Act* to jointly manage all the affairs of her estate i.e
 - a. To access bank account number 0190XXXX71210 (USD), 0190XXXX72010 (Ksh) held at I&M Bank Riverside Branch, Nairobi in the name of MSV;
 - b. To access Bank Account number 03801XXXX2910 (Kshs) at I&M Bank, Eldama Park Branch, Nairobi in the name of MSV;
 - c. All her jewellery and personal items;
 - d. An equal share in Maisonette No. 3, LR No 209XXXX Vihiga Close, Kileleshwa;
 - e. To take control of and represent her interest in the probate of her late mother's will
 - iv. That the Honorable Court do make any other or better orders as it may deem fit and just to grant.
3. According to the Petitioners, the Ward suffered a stroke in 2009 and 2018. She was admitted to hospital but her condition did not improve. She was then moved to a nursing home.
 4. EMN, a caregiver at the home, confirmed that the Ward had been admitted there since 2022. She suffers chronic obstructive pulmonary disease, osteoporosis and Addison's disease. The caregiver confirmed that although the Ward was conscious, she could not speak.
 5. Dr. Mohamed Naranu, a physician at Aga Khan University Hospital, confirmed that he had met the Ward and treated her. The last visit was about 2 months ago. At the time, the Ward presented with fits, which resulted in respiratory compromise. The Ward had also suffered a stroke earlier, and has been in a state of full dependence in her daily living. The Doctor stated that because of her state, the Ward is prone to get infections from time to time. He presented his report dated 28 October 2025.
 6. RSV, a child to the Ward, appeared before the Court to confirm her consent to the Petition. The filed consent is dated 3 November 2025.
 7. The Petitioner presented copies of the Decree Absolute between the Ward and their father, copy of the Ward's passport and copies of statements from her bank accounts.
 8. The Court also had an opportunity to see the Ward, who was lying in bed.
 9. In view of the evidence presented and observations made, I am persuaded that this Petition is properly before the Court.
 10. Section 26 of the *Mental Health 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

11. 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.
12. In the circumstances, the Court appoints the said Petitioners jointly as general managers of the estate of the Ward.
13. In view of the foregoing and pursuant to the Petition filed herein, I make the following orders:
 - i. The Petitioners, KV and RSV are hereby appointed as the legal guardians and managers of M.S.V under section 28 of the *Mental Health Act*;
 - ii. The Petitioners, as Managers, are hereby authorised to access the Ward's bank accounts held at I&M Bank Limited and the funds held therein shall be utilised for the medical treatment and upkeep of the Ward;
14. For the avoidance of doubt, such Managers' 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.
15. In view of the nature of the case, I make no orders as to costs.

DATED AND DELIVERED AT NAIROBI THIS 5 DAY OF DECEMBER 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

For Petitioners: Ms Wambua

Court Assistant: Lucy Mwangi

