



REPUBLIC OF KENYA



**In re CWM (Subject) (Miscellaneous Application E363 of 2025)
[2025] KEHC 18652 (KLR) (Family) (18 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18652 (KLR)

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

FAMILY

MISCELLANEOUS APPLICATION E363 OF 2025

H NAMISI, J

DECEMBER 18, 2025

IN THE MATTER OF THE MENTAL HEALTH ACT,

CAP 248 OF THE LAWS OF KENYA

AND

IN THE MATTER OF CWM

IN THE MATTER OF

CGM APPLICANT

RULING

1. Following a Petition by the Applicant herein, this Court rendered a judgement on 14 November 2025, appointing the Applicant as the legal Guardian and Manager of the Ward. The Applicant was authorised to access the Ward's bank account held at Co-operative Bank Limited in order to offset the hospital bill at Lifecare Hospital Kikuyu Branch, where the Ward was admitted.
2. By Notice of Motion dated 27 November 2025, the Applicant seeks the following orders:
 - i. Spent;
 - ii. That the Judgement delivered in this matter on 14 November 2025 together with the Decree given on 14 November 2025 and issued on 21 November 2025 be and are hereby reviewed and amended;
 - iii. That the costs be provided for
3. The Application, which is supported by an Affidavit sworn by the Applicant, is premised on the following grounds:



- i. A judgement was delivered herein on 14 November 2025 and a decree was given on 14 November 2025 and issued on 21 November 2025;
 - ii. There is an error apparent on the face of the record which ought to be corrected;
 - iii. The judgement and decree contain inadvertent typographical errors occasioned by an accidental slip or omission by indicating the account number in issue as No. 01201XXX instead of 02101XXX;
 - iv. The above mentioned bank account does not have sufficient funds to fully cater for the medical bill;
 - v. There is a discovery of new and important matter and evidence;
 - vi. Since the filing of these proceedings and after judgement, two other bank accounts belonging to the issue and held at Co-operative Bank Ltd have been discovered and which hold amounts which may meet the current medical bill;
 - vii. The said bank accounts are as follows:
Hekima Account No. 011031XXX
Cooperative Bank Ltd
Account Name: Cwm
Money Market Account No. 011221XXX
Account Name: Coop MMF Collection AC 36XXX
Bill Ref: CL01XXX
Name: CWM
 - iv. It will be in order of the legal guardian and manager of the issue is granted access to all the above-mentioned accounts for purposes of settling the Subject's hefty medical bill;
 - v. The Applicant would like the said judgment and decree to be reviewed and amended to correct the initial account number and also to include the two above mentioned accounts which have subsequently been discovered;
 - vi. The Subject stands to suffer irreparable loss and damage if the Application is not granted.
4. The Application is brought under sections 80, 99 and 100 of the *Civil Procedure Act*, Order 10 Rules 11, Order 12 Rule 7, Order 45 Rule 1 and Order 51 rule 1 & 10 of the Civil Procedure Rules.
 5. The Court's power to review is exercised within the framework of section 80 of the *Civil Procedure Act*, which provides:

Any person who considers himself aggrieved- (a) by a decree or order from which an appeal is allowed by this Act, but from which no appeal has been preferred; or (b) by a decree or order from which no appeal is allowed by this Act, May apply for a review of judgement to the court, which passed the decree or made the order, and the court may make such order thereon as it thinks fit.
 6. Order 45 Rule 1 of the Civil Procedure Rules, 2010 provides as follows:



- (1) Any person considering himself aggrieved- (a) By a decree or order from which an appeal is allowed, but from which no appeal has been preferred; or (b) By a decree or order from which no appeal is hereby allowed, and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree or order, may apply for review of judgement to the court which passed the decree or made the order without unreasonable delay.
7. This Application is primarily hinged on the claims that there is an error apparent on the face of it and new information which was not available at the time the judgment was rendered.
8. In *Nyamogo & Nyamogo v Kogo* (2001) EA 173 discussing what constitutes an error on the face of the record, the Court rendered itself thus:
- “An error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of un definitiveness inherent in its very nature and it must be determined judicially on the facts of each case. There is a real distinction between a mere erroneous decision and an error apparent on the face of the record. Where an error on a substantial point of law stares one in the face and there could reasonably be no two opinions, a clear case of error apparent on the face of the record would be made out. An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Again, if a view adopted by the court in the original record is a possible one, it cannot be an error apparent on the face of the record even though another view was possible. Mere error or wrong view is certainly no ground for review though it may be one for appeal.”
9. I have interrogated the Judgement, and note the typographical error in the bank account number.
10. I have also had occasion to read the Supporting Affidavit and heard from Counsel for the Applicant who argued that the Applicant only came to know of the two additional accounts when he presented this Court’s orders to the bank for enforcement.
11. In light of the foregoing, I find the Application to be meritorious and allow the same. Accordingly, I make the following orders:
- i. The Manager/Applicant herein is authorised to access the Ward’s bank accounts 021017XXX held at Cooperative Bank Ltd and the funds therein shall be paid directly to Lifecare Hospital Kikuyu Branch in settlement of the outstanding hospital bill for the Ward;
 - ii. Additionally, the Manager/Applicant is authorised to access the following accounts, which monies shall be paid directly to Lifecare Hospital Kikuyu Branch in settlement of the outstanding hospital bill for the Ward
Hekima Account No. 011031XXX
Cooperative Bank Ltd
Account Name: CWM
Money Market Account No. 01122XXX
Account Name: Coop Mmf Collection Ac 36XXX
Bill Ref: Cl01XXX



Name: CWM

- iii. The Manager/Applicant shall furnish this Court with accounts on the utilisation of any and all of the Ward's funds within 3 months of the date hereof.
- iv. I make no orders as to costs

DATED AND DELIVERED AT NAIROBI THIS 18 DAY OF DECEMBER 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

