



**In re SMM (Subject) (Miscellaneous Application E024 of 2025)
[2025] KEHC 18725 (KLR) (19 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18725 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
MISCELLANEOUS APPLICATION E024 OF 2025
DKN MAGARE, J
DECEMBER 19, 2025**

IN THE MATTER OF

**AWG 1ST APPLICANT
LWG 2ND APPLICANT
EWG 3RD APPLICANT**

RULING

1. The applicants sought the following orders that:
 - a. Stephen Muriithi Mathenge is hereby declared legally incapacitated to undertake running and management of his affairs, generally by virtue of his medically proven physical and mental incapacitation.
 - b. Anne Wamuyu Gathieri, Lorraine Wanjugu Gathieri, Eunice Wagio Gathieri, be and are hereby authorised to operate bank account number 004xxxxxxx953 at equity bank Plc in the name of Stephen Muriithi Mathenge in order to finance his care as per family deliberations.
 - c. The orders be subject to review in the event of change of the current conditions of Stephen Muriithi Mathenge.
 - d. That upon granting prayer (b) above, this Honourable Court do issue such further orders as may be necessary for expeditious disposal of the matter.
 - e. That the costs of this application be on cause.
2. The Applicants state that the subject is the holder of the aforesaid bank account. Stephen Muriithi Mathenge has become incapacitated. Stephen Muriithi Mathenge has been in that state for 5 years and is unable to run his affairs. The chief of Mutathiini location wrote a letter dated 18.08.2025, setting out the situation Stephen Muriithi Mathenge is in. The court had the advantage of seeing him in hospital virtually. The situation was not edifying.



3. The medical superintendent, Karatina Sub-County Hospital, wrote a card stating that the applicant has a mental condition named in the card. After reviewing the evidence, it is clear that the application is merited.

Determination

4. I am satisfied that the subject cannot manage his own affairs. I therefore allow the application as follows:
 - a. A declaration be and is hereby issued to the effect that Stephen Muriithi Mathenge is a patient and a person suffering from mental disorder within the meaning of Section 2 of the *Mental Health Act*, Cap 248 Laws of Kenya.
 - b. An order is hereby issued that the applicants, Anne Wamuyu Gathieri, Lorraine Wanjugu Gathieri, Eunice Wagio Gathieri, have full custody and management over Stephen Muriithi Mathenge and his estate as provided under Sections 26, 27, and 28 of the *Mental Health Act* Cap, 248 Laws of Kenya.
 - c. Anne Wamuyu Gathieri, Lorraine Wanjugu Gathieri, and Eunice Wagio Gathieri are hereby authorised to operate bank account number 004xxxxxxx953 at Equity Bank Plc in the name of Stephen Muriithi Mathenge in order to finance his care.
 - d. An order is hereby issued that Anne Wamuyu Gathieri, Lorraine Wanjugu Gathieri, Eunice Wagio Gathieri while acting as Guardians and Managers over the subject herein and his estate, shall exercise and are granted special powers as may become necessary to sue and/or defend a suit for and against the estate of the Subject herein.
 - e. Nevertheless, whereas the Guardians and Managers have a right to collect the funds from the aforesaid account number, sparingly, they shall not sell or alienate any part of the estate of Stephen Muriithi Mathenge, the subject, without a court order issued before any transaction is carried out. Any disposal shall be null and void.
 - f. No order as to costs.
 - g. File is closed.

**DELIVERED, DATED AND SIGNED AT NYERI ON THIS 19TH DAY OF DECEMBER, 2025.
JUDGMENT IS DELIVERED THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM.**

KIZITO MAGARE

JUDGE

In the presence of: -

Ms Ngugi for Kahiga for the Applicants

Court Assistant – Michael

