



**In re PMN (Miscellaneous Civil Application E354 of 2025)
[2025] KEHC 19118 (KLR) (17 December 2025) (Judgment)**

Neutral citation: [2025] KEHC 19118 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
MISCELLANEOUS CIVIL APPLICATION E354 OF 2025**

CJ KENDAGOR, J

DECEMBER 17, 2025

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

IN THE MATTER OF

JMC 1ST APPLICANT

ENM 2ND APPLICANT

JUDGMENT

[Being an Application seeking guardianship of PMN and management of his Estate under Section 26 (1) (a) and (b) of the [Mental Health Act](#), Cap 248, of the Laws of Kenya]

1. The Applicants submitted an application dated 3rd November 2025, seeking orders for guardianship and management of the estate of their father, PMN, under the [Mental Health Act](#), Cap 248 Laws of Kenya.
2. The Applicants allege that PMN is suffering from a mental disorder, which has incapacitated him from managing his personal and financial affairs. In support, counsel for the Applicants filed a further affidavit dated 3rd November 2025, and produced a copy of a medical report from the Kenyatta University Teaching, Referral and Research Hospital, signed by Dr. Anthony Kamau.
3. The Applicants testified in Court, stating that their father, PMN, was selling their property in Komarock and that he was being duped into selling due to his mental condition. In that regard, they would wish to put a caveat on the property. Further, that managing his estate will allow them to offset their father's loan. In their application, they also mentioned that Ms EW had been working their father's M-Pesa without legal authority.
4. The urgency of the application is emphasized by the evidence showing PMN's rapidly deteriorating health and the risk of third parties mismanaging his estate. The Applicants argue that the application is driven by the necessity to protect Ndong'o's interests and to ensure proper management of his estate during his incapacity.



5. In addition, Ms. RMN submitted a Replying Affidavit sworn on the 20th of November 2025, with copies of radiology reports, discharge summary, a logbook and documents of sale of the house. In her statement, she asserts that she has consented to the appointment of the Applicants as legal guardians. She further reiterated that her husband's property is at risk of unlawful sale. She stated that the children, being old enough, were better suited to be the subject's guardians, given the complexities that may be involved in the role.

Determination:

6. I have considered the Application and Replying Affidavit filed by the Applicants herein and the statements made in Court thereto. The issue for determination is whether PMN is suffering from a mental disorder as per the Mental Health Act and whether the Applicants should be appointed as legal guardians of his estate.
7. The Mental Health Act, Cap 248, provides the legal framework for the appointment of guardians for persons suffering from mental disorders. Under Section 26 and 27 of the Mental Health Act,
26. ...An application for an order for the management and administration of the estate of a person with mental illness may be made to the court, in the following order of priority, by—
- (a) a supporter of the person with mental illness; or
 - (b) the representative of the person where the person with mental illness has not appointed a supporter.
2. An application under subsection (1) shall be submitted together with an affidavit setting out—
- (a) the grounds upon which the application is made;
 - (b) the full particulars as to the property and relatives of the person to whom it relates; and
 - (c) a certified true copy of the admission or treatment and particulars in respect of person duly admitted as a person with mental illness
-(6) The court may, in order to have a report of the mental capacity and condition of such person in relation to whom the application is made, require the person to present themselves at a place and time appointed by the court, for the—
- (a) court to examine the person; or
 - (b) person to be examined by a qualified registered mental health practitioner.
27. Orders of the Court
- (1) The court may make such an order as it considers necessary for the administration and management of the estate of any person with mental illness including(2)The court may appoint a manager of the estate of a person with mental illness for the purposes of safeguarding the property of that person.
8. The Applicants have provided medical evidence from a qualified medical practitioner Dr. Anthony Kamau, indicating that PMN is suffering from a mental disorder that affects his capacity to manage his affairs. The reports also show that PMN was at the time admitted in the hospital ward.



9. The Court in this case must be satisfied that the appointment is in the best interest of the person suffering from the disorder.
10. In their application, they have also attached their birth certificates proving their kinship to PMN. The Applicants, being immediate family members, have demonstrated their commitment to protecting their father's interests and the urgency is justified by the deteriorating health condition and potential exploitation by third parties.
11. In the circumstances, the Court hereby appoints JMC and ENM as guardians and managers of the estate of PMN.
12. As per the provisions of Section 27 (4) and (5) of the *Mental Health Act* Cap 248, the Applicants are to pursue gazette notification informing the public of their appointment as the managers of the estate of PMN.
13. As managers, they shall not sell, transfer, or otherwise dispose of any property belonging to the subject without prior approval from the court. Similarly, they shall not access the subject's bank accounts or any other financial assets without a specific court order authorizing such access.
14. To provide a clear overview of how the estate is being managed, the managers are required to submit a comprehensive semi-annual report to the court, outlining the status of the subject's estate. They must also notify the Court promptly of any changes or recovery in the subject's medical condition.
15. Costs of this application shall be in the cause.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 17TH DAY OF DECEMBER, 2025.

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C. KENDAGOR
JUDGE

In the presence of:

Court Assistant: Beryl

Mr. Kigen, Advocate for Applicants

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