



**In re JMN (Subject) (Petition E289 of 2025)  
[2026] KEHC 578 (KLR) (Family) (23 January 2026) (Judgment)**

Neutral citation: [2026] KEHC 578 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
PETITION E289 OF 2025  
PM NYAUNDI, J  
JANUARY 23, 2026  
IN THE MATTER OF SECTION 26 & 28 OF THE MENTAL  
HEALTH ACT (CAP 248 OF THE LAWS OF KENYA)**

**IN THE MATTER OF**  
**LNM ..... APPLICANT**  
**AND**  
**JMN ..... INTERESTED PARTY**

**JUDGMENT**

1. The Applicant filed an application dated 22<sup>nd</sup> August 2025, supported by her affidavit seeking that:-
  - a. This Court be pleased to issue an order of care and management over the affairs and estate of the interested party in favor of LNM
  - b. Any other orders as this Court may deem fit to grant.
2. The Petition was canvassed by way of viva voce evidence on 20<sup>th</sup> November, 2025. LNM (Applicant herein) is the daughter of the subject.
3. That the subject resides in Kahawa Wendani together with his wife PWM. They have been blessed with three issues.
  - i. GNM
  - ii. LNM
  - iii. PWM



4. That on 8<sup>th</sup> August 2025, the subject herein (JMN) was diagnosed with advanced senile dementia and as a result of his illness he is incapable of performing his day to day activities.
5. The subject has been receiving treatment at Prime Care Heart Clinic since 5<sup>th</sup> May, 2014.
6. The Applicant's mother and her siblings were in Court and consented to the Applicant be appointed as the Legal Guardian.
7. The Petition is supported by a Report dated 8<sup>th</sup> August, 2025 from Dr. Martin N. Wanyoike a Physician/Cardiologist, along with other Doctors from Primecare Heart Clinic. The report confirmed that the subject was diagnosed with advanced senile dementia and is currently not cognitive, responsive and he is not able to function without help on day to day basis in all his activities.
8. The Court interviewed the subject and it was evident that he was unresponsive. It is therefore necessary that the Petitioner be appointed as the subject's guardian to enable her take care of the subject's day to day affairs.

### **Determination**

9. The provisions of the *Mental Health Act* ensure that individuals who suffer from mental illness are well cared for and their estates are properly handled. The *Mental Health Act*, at Section 26 provides 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.
10. I have considered the evidence adduced in Court as well as the consent from the Applicant's mother and her siblings and I am persuaded that the Applicant is best placed to provide adequate care to the subject and ensure his wellbeing.
11. It is in the subject's best interest that the Applicant is appointed as his personal representative to ensure that funds are available for his upkeep and further medical attention in the future as well as preserve his estate.
12. In the circumstances, these are the orders of the Court that;-
  - a. JMM (JMM) is hereby declared as suffering from a mental disorder under Section 26 of the *Mental Health Act* (Cap 248).



- b. LNM is hereby appointed under Section 27 of the *Mental Health Act* as the Guardian of JMM (JMM)
  - c. LNM is hereby appointed manager of the estate of JMM (JMM) under Section 28 of *Mental Health Act* to manage his estate including any such description of moveable or immoveable property, money, debts and legacies, power to execute, sign all deeds and instruments relating to or evidencing the title or right to any property or giving a right to receive any money or goods.
13. Pursuant to this appointment LNM shall deliver to Court and the Public Trustee, within 6 months, an inventory of the property belonging JMM (JMM)
  14. In accordance with Section 27(4) of the *Mental Health Act*, 2022 the Applicant shall cause within 30 days the publication of notice in the Gazette, informing the public of her appointment as the manager of the estate of JMM (JMM)
  15. As Manager of the Estate of the JMM (JMM) the Petitioner may dispose of the property only with the sanction of the Court.
  16. The matter will be mentioned before the Deputy Registrar on 11<sup>th</sup> March 2026, to confirm gazettelement.
  17. Costs to be met out of the Estate of the Subject.

**SIGNED, DATED AND DELIVERED VIRTUALLY AT NAIROBI THIS 23<sup>RD</sup> DAY OF JANUARY, 2026.**

**M. NYAUNDI**

**JUDGE**

In the presence of:

Fardosa Court Assistant.

Ms. Gitonga for Applicant.

