



**In re SSW (Subject) (Family Miscellaneous Civil Case E013 of 2025)
[2026] KEHC 441 (KLR) (22 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 441 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
FAMILY MISCELLANEOUS CIVIL CASE E013 OF 2025
FN MUCHEMI, J
JANUARY 22, 2026
IN THE MATTER OF MENTAL HEALTH ACT CAP 248 LAWS OF KENYA
AND
IN THE MATTER OF ORDER 32 RULE 15 OF THE CIVIL PROCEDURE RULES, 2010
AND
IN THE MATTER OF AN APPLICATION FOR GUARDIANSHIP OF SSW
BETWEEN
GMWW APPLICANT
AND
EQUITY BANK LIMITED 1ST INTERESTED PARTY
SAFARICOM KENYA LIMITED 2ND INTERESTED PARTY**

RULING

Brief Facts

1. The application dated 31st October 2025 seeks for orders of a mandatory injunction to compel the interested parties to reactivate the subject’s bank account number 0XXXXXXXXX21 and Mpesa account registered under phone number 07XXXXXX37 belonging to the applicant to enable her operate the same without hindrance. Further, the applicant seeks for orders to actualize the guardianship order granted to her in the judgment of this court dated 5th August 2025 in regard to the subject Michael Wamae Weru who was adjudged as suffering from a mental condition under the *Mental Health Act*. The orders sought herein are that the applicant be granted access to the subject’s



- bank account number 0XXXXXXXXXX21 at Equity Bank Thika Branch for purposes of utilizing the funds therein as per the court's judgment.
2. The applicant is the wife of the subject and was appointed as guardian and property manager in respect of LR. No. Thika Municipality Block 22/311 by the instant court on 5th August 2025. Furthermore, from the judgment she was authorised to sell, execute the transfer of the suit property and utilize the proceeds in the medical expenses and personal needs of her husband who is suffering from a mental disorder.
 3. In compliance with the said judgment, the applicant states that she sold the suit property vide sale agreement dated 9th April 2025 and the initial deposit of Kshs 5 million was made in the subject's account at Equity Bank Account Number 0XXXXXXXXXX21. The said account has since been frozen by the said bank together with her Mpesa account registered under her phone number 07XXXXXXXX37 to the detriment of the subject since the purpose of the sale was to utilize the proceeds in the medical and personal needs of the subject which purposes have since being defeated.
 4. The applicant avers that she has visited the interested parties' offices severally to request access to the said accounts but they are adamant that the same can only happen through a court order.
 5. The 1st interested party filed a Replying Affidavit dated 9th December 2025 and states that the subject is a client and has an account at their Thika Branch being account number 0XXXXXXXXXX21. The 1st interested party states that although the judgment was given authorizing the applicant to sell and execute the transfer of the suit property belonging to the subject, there were no court orders directing the applicant to operate the bank account 0XXXXXXXXXX21 belonging to the subject.
 6. The 1st interested party confirms that a deposit of Kshs. 5 million was made to the said bank account. The 1st interested party further states that it froze the said account in order to protect the interest of its client, the subject which it owes a fiduciary duty to as stipulated by the banking regulations. The 1st interested party states that it cannot allow access to the said account unless there is a court order authorizing the same as allowing another party apart from the owner of the account to operate the account will amount to it breaching its fiduciary duty to the owner of the account.
 7. The 2nd interested party filed a Replying Affidavit dated 16th December 2025 and states that they had activated the applicant's mpesa account after they had previously suspended it pursuant to a request by the 1st interested party pending validation of a business to customer transaction.

The Law

Whether the application has merit

8. The applicant is the wife of the subject and vide her petition dated 18th June 2025, this court delivered judgment on 5th August 2025 appointing her guardian of the subject and authorized her to sell, execute the transfer of LR. No. Thika Municipality Block 22/311 and utilize the proceeds in the medical expenses and personal needs of the subject. The applicant sold the suit premises vide sale agreement dated 9th April 2025 for a consideration of Kshs. 12 million with the purchaser having paid the sum of Kshs. 5 million. The amount paid as part consideration was deposited in the account of the subject at Equity Bank Thika Branch Account Number 0XXXXXXXXXX21. The bank has confirmed that the said account number is registered in the name of the subject herein being a sum of Kshs. 5 million. In the circumstances, the applicant argues that having been appointed the guardian of the subject, she ought to be allowed access to the said funds for purpose of meeting the medical expenses of the subject.



9. The 2nd interested party informed the court that the applicant's mpesa account through her phone number 07XXXXXXX37 was activated during the pendency of this application. As such, prayer No.3 in this application has been spent.
10. It is not in dispute that the applicant is the guardian ad litem of the subject and has the full control of the proceeds of sale of the subject's land LR Thika Municipality Block 22/311 which she was authorised to sell in order to cater for the subject's medical and personal needs. Judgement was delivered to that effect on 15th August 2025 in HC Family Misc. Application No. E013 of 2025. The 1st respondent has explained that it has no problem in allowing the applicant to access the funds deposited in the bank account No. 0XXXXXXXXXX21 but a court order is required for that kind of action according to their rules of operation.
11. Consequently, I find this application successful and I hereby grant orders as follows:-

That the 1st respondent is hereby ordered to grant access to the applicant Grace Mary Werue Weru of Equity Bank, Thika Branch A/c No.0XXXXXXXXXX21 in the name of the Subject Stephenson Stanley Weru to withdraw funds deposited therein to meet the medical and personal expenses of the subject limited to the funds deposited as proceeds of sale of LR. Thika Municipality Block 22/311.
12. That each party to meet their own costs of this application.
13. It is hereby so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT THIKA THIS 22ND DAY OF JANUARY 2026.

**F. MUCHEMI
JUDGE**

