



In re Appointment of Next as Friend, Guardian and Manager of the Affairs of the Estate of TWM (Family Miscellaneous Application E002 of 2025) [2026] KEHC 860 (KLR) (4 February 2026) (Ruling)

Neutral citation: [2026] KEHC 860 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYANDARUA
FAMILY MISCELLANEOUS APPLICATION E002 OF 2025
KW KIARIE, J
FEBRUARY 4, 2026
IN THE MATTER OF APPOINTMENT OF NEXT AS FRIEND, GUARDIAN AND
MANAGER OF THE AFFAIRS OF THE ESTATE OF TWM.**

IN THE MATTER OF

**PGM 1ST APPLICANT
JM 2ND APPLICANT**

RULING

1. PGM and JM, the applicants, are the son and daughter of TWM. They filed a Notice of Motion on June 3, 2025, under sections 2, 26, 27, and 28 of the [Mental Health Act](#), cap 248, Laws of Kenya; Order 32, Rules 1 to 15; and Order 51, Rule 1 of the [Civil Procedure Rules](#). They request an appointment as the manager of TWM’s affairs. Their application is seeking the following orders:
 - a. That TWM be declared to be suffering from a mental disorder as defined in the [Mental Health Act](#), Cap 248, Laws of Kenya.
 - b. That, pending the hearing and determination of this application and the petition herein, the applicants be appointed representative of their mother’s estate, which includes any property of such description of movable and immovable property, money, debts and inheritances.
 - c. That the costs of this application be in the cause.
2. The application is premised on the following grounds:
 - a. The petitioners are son and daughter respectively to TWM, and this matter relates to the mental health, management of her estate, her inheritances, her maintenance and the welfare of her family.



- b. The applicants' mother is aged eight six (86) years.
 - c. The applicants' mother was married to the late KM, and the said marriage was blessed with seven children, namely: -
 - i. JM- daughter
 - ii. JK (deceased)
 - iii. SN -daughter
 - iv. PG-son
 - v. HW -daughter
 - vi. SM -son
 - vii. DW- daughter
 - d. Sometimes in the year 2015, the petitioners said mother started ailing with a brief summary of her medical history being;
 - e. In 2015, she started experiencing high blood pressure, and after two (2) years, she developed memory loss and has been receiving treatment at Kiambu Sub-County Level 4 Hospital for the last seven (7) years.
 - f. On the 4th November 2024 at the said hospital, she was diagnosed with disorientation, looking confused, incoherent communication, no insight, memory loss and indecisiveness.
 - g. The applicants' mother has been under medication for the entire period of her illness, and the 1st applicant has been living with her together with his wife, and they have always taken care of her.
 - h. The applicants are seeking to be appointed as guardians of their mother's affairs and managers of her estate, as she is not in a position to manage her own affairs. The patient suffers from dementia, which has affected her memory, and she is not in a position to perform activities of daily living, bathing, grooming, toileting, or even feeding herself.
 - i. Prior to the said applicants' mother being diagnosed with the said condition, she had successfully petitioned the Kiambu Chief Magistrate Court in *succession cause no. 423 of 1995* in relation to her father's estate. The late Mwaura Njau, where orders, including her as a beneficiary of the said deceased, were made *vide* a ruling issued on the 28th May, 2020.
 - j. The applicants said that their mother cannot proceed with the said matter, which may prejudice her interest in the same.
 - k. The applicants have a prima facie case deserving the orders sought.
 - l. It is in the interest of justice that the sought orders be granted.
3. Section 26(1) of the [Mental Health Act](#), cap 248, Laws of Kenya provides as follows:
1. 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.
- 4. The applicants have submitted the required documents, including a medical report from Kiambu Level 5 Hospital, which states that the individual has been suffering from dementia for the past two years.
- 5. I therefore allow the application.

DELIVERED AND SIGNED AT NYANDARUA, THIS 4TH DAY OF FEBRUARY 2026

KIARIE WAWERU KIARIE

JUDGE.

