



**In re JWK (Miscellaneous Civil Case E015 of 2025)
[2026] KEHC 3839 (KLR) (19 March 2026) (Judgment)**

Neutral citation: [2026] KEHC 3839 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
MISCELLANEOUS CIVIL CASE E015 OF 2025
CW GITHUA, J
MARCH 19, 2026
IN THE MATTER OF THE MENTAL HEALTH ACT, CAP 248, LAWS
OF KENYA
AND
IN THE MATTER OF J W K (A PERSON
SUFFERING FROM MENTAL DISORDER)
AND
IN THE MATTER OF AN APPLICATION FOR CUSTODY,
MANAGEMENT AND GUARDIANSHIP
IN THE MATTER OF
YCNR APPLICANT**

JUDGMENT

1. In her originating summons dated 2nd October 2025, the applicant, Y C N Rowe approached this court seeking the following orders;
 - (i) A declaration that J W K, was a person suffering from a mental disorder within the meaning of the [Mental health Act](#), Cap 248, Laws of Kenya;
 - (ii) An order appointing the applicant, Y C N Rowe, as the guardian of J W K, with authority to make decisions regarding her personal care, welfare and medical treatment;
 - (iii) An order appointing the applicant as the manager of the estate of J W K, with authority to manage, preserve and utilise her property and income for her benefit;
 - (iv) Any further orders that this honourable court may deem fit and just in the circumstances; and



- (v) That costs of the application be in the cause.
2. In the grounds anchoring the summons and in her supporting affidavit, the applicant averred that she is the only biological child of the subject J W K ; that the subject has for a long time suffered from progressive dementia and other multiple medical conditions and she was currently incapable of managing her personal and financial affairs as well as her Estate; that the subject owns various properties and incomes which includes the following;
- (i) Kenya Commercial Bank Accounts Nos. 141-08-9411 and 1108892116 (Kipande House Branch).
 - (ii) Barclays Bank (Moi Avenue, Nairobi, Sonalux Branch) Account No. 3799206 (Barclaysave).
 - (iii) Standard Chartered Bank Account No. 102683.
 - (iv) Shares in the Nation Media Group.
3. The applicant swore two affidavits in support of her case to which she annexed medical reports by Dr. Calvince Owiti from Mater Misericordiae Hospital and Dr. Marx O. Okonji, a Consultant Psychiatrist. The two medical reports are dated 9th May 2026 and 12th May 2025 respectively.
4. In her further supporting affidavit sworn on 23rd February 2026, the applicant gave a detailed medical history of the subject including records of her hospitalizations. She deposed that being the subject's only child, there was no other relative available to assume responsibility for the subject's care and upkeep; that given her medical condition, the subject required 24 hour care by professional caregivers whom she engages and she was incharge of managing the subject's activities of daily living.
5. In addition, the applicant averred that the orders sought were necessary to ensure the subject's uninterrupted medical treatment and to facilitate effective management of her Estate to prevent it from being wasted; that grant of the orders sought was necessary to secure the subject's dignity and welfare during this period of her incapacity.
6. During the hearing on 26th February 2026, the applicant testified and reiterated the depositions in her affidavits. She further informed the court that when the subject fell sick, she was living in the United Kingdom but she has now relocated to Kenya to take care of her.
7. In accordance with directions issued by this court on 26th January 2026, the subject attended the court hearing. I noted that she was on a wheel chair and was breathing through the assistance of an oxymeter. Apart from stating her name, she was unaware of where she was and what was happening around her.
8. Having considered the application and all the material placed before me, I find that there is medical evidence from Dr. Marx Okonji, a consultant psychiatrist proving that the subject was suffering from dementia (progressive memory impairment) and was currently incapable of taking care of herself or her Estate.
- There is also undisputed evidence that the applicant was her only child and has been responsible for her medical treatment, personal care and financial affairs.
9. Section 27 of the *Mental Health Act* empowers the court to appoint a manager of the estate of a person with mental illness. The provision states as follows;

“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 —

(1)



- (a) an order making provision for the maintenance of the person;
 - (b) an order making provision for the maintenance of members of the person's immediate family who are dependent upon the person; and
 - (c) an order making provision for the payment of the person's debts.
- (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.
- (3) The court may for the purposes of section (1), appoint the supporter or the representative of the person with mental illness as the manager of the estate of the person under subsection (2).

10. Given the foregoing, I am satisfied that the subject is a person who suffers from a mental illness within the meaning of the *Mental Health Act* which has rendered her incapable of managing her personal and financial affairs.

11. Considering that the applicant is her only biological child and is the only person taking responsibility for her upkeep and welfare, I find merit in the summons and it is hereby allowed as prayed. Consequently, the applicant is appointed as manager of the subject to manage her personal affairs including her medical treatment, care and wellbeing as well as her Estate.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT MURANGA THIS 19TH DAY OF
MARCH, 2026.**

**HON. C. W. GITHUA
JUDGE**

In the presence of;

Mr. Muchiri for the Applicant

The applicant in person

Ms. Susan Waiganjo, Court Assistant

