



**In re MWN (Miscellaneous Application E271 of 2024)  
[2025] KEHC 648 (KLR) (Family) (31 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 648 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**FAMILY**

**MISCELLANEOUS APPLICATION E271 OF 2024**

**H NAMISI, J**

**JANUARY 31, 2025**

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

**AND**

**IN THE MATTER OF M.W.N (PERSON SUFFERING FROM MENTAL DISORDER)**

**IN THE MATTER OF**

**PWN ..... APPLICANT**

**RULING**

1. Before the Court is Notice of Motion dated 18 November 2024 filed under sections 2, 26, 27 and 28 of the [Mental Health Act](#). The application seeks the following prayers:
  - i. (spent)
  - ii. That pending the hearing and determination of the application, an order do issue appointing the Petitioner as the guardian and manager of the Estate and all the affairs of the said MWN;
  - iii. That pending the hearing and determination of the Petition, an order do issue appointing the Petitioner as the guardian and manager of the Estate and all the affairs of the said MWN;
  - iv. That pending the hearing and determination of the Petition, an order to issue granting the Petitioner the capacity to make decisions on behalf of the Ward’s treatment;
  - v. That the cost of this application be borne by the estate of the said MWN
  - vi. Any other relief and order that the court may deem fit to give in the circumstances;



2. The Application is supported by the Affidavit sworn by the Applicant, who is a daughter to the subject. The same is premised on the grounds on the face of the Application. I note that there is no Petition filed before this Court.
3. To the Application, the Applicant has attached a Medical Report dated 29 October 2024 by Dr. Maina from the Kiambu County Referral Level 4 Hospital confirming that the Ward suffers from dementia, which has affected her memory, thinking and ability to perform her routine activities.
4. In her Supporting Affidavit, the Applicant avers that the Ward is the bona fide purchaser and owner of title number [Particulars Withheld] where she has constructed a home and lived with her dependants for almost 20 years. The said parcel of land is now subject of a court matter. It is the Applicant's averment that the Ward is incapable of defending her rightful ownership to the parcel of land, thus necessitating this Application.
5. Additionally, the Applicant provided consents from JWN and DKN, her siblings. The Applicant has three siblings, all of whom reside in the United States of America. The Applicant resides in Ruiru with the Ward. The Applicant was directed to furnish a letter from the Chief confirming the Ward's children but indicated that she was unable to do so due to the sum of money requested by the Chief.
6. The Court had the opportunity to see the Ward, who was able to communicate in Kiswahili. She confirmed that she resides in Ruiru with her daughter and grand child. She suffers from arthritis and often forgets a lot of things. She is on medication.
7. Section 26 of the said Act states 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
8. I also considered all the material placed before me. It is apparent that due to the Ward's current medical condition, she is incapable of managing her affairs and in particular, prosecuting or defending any suit relating to her property.
9. In the circumstances, the Court hereby appoints the Applicant as the Ward's guardian and manager of her affairs. For the avoidance of doubt, such manager's general powers will not include the power of alienation, sale or transfer of any assets held by the Ward but will include all the powers necessary for the management of such and other assets, and to plead and prosecute and/or defend any action brought by or against the Ward in respect of any of the assets forming part of her estate.



**DATED AND DELIVERED AT NAIROBI THIS 31 DAY OF JANUARY 2025**

**HELENE R. NAMISI**

**JUDGE OF THE HIGH COURT**

Delivered on virtual platform in the presence of:

Ms. Gwembere h/b Ms. Nyongesa.....for the Applicant

Libertine Achieng ..... Court Assistant

