



**In re Guardianship of JIJ (Miscellaneous Application E008 of 2025)
[2025] KEHC 2680 (KLR) (Civ) (26 February 2025) (Judgment)**

Neutral citation: [2025] KEHC 2680 (KLR)

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

MISCELLANEOUS APPLICATION E008 OF 2025

CJ KENDAGOR, J

FEBRUARY 26, 2025

**IN THE MATTER OF AN APPLICATION UNDER SECTIONS 26,27,28
AND 29 OF THE MENTAL HEALTH ACT CAP 248 LAWS OF KENYA**

IN THE MATTER OF THE GUARDIANSHIP OF J.I.J AND

**IN THE MATTER OF AN APPLICATION BY D.K.O. & S.I.O. TO BE APPOINTED
GUARDIAN OVER THE AFFAIRS AND MANAGERS OF THE ESTATE OF THE SAID J.I.J.**

IN THE MATTER OF

DKO 1ST PETITIONER

SIO 2ND PETITIONER

JUDGMENT

1. Before this Court is a Petition dated 15th January, 2025 which seeks the following orders: -
 - a. That the said JIJ be declared to be suffering from mental disorder pursuant to Section 26 of the *Mental Health Act* (Cap 248) Laws of Kenya;
 - b. That this Honorable Court be pleased to appoint the Petitioners jointly as Guardians of the affairs of JIJ in accordance with the *Mental Health Act*;
 - c. That this Honorable Court be pleased to appoint the Petitioners jointly as Managers of the estate of JIJ in accordance with the *Mental Health Act* with special permission pursuant to section 27 of the *Mental Health Act* to access JIJ pension held at Kenya Agricultural Research Organization (KALRO) belonging to JIJ;
 - d. That the costs of the Petition be borne by the estate of JIJ.



2. The Petition is supported by an Affidavit dated 15th January, 2025 sworn by the Petitioners. The matter was canvassed by way of viva voce evidence on the online platform in the presence of the subject JIJ who was also present on the call. The Petitioners who testified as PW1 and PW2 informed the Court that they are the daughters of the subject, JIJ, and that she had been unwell and is undergoing treatment for schizoaffective illness.
3. They understood the responsibility that accompanied their roles as guardians for their mother, if permitted by the Court, and committed to safeguarding her well-being and acting in her best interest.
4. A medical report dated 29th October, 2024 by Dr C.S.M., a Consultant psychiatrist at Mathari National Teaching and Referral Hospital, was filed in Court. In the report, the Doctor confirmed that the subject suffers from schizoaffective disorder and has been receiving follow-up care and treatment at the hospital since 12th September, 2024.
5. The Chief's letter dated 6th November, 2024 has also been filed in Court. In this letter, the Senior Chief of [particulars withheld] Location stated that the subject, JIJ, hails from her jurisdiction in [particulars withheld] Sub-County, Nairobi, and confirmed that she is undergoing long-term treatment, as indicated by a copy of the Medical Report from Mathari National Teaching and Referral Hospital. The Chief also confirmed that the family has appointed the Petitioners herein, DKO and SIO, the daughters of the subject, as her caregivers.
6. The Petitioners assert in the petition that, due to the subject's infirmity, JIJ can no longer manage her affairs or represent her interests.
7. The Petitioners have sought to be declared as Guardians and Managers of the Patient in order that the said JIJ interests may be protected and to maintain the estate of the said JIJ and to ensure that her medical costs are properly provided for.
8. To merit the above orders the Petitioner must adduce evidence sufficient to satisfy the Court firstly that the Patient is a person suffering from a mental disorder under the [Mental Health Act](#) and secondly that the Patient is incapable of managing her own affairs.
9. The Petitioners stated that the Patient was diagnosed and placed on treatment for Schizoaffective illness. They mentioned that JIJ's health has deteriorated and she remains incapacitated, requiring constant care and the purchase of medication, which incurs daily costs that have become unbearable for the family, making it difficult for them to afford such expenses.
10. They indicated that JIJ has no health coverage that would otherwise meet her medical expenses and that she holds an account with KALRO (Pension), which provides financial benefits that can support her.
11. The Petitioners expressed their intention to access the mentioned pension account and use the funds within it to pay for the patient's medical bills and to continue providing her with the medical care she needs and deserves.
12. The Petitioners, being the daughters of the subject, are all in agreement with this Petition and are fit to serve as guardians.
13. I have carefully considered the Petition, the Affidavit filed in Court, the Medical Report, the Chief's letter as well as the evidence adduced in the matter. Section 26 of the [Mental Health Act](#), Cap 248, Laws of Kenya empowers the Court to 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 any other suitable person.”
14. Based on the material provided to this Court, I am satisfied that the Subject suffers from a mental illness according to the provisions of the *Mental Health Act*. I am convinced of the merit of the Petition and I hereby grant prayers a, b, and c of the Petition dated 15th January, 2025. The Petitioners DKO and SIO are hereby appointed as Guardians and Managers for the Subject JIJ.
15. The costs of the Petition be borne by the estate of the subject, JIJ.

It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 26TH DAY OF FEBRUARY, 2025.

.....

C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

