



**In re LJV (Miscellaneous Application E297 of 2024)
[2025] KEHC 3594 (KLR) (Family) (24 March 2025) (Judgment)**

Neutral citation: [2025] KEHC 3594 (KLR)

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

FAMILY

MISCELLANEOUS APPLICATION E297 OF 2024

H NAMISI, J

MARCH 24, 2025

IN THE MATTER OF THE MENTAL HEALTH ACT,

CAP 248 OF THE LAWS OF KENYA

AND

IN THE MATTER OF LJV

AND

**IN THE MATTER OF A PETITION FOR GUARDIANSHIP OF LJV
AND MANAGEMENT OF HIS ESTATE UNDER SECTION 26 (1) AND**

SECTION 29 OF THE MENTAL HEALTH ACT, CAP 248 LAWS OF KENYA

IN THE MATTER OF

**KJL 1ST PETITIONER
VJVL 2ND PETITIONER
JJL 3RD PETITIONER
RM 4TH PETITIONER**

JUDGMENT

1. The Petition before the Court was filed by the Petitioners in their capacity as the family of the Subject, L.J.V. The 1st, 3rd and 4th Petitioners are children of the Subject, while the 2nd Petitioner is the wife of the Subject. The Subject is an octogenarian residing in Nairobi with his wife and the 1st Petitioner.



2. The Petition which is brought under sections 26(1) and 29 of the *Mental Health Act*, is supported by an Affidavit sworn by the 1st Petitioner, as well as annexures thereto. The Petition seeks the following orders:
 - i. That Mr. L.J.V be and is hereby adjudged to be a person suffering from a mental disorder under Section 26 of the *Mental Health Act*, Cap 248 of the Laws of Kenya;
 - ii. Mr. K.J.L be and is hereby appointed to as the manager and legal guardian of the estate of L.J.V; and
 - iii. Any further orders that this Court may deem fit to issue in the interest of justice.
3. In the Supporting Affidavit, the 1st Petitioner depones that sometime around 12 September 2022, the Subject was taken ill with cognitive and motor slowing, imbalance falls, near-falls, incoordination and slowed speech. Upon seeking medical attention, the Subject was diagnosed with, inter alia, progressive supranuclear dementia with atypical Parkinsonism. As a result, the Subject, who is a businessman, is unable to manage his business and personal activities.
4. The 1st Petitioner produced a report prepared by Dr. Juzar Hooker, consulting neurologist, dated 17 September 2024, confirming this diagnosis. The Doctor observed that over the last 2 years, there has been a steady progression in his condition such that the Subject in now anorthic (unable to speak) and with very poor mobility, requiring wheelchair assistance and 24-hour care. The Doctor certified that the Subject is unable to discharge his own affairs, sign documents, operate bank accounts, testify in court and/or ably look after his own financial and general affairs.
5. Attached to the Supporting Affidavit are copies of certificates of birth of the 1st, 3rd and 4th Petitioners, as well as a consent dated 29 November 2024 signed by the 2nd, 3rd and 4th Petitioner. The 3rd and 4th Petitioners appeared in Court to confirm the family's decision to have the 1st Petitioner appointed as legal guardian of the Subject. The 4th Petitioner noted that the decision was based on the fact that the 1st Petitioner is very close to the Subject and currently resides with the Subject and 2nd Petitioner.
6. The Court also had a chance to speak to the Subject, who was unable to speak and did not respond to any of the questions posed.
7. In view of the evidence presented and observations made, I am persuaded that this Petition is properly before the Court.
8. 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

9. I have also considered all the material placed before me. It is apparent that the subject suffers from a mental disorder and that he is incapable of managing his own affairs, although he is not a danger to himself.
10. The definition in Section 2 of the Act provides that:

“A person suffering from mental disorder” means a person who has been found to be suffering under this Act and includes a person diagnosed as a psychopathic person with mental illness and suffering from mental impairment due to alcohol or substance abuse.”
11. In the circumstances, the Court makes a finding that the Subject is a person suffering from a mental disorder within the definition of the *Mental Health Act* and hereby appoints the 1st Petitioner as the Subject’s guardian. Additionally, the Court appoints the said 1st Petitioner as general manager of the estate of the Subject. 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 Subject, 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 Subject in respect of any of the assets forming part of his estate.

DATED AND DELIVERED AT NAIROBI THIS 24 DAY OF MARCH 2025.

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

Mr. Kabugufor the Petitioners

Libertine Achieng..... Court Assistant

