



**In re PPNK (Miscellaneous Application E020 of 2025)  
[2025] KEHC 7494 (KLR) (Family) (29 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 7494 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
MISCELLANEOUS APPLICATION E020 OF 2025  
PM NYAUNDI, J  
MAY 29, 2025  
IN THE MATTER OF PPNK  
AND  
IN THE MATTER OF MENTAL HEALTH ACT, CHAPTER 248 OF THE LAWS OF KENYA  
IN THE MATTER OF  
JMN ..... APPLICANT**

**JUDGMENT**

1. Vide application dated 23<sup>rd</sup> January 2025, the Applicant herein JMN , seek the following orders-
  1. That she be appointed the Guardian of PPNK (subject herein) and Manager of his estate including the management of his financial affairs including the operation of the existing bank accounts in the name of Estate of PPNK .
  2. That Cost be in the cause.
2. The Application proceeded by way of viva voce evidence. The Applicant is the wife of the subject herein. The subject is 79 years old suffering from both physical and mental incapacity due to old age and ill health. He has been diagnosed with dementia, heart failure alongside other ailments. The subject has several assets within Kenya, which risk going to waste if not managed. He is unable to manage his affairs.
3. The Applicant and the Subject have two Children namely; ANN and PMKN, both of whom were present in Court and consented to the appointment of the Applicant. In addition, they have signed written consent dated 23<sup>rd</sup> January, 2025.
4. The Applicant has been helping to manage the financial affairs of the subject together with overseeing his other personal affairs.



5. The Court observed the subject and it is evident that he was non-responsive.
6. It's Applicant's averment that the subject needs a representative to be appointed to enable the Applicant manage the affairs of the subject which has direct impact on his daily and medical needs as he deserves.
7. A Medical Report dated 9<sup>th</sup> September 2024, by a Neurologist Dr. Dilraj Singh Sokhi, from Aga Khan Hospital stated-
 

The above named person has been diagnosed with dementia which is not reversible and is progressive, coupled with seizures. The doctor further noted that it was clear that at the time, he did not have the cognitive or mental capacity to make his own decisions. The family have been advised to apply for power of attorney to legally take over his affairs.
8. Another Medical Report dated 22<sup>nd</sup> October, 2024 prepared by Dr. J.K Mutiso a Specialist Psychiatrist, from Menelik Hospital, Nairobi was produced as an exhibit. The Doctor diagnosed the subject with Dementia. The report stated that the subject suffers from the following medical conditions: Neurocognitive Disorder, Vascular Disease, Neurocognitive Disorder, Alzheimer's Disease, Major Epileptic Seizures, Diabetes Mellitus, Hypertension, End Stage Renal Disease, Hypothyroidism, Multiple Fractures with Left Shoulder Dislocation
9. Further the Dr. Mutiso averred that the conditions have left the subject in very frail physical health and significant cognitive compromise hence the need to appoint a legal guardian and manager in order to manage the subject's health as well as preserve his estate.

### **Determination**

10. The provisions of the [Mental Health Act](#) ensure that individuals who suffer from mental illness are well cared for and their estates are properly handled. The [Mental Health Act](#), at Section 26 provides 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.
11. I have considered the evidence adduced in Court and I am persuaded that the Petitioner/ Applicant is best placed to provide adequate care to the subject and ensure is wellbeing.
12. It is in the subject's best interest that the Applicant is appointed as his personal representative to ensure that funds are available for his upkeep and further medical attention in the future.



13. In the circumstances the Application dated 23<sup>rd</sup> January 2025 is allowed, with the following orders:
- a. PPNK is hereby declared as suffering from a mental disorder under Section 26 of the *Mental Health Act* (Cap 248).
  - b. JMN is hereby appointed under section 27 of the *Mental Health Act* as the Guardian of PPNK
  - c. JMN is hereby appointed manager of the estate of PPNK under Section 28 of *Mental Health Act* to manage his estate including any such description of moveable or immoveable property, money, debts and legacies, power to execute, sign all deeds and instruments relating to or evidencing the title or right to any property or giving a right to receive any money or goods.
  - d. Pursuant to this appointment JMN shall deliver to Court and the Public Trustee, within 6 months, an inventory of the property belonging PPNK .
  - e. In accordance with Section 27(4) of the *Mental Health Act*, 2022 the Applicant shall cause within 30 days the publication of notice in the Gazette, informing the public of her appointment as the manager of the estate of PPNK .
  - f. As Manager of the Estate of PPNK .the Applicant may dispose of the property only with the sanction of the Court.
  - g. The matter will be mentioned before court on 30<sup>th</sup> July 2025, 2025 to confirm compliance.
  - h. Costs to be met out of the Estate of the Subject.

**SIGNED, DATED AND DELIVERED VIRTUALLY AT NAIROBI THIS 29<sup>TH</sup> DAY OF MAY, 2025.**

**P. NYAUNDI**

**JUDGE**

In the presence of:-

Mr. Kimani for Applicants

Fardosa Court Assistant

