



**In re SNN (Family Miscellaneous Application E020 of 2024)  
[2025] KEHC 9559 (KLR) (30 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 9559 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MACHAKOS  
FAMILY MISCELLANEOUS APPLICATION E020 OF 2024**

**EN MAINA, J**

**JUNE 30, 2025**

**IN THE MATTER OF APPLICATION OF APPOINTMENT OF A GUARDIAN AD LITEM  
AND  
IN THE MATTER OF SNN**

**IN THE MATTER OF**

**ONN ..... PETITIONER**

**RULING**

1. By a petition dated 9<sup>th</sup> December, 2024, Onesmus Nthiwa Ndeto, who is a son of the subject whose full name is SN Son of NI urged this court to conduct a “judicially inquiry” concerning his father and form an opinion that he (his father) is incapable of protecting his own interest and point him (the Petitioner) as his guardian ad litem and substitute him and allow him to conduct the transactions for sale and transfer of land Parcel No. Machakos/Matuu/3391 and/or to perform any act to facilitate the sale and transfer of that land. Further, he be allowed to institute or defend any suit on behalf of the subject with respect to land LR No. Machakos/Matuu/3391.
2. In support of his application the Petitioner attached a medical Report of One Dr. Kendi L.M, A Consultant Psychiatrist. In summary the Doctor alleges that she undertook a psychiatric assessment of the subject who is 88 years old and came to the conclusion that he has had a history of forgetfulness, memory loss which has worsened in the last two years, has been talking to himself, has visual problems and talks to himself. She was also of the view that he is confused in his speech, has poor memory cognition and insight and came to the conclusion that he has Alzheimer’s dementia which is a mental disorder characterized by a loss of thinking ability, memory attention, logical understanding, reasoning and problems with doing daily tasks. She opined that he thus requires assistance by next of kin in most activities due to his medical condition.



3. On 25<sup>th</sup> June 2025 which is when the application/petition was first scheduled for hearing, the image of the subject who was brought or logged in virtually was not very clear and as it was also very difficult to communicate with the subject online, this court directed that the subject be brought to court today.
4. I am glad that I did because upon conducting the inquiry, which was through question and answer, I found that apart from old age, the subject is not suffering from any mental impairment of any kind. Contrary to what is stated in the medical report he came into chambers with very little assistance of his two sons - the Petitioner and another named Christopher Ndeto. I was surprised that he was very aware of his surroundings and when I asked him why he was in court his terse response was that he can only be brought to court if he has been sued by someone but not by his sons merely because they want his land. He struck me as someone who is of good nutritional status. He conceded to having diabetes but stated that if the issue concerns his land that is a family affair which should be discussed at home and has in fact been resolved by their area Musili (Assistant Chief) one Kanini, who also happens to be their kin.
5. On the allegation that some people were taking advantages of his age to grab or sell his land, he was categorical that no one has attempted to do so. He in fact stated that he had, a while back, sold part of the land to meet his own needs.
6. He was firm in his reasoning that the only reason his sons have brought him to court is that they are not pleased that he re-married. He was however emphatic that he was entitled to re-marry. At one point he even stated that under Kamba traditions he could even marry three times.
7. I was also impressed with his presence of mind and alertness. His concentration was evident in his answers which were straight to the point and relevant. His judgment in my view, is also good as he is clear about what he wants and what he does not want.
8. There is no evidence of senility, dementia or Alzheimers. To the contrary the subject has exhibited a sharp mind. He knows his children by name and he walked out of this chambers a very bitter man for being branded as one incapable of managing his affairs. Having listened to him carefully, I do agree with him. He is indeed capable of making decisions in regard to his property, his advanced age, notwithstanding. He is in good condition physically and mentally and does not require a guardian ad litem.
9. The upshot is that the petition has no merit and it is dismissed. The petitioner is to bear the costs.  
It is so ordered.

**RULING DATED, SIGNED AND DELIVERED VIRTUALLY ON THIS 30<sup>TH</sup> DAY OF JUNE, 2025.**

**E. N. MAINA**

**JUDGE**

In the presence of:

Mr. Kimani Advocate

Christopher Ndeto – son

Onesmus Nthiwa Ndeto – son/Petitioner

SN Nzeki – subject

Geoffrey – court Assistant/Interpreter

