



**In re PNK(Mental Health) (Miscellaneous Application E257 of 2023)  
[2024] KEHC 15499 (KLR) (Family) (19 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 15499 (KLR)

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

**MISCELLANEOUS APPLICATION E257 OF 2023**

**EKO OGOLA, J**

**MARCH 19, 2024**

**IN THE MATTER OF THE MENTAL HEALTH ACT CHAPTER 248 OF LAWS OF KENYA**

**-AND-**

**IN THE MATTER OF PNK (A PERSON SUFFERING FROM A MENTAL ILLNESS)**

**IN THE MATTER OF**

- PN ..... 1<sup>ST</sup> PETITIONER
- MNN ..... 2<sup>ND</sup> PETITIONER
- ENN ..... 3<sup>RD</sup> PETITIONER
- JKN ..... 4<sup>TH</sup> PETITIONER
- LWN ..... 5<sup>TH</sup> PETITIONER
- DNN ..... 6<sup>TH</sup> PETITIONER

**RULING**

1. The Petition before the court is dated 21st November 2023. The applicants pray for the following orders:-
  - a. That PNK 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.
  - b. That PN, MNN, ENN, JKN, LW, and DNN be appointed as guardians jointly and severally Mr. PNK.
  - c. That costs of this petition be provided from the estate of Mr. PNK.



2. PNK (hereinafter referred to as ‘the patient’) was married to the late MNN. They sired one daughter, the late KWN. The petitioners are the patient’s grandchildren. The petitioners deposed that the patient is 100 years old, his mental capacity is deteriorating and he has a distorted memory of past and immediate events. Therefore, he is unable to manage his affairs. The petitioners stated that the patient owns Nairobi/Block 45/29/.

### **Determination**

3. I have considered all the material placed before me. Section 27 of the [Mental Health Act](#) states that:-

- “1) The court may make such an order as it considers necessary for the administration and management of the estate of any person with mental illness including —
  - (a) an order making provision for the maintenance of the person;
  - (b) an order making provision for the maintenance of members of the person’s immediate family who are dependent upon the person; and
  - (c) an order making provision for the payment of the person’s debts.
- (2) The court may appoint a manager of the estate of a person with mental illness for the purposes of safeguarding the property of that person.
- (3) The court may for the purposes of section (1), appoint the supporter or the representative of the person with mental illness as the manager of the estate of the person under subsection (2).
- (4) The court shall, by notice in the Gazette, inform the public of the appointment of a person as the manager of the estate of a person who is suffering from mental illness.
- (5) Within fourteen days of the Gazette Notice under subsection (4), any person may lodge an objection to the person appointed as manager.”

4. The definition in Section 2 of the [Act](#) provides that:

- “person with mental illness” means a person diagnosed by a qualified mental health practitioner to be suffering from mental illness, and includes—
- (a) a person diagnosed with alcohol or substance use disorder; and
  - (b) a person with suicidal ideation or behaviour;”

5. The medical report from Dr. Bernard Samia of MP Shah Hospital states that the patient suffers from among other diseases, memory loss. The doctor stated that the patient’s cognitive functions are low, especially with regard to expressive speech and the ability to follow commands. Therefore, he is unable to communicate or comprehend issues effectively. Furthermore, the patient is physically weak, requires wheelchair support to move around and is dependent on assistance from a caregiver.
6. In light of the foregoing, I am satisfied that the patient suffers from a mental disorder and that the disorder has occasioned the diminution of his mental capacity and adversely affected his cognition and therefore ability to take care of his affairs or himself.



7. In the circumstances, the Petition dated 21st November 2023 is allowed and I make the following orders:-
- a. That PNK is a person suffering from a mental disorder within the definition of the *Mental Health Act*.
  - b. That PN, MNN, ENN, JKN, LW, and DNN are appointed to be the guardians of PNK.
  - c. That PN, MNN, ENN, JKN, LW, and DNN are appointed to be the managers of the estate of PNK.
  - d. There will be no orders as to costs.

Orders accordingly.

**DATED AND DELIVERED AT NAIROBI THIS 19<sup>TH</sup> DAY OF MARCH 2024.**

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**E.K. OGOLA**

**JUDGE**

In the presence of:

Mr. Wachira for the Petitioner

Gisiele Muthoni Court Assistant

**OGOLA J.**

