

KENYA / JUDGMENT

In re MWN [2026] KEHC 4066 (KLR)

[2026] KEHC 4066 (KLR)**COURT**

High Court

BEFORE

CJ Kendagor

CASE / FILE NUMBER

Miscellaneous Case E054 of 2026

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In re MWN (Miscellaneous Case E054 of 2026) [2026] KEHC 4066 (KLR) (Family) (19 March 2026) (Judgment) Neutral citation:

[2026] KEHC 4066 (KLR) Republic of Kenya In the High Court at Nairobi (Milimani Law Courts) Family Miscellaneous Case E054 of 2026 CJ Kendagor, J March 19, 2026 IN THE MATTER OF SECTIONS 26, 27, 28 (1) AND

(2) OF THE MENTAL HEALTH ACT CAP. 248, LAWS OF KENYA IN THE MATTER OF MWN (A PERSON SUFFERING FROM INTERLECTUAL DISABILITY DISORDER) In the matter of RKN Petitioner

Judgment

1. The Petitioner filed a Certificate of Urgency dated 4 th February, 2026 and a Petition dated 26 th January, 2026 seeking the following orders: a. That MWN be declared and is hereby adjudged to be suffering from a mental health condition and requires assistance, care and support for her well-being forthwith, thus constituting a severe mental incapacity by virtue of the Mental Health Act , Cap 248 of the Laws of Kenya. b. That management orders be granted to the Petitioner to act with regards to the entire Estate of the Subject MWN including any such description of moveable or immovable properties, money, debts and legacies, pension, power to execute, sign all deeds and instruments relating to or evidencing the title or right to any assets, properties or giving a right to receive any moneys or goods. c. That the Petitioner be and are hereby authorized to administer the finances and properties of the Respondent and to manage the Subject's entire Estate for his care and well-being as well as execute and or control all necessary conveyance documents, deeds and or instruments with regard to his property d. That this court be pleased to grant such orders as may be necessary to lawfully and effectively serve, preserve, promote the upkeep, all general interests and welfare of the subject MWN. 2. At the hearing of the Petition, the Petitioner informed the Court that he is the eldest brother of MWN. He expressed that his intention in seeking guardianship is to act in his sister's best interests and to ensure that she

consistently attends medical clinics. He also stated that MWN owns plots in Kahawa Sukari and holds a share in their parents' estate. Additionally, he stated that she is unmarried and has no children. 3. The Petition cites medical evidence from the Medical Doctors who have treated MWN, showing that she is not in a proper mental state to handle her own affairs or personal welfare. Her condition is deemed incurable and can only be managed through symptom-focused care. 4. Dr. Gerald Nganga, Head of Department at Thika Level Five Hospital, testified during the hearing that MWN has been undergoing treatment for a long period of time. He stated that upon examining her, he found that MWN was suffering from chronic bipolar disorder. He prepared a medical report dated 12 th January, 2026 which was produced before the Court and duly received as evidence. 5. MWN was presented before the Court and demonstrated responsiveness, though she exhibited signs of being unwell. She was at Mobility Homes at the time. Joyce Wawira Njogu, a medical psychologist affiliated with Mobility Homes Kikuyu, provided testimony as MWN's primary therapist. Ms. Njogu affirmed that MWN is progressing in her treatment and is receiving appropriate care.

Issues

6. The Court has considered the Petition and the evidence on record. The issues for determination before this Court are as follows: i. Whether the subject should be declared as suffering from mental disorder. ii. Whether the applicant should be appointed guardian and manager of the estate of the subject as prayed.

Analysis

7. The Petitioner in his Petition seeks to be appointed as guardian and manager of the affairs and estate of MWN, as owing to her illness, she can no longer manage her affairs and those of her estate. Whether the subject should be declared as suffering from mental disorder pursuant to the Mental Health Act , Cap 248 8. The Mental Health Act provides for the care of persons who are suffering from mental disorder, custody of their persons and for the management of the estate of such persons. Section 2 of the Act defines "person suffering from mental disorder" as follows: - "person suffering from mental disorder" means a person who has been found to be so suffering under this Act and includes a person diagnosed as psychopathic person with mental illness and person suffering from mental impairment due to alcohol or substance abuse." 9. The Petitioner deposes that her sister started ailing while in University and has deteriorated gradually. That she has been treated by Dr. Frank Njenga for progressive memory loss, disorientation, cognitive decline and suspected alcohol abuse. The subject has also been treated for Acute Psychotic Episode and Bipolar Mood Disorder (BMD) at Nobility Rehabilitation Centre and Mathari National Teaching and Referral since 1980, and more recently in 2024. It is stated that she declined admission at times when she improved. He stated further that the subject displays odd behaviours, somatic symptoms, memory loss, disorientation, confusion, impulsivity, verbal aggression, irrational decision-making and wandering away from home. The subject dropped out of Kenyatta University after the onset of illness, and later worked as a teacher until retirement, with relapses and

lucid intervals. The Petitioner stated that she is often forgetful, oblivious and completely unaware of what is going on around her. 10. The Court has noted the evidence and medical documentation presented in the Petition indicating a diagnosis of severe bipolar mood disorder with psychosis features, and observed the subject during the examination in court. The Court is satisfied on the evidence presented that the subject is a person suffering from a mental disorder. Whether the Petitioner should be appointed as guardian and manager to the subject 11. From the certificate of urgency, the advocate for the Petitioner certified that the matter was extremely urgent, stating that the subject's estate and welfare remain unmanaged, creating a risk of wastage, mismanagement and exposure to exploitation in the absence of a duly appointed guardian and manager. The subject was previously employed as a teacher and may be receiving monthly pension payments or may have received a lump sum pension, which forms part of her estate and requires proper management to ensure her welfare and upkeep. 12. In re Application on Behalf of Peter Ng'ang'a Muri (Petition E072 of 2024) [2024] KEHC 10407 (KLR) (Family) (23 August 2024) (Judgment) Riechi J held: "This Court has power to appoint guardian and managers of the estate while the court has discretion as to who to appoint. The criteria for selection is based on proximity of the applicant to the subject." 13. The Court is satisfied of the close relation of the applicant to the subject as her brother, and that the prayers sought in this Petition are deserved and should be granted.

Orders

14. Accordingly, for the reasons set out above, the Petition dated 26 th January, 2026 is allowed in the following terms; 1. The Subject MWN is declared to be a person suffering from a mental disorder under the Mental Health Act , Cap 248 Laws of Kenya. 2. The Court appoints the Petitioner – RKN, as the guardian and manager in respect of MWN and grants him custody, care, and management of the subject. 3. The Court appoints the Petitioner RKN as the manager of the estate of the Subject with powers to run her affairs, including but not limited to operating her bank accounts and her investment portfolios, as well as executing legally binding instruments on her behalf. 4. In accordance with section 33 of the Mental Health Act , the applicant shall as the manager appointed in No. 3 above within six (6) months from today and annually, respectively, render an inventory of assets and an account of dealings therewith to the Court being a full and accurate inventory of assets and account of their dealings with the estate of the subject herein for further orders, as may be appropriate. 15. It is so ordered. DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 19 TH DAY OF MARCH, 2026
..... C. KENDAGOR JUDGE In the presence of: Court Assistant: Beryl

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