



**In re Estate of VKB (Family Miscellaneous Application E048 of 2023)  
[2023] KEHC 23371 (KLR) (11 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23371 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
FAMILY MISCELLANEOUS APPLICATION E048 OF 2023**

**HM NYAGA, J**

**OCTOBER 11, 2023**

**IN THE MATTER OF SECTION 26 (1) (A) AS READ WITH SECTION  
28(1) OF THE MENTAL HEALTH ACT CHAPTER 248 LAWS OF KENYA**

**AND**

**IN THE MATTER OF MANAGEMENT OF THE ESTATE OF VKB**

**IN THE MATTER OF**

**MCT ..... PETITIONER**

**RULING**

1. The petitioner herein vide a petition dated August 16, 2023 prays that:
  - a. This Honourable Court be pleased to issue orders for the appointment of the Petitioner herein namely MC Too as the Manager of the estate of VKB until such time as VKB shall be declared sane.
  - b. This Honourable Court be pleased to issue orders granting the petitioner herein namely MC Too full control of the estate of VKB until such time as VKB shall be able to live a normal life .
  - c. This Honourable Court does issue any other order as it shall deem just.
  - d. The costs of this petition be borne by the estate of VKB.
2. It is the petitioner's case that VKB was involved in a Road Traffic Accident on or about November 13, 2021 along Kabarak GWA GIMA Murram Road within Nakuru County and consequently, he sustained severe head injuries among other injuries which altered his mental status completely and that from November 2021 he has been under exclusive care of the petitioner as he is not cognizant of his surroundings whatsoever.



3. The petitioner stated that as at the time of the aforementioned accident, VKB was still a student and was still under parental care but he is now an adult and there is urgent need to appoint his mother as his legal guardian.
4. That there is urgent need to manage the estate of VKB for purposes of filing a suit on his behalf and to enable him get proper medical intervention given his mental state.
5. The petitioner averred that if this matter is not heard urgently, the time within which to file a suit for compensation will lapse by virtue of Limitation of Actions Act.

### **Analysis and Determination**

6. It is my considered view that the only issue that arises for determination is whether the orders sought are merited.
7. I have gone through the annexures on record and interrogated the same. I note the said VKB was born on November 11, 2003 and thus currently, he is 20 years old.
8. The medical report by DR. Roger Hannington Kayo who examined the patient states that he was involved in a Road Traffic Accident on November 13, 2021 and that examination revealed that he has multiple scars on the occipital region and the left elbow; has no sight; and he is totally incapacitated.
9. The doctor formed an opinion that VKB suffered grievous harm and has post traumatic psychosis and will need psychiatric and neurosurgical evaluation and medication. That he is totally incapacitated and will need permanent care. He assessed the degree of permanent disability at 100 %
10. In view of the foregoing, it is my considered view that the orders sought should be granted in the interest of justice. I am satisfied that in pursuance to section 2 of Mental Health Act (MHA) as read together with section 14(3), the patient be medically recommended as a person suffering from Mental disorder whose Affairs and estate require immediately care attention and preservation.
11. In furtherance of section 26 and section 28 of the said Act I accordingly appoint petitioner a manager of the estate of the patient.
12. I further also appoint petitioner a legal guardian of the said patient under the said Act.
13. The final orders are ;
  - i. MC be and hereby appointed as the Manager of the estate of VKB until such a time when he shall be declared sane.
  - ii. MC be and hereby granted full control of the Estate of VKB until such a time that he shall be able to live a normal life
  - iii. MC be and hereby appointed as the legal guardian of VKB

**DATED, SIGNED AND DELIVERED AT NAKURU THIS 11<sup>TH</sup> DAY OF OCTOBER, 2023.**

**H. M. NYAGA**

**JUDGE**

In the presence of;

C/A Jeniffer

Ms Wambui for Petitioner

