

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT ELDORET
FAMILY MISC. APPLICATION NO. E027 OF 2025

TIMOTHY CHEBON KIPSOI
APPLICANT

VERSUS

HILDAH CHEMOS NAIBEI INTERESTED
PARTY

Coram: Justice R. Nyakundi

M/s D.J Mengich & Co Advocates

RULING

1. Before this Court is an Application dated 9th July 2025 where the Applicant is seeking the following orders;
 - a. That this Honourable Court be pleased to declare and confirm that TIMOTHY CHEBON KIPSOI has been and continues to be the de facto guardian of HILDAH CHEMOS NAIBEI, having cared for, supported and managed the affairs of the said adult since 2005.
 - b. That this Honourable Court be pleased to and affirm the existing guardianship relationship for the purposes of educational sponsorship.
 - c. That the said guardianship be recognized for all legal purposes, including but not limited to educational, immigration and financial matters relating to HILDAH CHEMOS NAIBEI.
 - d. That the costs of this Application be provided for
2. The Application is made on the following grounds on the face of it among others;
 - a. That the Interested Party is an adult aged 30 years, and although not formally declared legally incapacitated, has for the past 10 years been fully dependent on the Applicant for education, care and general welfare.

- b. That the Applicant, who is a family friend, has acted in all material respects as the guardian of the said adult since 2005, including payment of fees, accommodation and decision-making on behalf of the adult.
 - c. That the Applicant now seeks formal confirmation of the existing guardianship to satisfy requirements by LA TROBE School Melbourne in Australia.
 - d. That it is in the best interest of the said adult that this Honourable Court grants the orders sought.
 - e. That no prejudice will be occasioned to any party if the orders are granted.
3. The Application is further supported by the Affidavit of TIMOTHY CHEBON stating as follows;
- a. *I am the Applicant herein and as such conversant with the facts of this matter hence competent to swear this Affidavit.*
 - b. *That I am the guardian of HILDA CHEMOS NAIBEI who was born on 28/08/1995 and is currently aged 30 years.*
 - c. *That since 2005 I have provided for the care, education, accommodation and general welfare of the said HILDA CHEMOS NAIBEI, including paying school fees, providing upkeep and guiding her in all aspects of life.*
 - d. *That HILDA CHEMOS NAIBEI intends to pursue further studies and she has secured a placement at LA TROBE school Melbourne (Bundoora) in Australia.*
 - e. *That the School has forwarded its requirements that are to be fulfilled by HILDAH before enrolling to the said school and one of them is the official documentation from Court confirming that I have been HILDAH'S legal guardian and I intend to continue supporting her during her studies.*
 - f. *That I seek this court's declaration confirming the existing guardianship so that I may satisfy the requirements of LA TROBE school Melbourne (Bundoora) in Australia where she has secured an offer to study Master of Education.*

- g. That I swear this Affidavit in support of the prayers sought in the Application filed herein seeking assistance of this Honourable Court to confirm the existing guardianship relationship between myself and HILDA-H CHEMOS NAIBEI.*
- h. That what I have deponed to hereinabove is true to the best of my knowledge save for matters on information sources whereof have been disclosed and the grounds whereupon have been given.*

Analysis and Determination

- 4. In this matter before the court having heard the applicant in person and considered the grounds as deponed in the affidavit, I am satisfied that the applicant is suitable to be conferred with the role of guardian. He has the authority, from now henceforth, to assume parental responsibility for the subject in this matter. The subject herself is willing and it is evident that her welfare and best interests will be better served once the guardian assumes all the roles and responsibilities of a parent.
- 5. I am of the considered view that in granting this order of guardianship I have taken into account the following factors;
 - a) The Child's Best Interests is the primary consideration and is always the child's welfare, including emotional, educational, and health needs.*
 - b) The Guardian's Suitability whereby the guardian must demonstrate good moral character, financial stability, and the ability to meet the child's needs.*
 - c) Child's Relationship with the Guardian: The court assesses the relationship between the child and the prospective guardian, favoring guardians who have already been actively involved in the child's life.*
 - d) Child's Age and Preferences whereby for older children, the court considers their views and opinions regarding the proposed guardianship. If one or both biological parents are still living, their rights are considered. Guardianship does not terminate*

parental rights, so parents may retain a degree of involvement, depending on the specific case.

6. For those reasons, all the economic, social and cultural rights impacting on the welfare and best interest of the subject shall be the responsibility of the guardian herein duly appointed by this Court.
7. It is so ordered.

**DATED, SIGNED AND DELIVERED AT ELDORET THIS 11TH AUGUST
2025**

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**R. NYAKUNDI
JUDGE**