

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(MOSHI DISTRICT REGISTRY)**

**AT MOSHI**

**MISCELLANEOUS CIVIL APPLICATION No. 7 OF 2022**

**IN THE MATTER OF APPLICATION FOR THE MANAGEMENT  
AND ADMINISTRATION OF THE NMB ACCOUNT OF DINA  
MARUNDA MMARI**

**AND**

**IN THE MATTER OF APPLICATION BY LILIAN BERNARD  
MASAKI (DAUGHTER)**

**RULING**

*7/6/2022*

**MWENEMPAZI, J:**

The applicant has made this application under the provisions of Section 19(1) (2) and (3) of the Mental Health Act, No. 21 of 2008 and Section 95 of the Civil Procedure Code, Cap. 33 R.E. 2019. She is praying for an order of the court to declare that Dina Marunda Mmari is a person of unsound mind; that, this honourable court be pleased to grant an order to allow the applicant to manage and administer NMB Bank Account No. 401100081140 with names of DINA MARUNDA MMARI; and any other order the court may deem fit and just to grant.

The application is supported by an affidavit sworn by LILIAN BERNARD MASAKI the applicant herein named. She has averred that she is conversant to the facts



she has deposed. She has stated that DINA MARUNDA MMARI is 66 years old and is the mother of eight (8) children including the applicant. Her mother is the holder of account 401100081140 maintained with NMB Bank

According to the testimony which was tendered when being questioned on the contents of the affidavit, the applicant testified that she knew about the account through conversations with her mother before she became ill. At the time she was of sound mind. But now she is unable to manage the account and the doctors have informed them that her mother is of unsound mind.

Apart from the applicant herein named, Dr. Emmanuel Richard Kisanga also testified on oath. This is a doctor of mental health diseases currently stationed at Kilimanjaro Region Referral Hospital at Mawenzi. He is working as the head of department of mental health. He testified that he was able to read the record from file No. PS0410-64 under the name of DINA MARUNDA MMARI. In that file it is recorded that Dina Marunda Mmari is 66 years old and was taken to the Hospital for the first time on 26<sup>th</sup> November, 2021 at around 13:22 hours on the date she was accompanying her daughter who informed the doctors that their mother had changed her behaviour to the extent that she was not sleeping and sings during the night. Sometimes she arranged things instead of sleeping. That behaviour worries them and they would like her be treated.

The said DINA MARUNDA MMARI was telling members of her family that bad people are following her with the intention to harm her. Before that date she had no any other treatment going on except for diabetes. The problems started a year before they went to hospital.





According to the witness, Dr. Emmanuel Richard Kisanga, they conducted intensive examination of the health of Dina Marunda Mmari. That included physical examination and mental examination. Upon conducting various laboratory tests of blood samples and other physical examinations, all the tests were found to have negative results.

On mental examination, Dina Marunda Mmari was speaking with a loud voice, she could not respond to questions logically and she was shifting topics randomly. She is incapable of self-control, showed lack of self-awareness, poor judgment and she could not understand where she is in terms of time and location.

Since she was examined for other diseases and the results were negative, the doctor who examined her concluded that she has a Bipolar disorder with psychotic features and also she was diabetic.

According to the testimony of the witness Dr. Emmanuel Kisanga, if the symptoms just observed above persist for more than a week; that is a person has irritable and expansible mood, flight of ideas, racing of thought, inflated self-esteem with visual hallucinations and if it will be confirmed that there is no any other cause of disease, then according to treatment manuals DSM5 (fifth edition) and ISD5 the ailment is called BIPOLAR DISORDER.

The patient thus was subjected to treatment, emphasis being taken to her daughter who takes care of her. She is currently placed under regular monitoring clinics. The witness concluded that the patient is thus confirmed to be unable to manage her own affairs unless she is being assisted by a near relative.

The application is brought under the provisions of Section 19(1), (2) and (3) of the mental Health Act, No. 21 of 2018. The same provides as follows:

*19(1) Application for an order for the management and Administration of the estate of a person with mental disorder may be made by a parent, a child who has attained the age of eighteen, friend relative or any interested person under whose care or charge such person is.*

*(2) Every application shall be accompanied by an affidavit setting out the grounds upon which it is made and shall give full particulars as to the property and kindred the person to whom it relates.*

*(3) where the application relates to a person lawfully admitted as a person with mental disorder, the application shall be accompanied by certified true copy of the appropriate admission and particulars in respect of that person.*

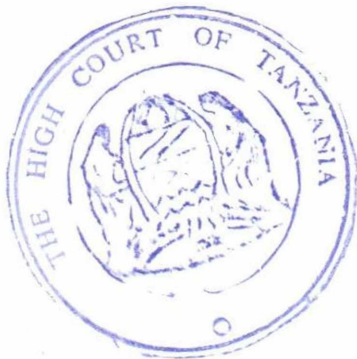
In this application, the applicant is a daughter of the patient one DINA MARUNDA MMARI. Birth certificate has been attached to the affidavit. As summarised herein the ruling, there is a clear and confirmed findings of the doctors that the said DINA MARUNDA MMARI is of an unsound mind pursuant to thorough investigation by the doctors at Mawenzi Regional Referral Hospital being guided by the international instruments or manuals of treatment. I have no doubt there is true account of the condition of the patient.

The findings have been testified in court by a Doctor endowed with knowledge on the subject and I have no reason to fault the account given.



Under the circumstances I am satisfied that the said DINA MARUNDA MMARI is a person of unsound mind and proceed to declare so. Consequent to the declaration I also allow the application by the applicant, LILIAN BERNARD MASAKI that she will therefore be the Manager and Administrator of Account No. 40110008140 held in the name of DINA MARUNDA MMARI with the bank of NMB. Costs of the application be taken care by the applicant. It is ordered accordingly.

Dated and delivered this 7<sup>th</sup> June, 2022.



A handwritten signature in blue ink, appearing to read "T. Mwenempazi".

**T. MWENEMPAZI**

**JUDGE**

Ruling delivered in the presence of the applicant this 7<sup>th</sup> day of June 2022.

A handwritten signature in blue ink, appearing to read "T. Mwenempazi".

**T. MWENEMPAZI**

**JUDGE**