

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA

FAMILY CAUSE NO. 142 OF 2010

IN THE MATTER OF JOHN EDWARD KIMERA (UN SOUND MIND)

AND

**IN THE MATTER OF AN APPLICATION FOR LEGAL GUARDIANSHIP BY
NALWADDA IMMACULATE**

BEFORE: HON. LADY JUSTICE MARGARET C. OGULI OUMO

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RULING:

The applicant; Nalwadda Immaculate, brings this application under section 94 and 98 of the Civil Procedure Act cap. 71 and section 45 of the Mental Treatment Act, cap 279 for orders that:

- 1 .The Applicant be appointed legal guardian of John Edward Kimera (hereinafter known as known as “sick person”).
2. That costs be borne by the applicant.

The application is supported by the affidavit of the applicant dated 27th July, 2010. The grounds of the application are briefly as follows:

- i) That the applicant is the biological sister of the sick person.
- ii) That the sick person has been a client of TASO since, 2006.
- iii) That as a result of the sickness, HIV/AIDS, he got a mental illness which he has lived with to date - wondering everywhere. Copies of the medical forms/receipts are attached hereto and

marked “B”.

iv) That as a result of the mental disability he has not been able to operate his account with DFCU bank.

v) That it is the applicant who has been operating the Account, taking custody of the ATM since he got a mental disorder.

vi) That in November, 2009, the ATM Card got lost and the applicant reported the matter to Clock Tower Police Station. This is confirmed by Annexure “C”.

vii) That it is in the interest of justice that, the applicant is appointed the legal guardian. At the hearing of the application, the applicant represented herself.

The High court has unlimited jurisdiction in matters of lunacy, provided for under **Section 45 of** the Mental Treatment Act cap. 279.

In the exercise of that jurisdiction, the High Court has powers to grant such remedies as are necessary to prevent the abuse of court process. This has been set out in Section 98 of the CPA cap. 71

Ms. Nalwadda submitted that she is the biological sister of the sick person and that the sick person has a mental problem. This submission is supported by a letter from the LC1- Abayita Ababiri Local Council 1, Sabaddu — Katabi, Entebbe, where the sick person has been resident.

Ms. Nalwadda further submitted that the brother (sick person), has an account at DECU bank, which she wants to operate.

Further, that she is the one having custody of him, including his 3 children. She added that the sick person was not married.

The Applicant submitted that she wants to operate the account so that she can take care of the sick person together with his 3 children.

In view of the fact that the applicant is a biological sister to the sick person and she is the one taking care of him and his 3 children, it will be in the best interests and welfare of the sick person that guardianship of the sick person is granted to the applicant, so that she legally runs his affairs.

Consequently, the application is allowed in the following terms:

1. The applicant Naiwadda Immaculate is appointed the legal guardian of John Edward Kimera.
2. The applicant is permitted to operate his account Number - 01L5005303200 with DFCU Bank for the benefit of the sick person.
3. The court makes no orders as to costs.

Margaret C. Oguli Oumo

JUDGE

27/09/2010

Present:

1. Nalwadda Immaculate
2. Betty Lunkuse, court clerk
3. Oliver Nantamu, Research Assistant
4. Fatuma Nad — friend to the Applicant.