



**IN THE COURT OF APPEAL**

**AT NAIROBI**

**CIVIL APPLI NO. 285 OF 2008 (UR 187/2008)**

**ANNE MUMBI HINGA ..... APPLICANT**

**AND**

**VICTORIA NJOKI GATHARA ..... RESPONDENT**

**(Application for an injunction and stay of further proceedings in the superior court pending hearing and determination of the intended appeal from the order of the High Court at Milimani Commercial Court, Nairobi (Kimaru J) dated 24<sup>th</sup> September, 2008**

**in**

**H.C. MISC. APPLI. NO. 617 OF 2000)**

**\*\*\*\*\***

**ORDER OF THE COURT**

The Notice of Motion dated 28<sup>th</sup> October, 2008 was certified as urgent, mainly because there is an application relating to the same dispute scheduled to be heard in the superior court. Mr. Kibatia, learned counsel for the respondent confirms to us that the application scheduled for hearing in the superior court on 12<sup>th</sup> November, 2008 has been overtaken by events and he will not prosecute it.

The respondent has filed a replying affidavit this morning which he has served on Mr. Nyangau, learned counsel for the applicant in court.

Mr. Nyangau intimates that he would have liked to take instructions on the affidavit but that the matter is urgent as the respondent intends to embark on a construction in the disputed plot.

The counsel have agreed that status quo in respect of the disputed plot can be maintained until the next hearing date.

In the circumstances, the application is taken out from the hearing list to enable Mr. Nyangau to take instructions on the replying affidavit. It is ordered that status quo as exists today in respect of the disputed plot be maintained until the next hearing date. The registry to give a hearing date of the adjourned application on priority basis. Costs in the application.

**FURTHER ORDER:**

On application of Mr. Nyangau, leave to applicant to file and serve a further affidavit within 7 days of

the date hereof.

**Dated at Nairobi this 5<sup>th</sup> day of November, 2008.**

**E. O. O’KUBASU**

.....

**JUDGE OF APPEAL**

**E. M. GITHINJI**

.....

**JUDGE OF APPEAL**

**J. W. ONYANGO OTIENO**

.....

**JUDGE OF APPEAL**

I certify that this is a

true copy of the original.

**DEPUTY REGISTRAR**