



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KAKAMEGA**

**CIVIL APPEAL CASE NO. 116 OF 2018**

**EVERLYNE C. INGANJI.....1<sup>ST</sup> APPLICANT**

**MESHACK BULINDA INGATI.....2<sup>ND</sup> APPLICANT**

**VERSUS**

**STEPHEN INGATI ASHAKA.....RESPONDENT**

***(FORWARDED FOR HEARING BY D.R. KISUMU BEFORE VACATION DUTY JUDGE - SIAYA)***

**COURT RULING:**

I have considered the application dated 29<sup>th</sup> August 2018, brought under the certificate of urgency and seeking to be heard during the recess.

I have premised the application and I am satisfied that the same is urgent. I certify it as urgent for consideration during the recess.

On the prayer for a temporary injunction to restrain the Respondent from removing the body of the late Geraldine Khataha Ingati from Kakamega County Referral Hospital for purposes of interment pending hearing and determination of the application in the first instance and an order that the late Geraldine Khataha Ingati do continue to be kept at Kakamega County Referral Hospital for Prosecution pending hearing and determination of the application interpartes, I note that the prayer sought are serious prayers that require appearance by a party to urge their case. It is not for this Court to attempt to Prosecute the application for the Applicant/Appellant as that would amount to jumping into the arena of the parties' dispute. In the premises, I direct the Applicant or her Counsel to serve the Respondent and appear on 31.8.2018 if they wish to have this matter considered, to urge the application for injunction.

Orders accordingly.

**Dated, Signed and Delivered at Siaya this 30th day of August, 2018.**

**R. E. ABURILI**

**JUDGE**