



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: BOSIRE, J.A (IN CHAMBERS))

CIVIL APPLICATION NO. NAI.162 OF 2001 (UR.86/2001)

BETWEEN

KENYA POSTS & TELECOMMUNICATIONS CORPORATION.....APPLICANT

AND

FRANCIS WAITHAKA NGOKONYO

SUDI ABDALLA

ANDREW MUGARESPONDENTS

(An application for stay of execution pending the lodging, hearing and determination of an intended appeal from the judgment of the High Court of Kenya at Milimani (Justice Andrew Hayanga) dated 11th

April 2001

in

H.C.C.C. No.357 of 1992 consolidated with

H.C.C.C. No.412 of 1992 and H.C.C.C. No.811 of 1992)

RULING

Mr Kipkorir for the applicant now says that this motion sought to be heard on priority basis, could not be filed promptly because the lower court record was not readily available because a Judge's secretary who had custody of it and who had locked it up in her drawer, was away on sick leave. However, the foregoing facts having not been deponed to in either the affidavit in support of the certificate of urgency or the one in support of the motion there is no way such new facts given from the bar could have been the subject matter of my consideration when the motion was placed before me for directions on urgency. In view of

that and considering that those facts are not properly on record, I will decline to certify the motion as urgent.

Dated and delivered at Nairobi this 30th day of May, 2001.

S.E.O. BOSIRE

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR