



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT MACHAKOS**

**Civil Case 44 of 2003**

**MARY WAITHIRA**

**KANYARI .....PLAINTIFF**

**VERSUS**

**KANTAFU COMPANY LIMITED**

**KENYA POWER & LIGHTING COMPANY  
LIMITED.....DEFENDANTS**

**R U L I N G**

After hearing submissions into the Notice of Motion dated 19<sup>th</sup> June 2005 by the applicant/2<sup>nd</sup> defendant, I have since noted that the plaintiff/Respondent herself, who stands to be affected by the orders sought in this application, was not served in person. The affidavit of service was handed over to the court at the time the application was heard. This affidavit shows that the persons served were plaintiffs/Respondent's advocates. It would be unfair to make any ruling in the matter without the Respondents prior knowledge of this application even if the service to her may or may not affect the ruling.

Consequently, I set aside the proceedings of this court on 11<sup>th</sup> May, 2006.

Further I order that the plaintiff/Respondent be served in person together with the firm of advocates representing her for inter partes hearing on a date to be set in court.

Dated 17<sup>th</sup> May, 2006, at Machakos.

**J. LESIIT**

**JUDGE**