



**REPUBLIC OF KENYA**

**High Court at Nairobi (Nairobi Law Courts)**

**Miscellaneous Application 637 of 2007**

**JOSEPHINE ISELE KULUO..... APPLICANT**

**AND**

**THE CHIEF MAGISTRATE'S COURT KIBERA, NAIROBI.....1<sup>ST</sup> RESPONDENT**

**ATTORNEY GENERAL .....2<sup>ND</sup> RESPONDENT**

**RULING**

1. The Notice of Motion dated 19<sup>th</sup> October 2012 seeks to set aside my judgment of 9<sup>th</sup> October 2012 on the basis that the interested party was not served and that he did not get a chance to inform the Court that the ex-parte applicant did not repay the funds she had undertaken to pay.

2. I have considered the applicant's counsel submissions and the supporting affidavit. I am satisfied that the interested party's advocate was duly served with a hearing notice but failed to attend Court. Nevertheless, the Court had on record the interested party's deposition and submissions and did consider the issues raised by the interested party in the judgment.

3. I do not think it is the interest of justice to re-open this matter. It was filed over five years ago and as counsel for the respondent stated, litigation must come to an end. I also do not see any prejudice to the interested party as he is at liberty to enforce the agreement between him and the interested party for repayment of his money.

4. The Notice of Motion dated 19<sup>th</sup> October 2012 is dismissed with no order as to costs.

**DATED and DELIVERED at NAIROBI this 5<sup>th</sup> day of November 2012**

**D.S. MAJANJA  
JUDGE**

Ms Kuria Instructed by R W Kuria & Co. Advocates for the interested party/Applicant

Mr Njogu, litigation counsel instructed by the Director of Public Prosecutions