



**REPUBLIC OF KENYA**

**IN THE COURT OF APPEAL**

**AT KISUMU**

**CORAM: O'KUBASU, J.A. (IN CHAMBERS)**

**CIVIL APPLICATION NAI 230 OF 2005 (KSM.26/05)**

**BETWEEN**

**SMALL ENTERPRISES COMPANY LTD..... APPLICANT  
AND**

**JOHN ODIDI OMULO .....1ST RESPONDENT**

**MESHACK NYAKUNDI .....2ND RESPONDENT**

*(An application for leave to dispense with service of all the documents relating to this appeal to the 2nd respondent in an appeal from the judgment and decree of the High Court of Kenya at Kisumu (Mr. Justice Warsame) dated 18th May, 2005*

**in**

**KISUMU H.C.C.C. NO. 232 OF 1986)**

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

**R U L I N G**

This is an ex parte application brought under **rule 76** of the Court of Appeal Rules in which the applicant Small Enterprises Company Ltd is seeking leave of the Court to dispense with service of documents in the appeal upon one Meshack Nyakundi who was the 2nd defendant in the superior court. The said Meshack Nyakundi never participated in the proceedings in the superior court. The applicant herein was the 1st defendant and the judgment is against the 1st defendant only. That judgment does not affect Meshack Nyakundi.

In view of the foregoing, this application is allowed and leave is hereby granted to dispense with service of documents in the appeal upon Meshack Nyakundi. Costs shall be in the appeal.

***Made at Kisumu this 29th day of November, 2005.***

**E. O. O'KUBASU**

.....

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**