



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI LAW COURTS CIVIL DIVISION**  
**CIVIL SUIT NO. 446 OF 2013**  
**JOY NUNGARI WANJIKU**

**(A MINOR SUING THROUGH REACHEL WANJIKU WAINAINA  
MOTHER AND NEXT FRIEND) .....PLAINTIFF**

**VS.**

**THIKA DISTRICT HOSPITAL.....DEFENDANT**

**RULING**

Before me is an Originating Summons dated 23/10/13 brought under Order 37 Rule 6(2), Order 8 Rule 3(3) of the Civil Procedure Rules, Section 27 of the Limitation of Actions Act Chapter 22 Laws of Kenya and section 3A of the Public Authorities Limitation Act Chapter 39 Laws of Kenya and Section 3A of the Civil Procedure Act Chapter 21 Laws of Kenya and all enabling provisions of the Law. The applicant seeks to be granted extension of limitation period and that the plaint dated 23<sup>rd</sup> October 2013 and filed with the application be deemed as statutory regular. The applicant also seeks that costs of the application be provided for. The application is supported by 4 grounds on the face of the application as follows that;

- i. The cause of action arose in the period between 6<sup>th</sup> October 2011 and 17<sup>th</sup> October 2011 and as such may be statute barred in light of the provisions in Section 3 of the Public Authorities Act, Chapter 39 Laws of Kenya.
- ii. The plaintiff herein received the minor’s hospital documents (discharge summary) on 17<sup>th</sup> April 2013 and thus became aware of the negligence, the subject matter of the instant suit.
- iii. The plaintiff promptly made a demand on 4<sup>th</sup> July 2013.
- iv. The defendant responded on 9<sup>th</sup> July 2013 and requested for more time to explore possibilities of an amicable settlement of the matter, the settlement has not been forthcoming.

It is also supported by the affidavit of the applicant. She reiterates what is stated in the grounds. I have considered the reasons given by the applicant. They appear genuine and plausible. I have perused the annexures and it confirms what she has deposed. I do warn myself that the respondent could challenge the leave granted at the hearing. In the interest of justice however I grant an extension of the limitation period. The applicant shall file suit within 14 days from the date of the ruling. Costs shall be in the cause.

Orders accordingly.

Dated signed and delivered this **14<sup>th</sup>** day of **April** 2014.

**R. E. OUGO**

**JUDGE**

In the presence of:

.....**For the Applicant**

.....**For the Respondent**

..... **Court Clerk**