



**REPUBLIC OF KENYA
IN THE HIGH COURT
AT BUNGOMA
MISC. CIVIL APPL. NO.65 OF 2009**

DEMITILAH AUMA ANYANGO
 **APPLICANT**

~VRS~

SUSAN NELIMA MACHIO
 **1ST RESPONDENT**

IVONE DINA SUMBA
 **2ND RESPONDENT**
IRENE

ALOYO
 ::: **3RD RESPONDENT**

RULING

The Applicant seeks for extension of time to institute a civil suit for damages against the Respondent. She claims to have been assaulted on the 18/06/2005 by the Respondent who were charged in Busia Court with assault causing actual bodily harm. The time allowed by the law to file a claim of this nature is three years which expired on 18/06/2008.

The reasons advanced for delay are two fold:

§ **that the criminal case took too long to be finalized**

§ **that the Applicant was undergoing prolonged treatment.**

I note that the supporting affidavit does not show the time the criminal case was finalized. Except the charge sheet, the proceedings of the lower court have not been annexed. The medical report, P.3 and treatment notes are annexed showing that the Applicant sustained injuries.

This application was filed on 24/03/2009 which was less than one year after the suit had become time barred. I find this period reasonable and the grounds supporting the application meritorious.

I allow the application as prayed. The plaint to be filed in court within 14 days.

**F. N. MUCHEMI
JUDGE**

Ruling delivered and dated this 30th day of November, 2010 in the presence of Mr. Kakoi for Change for Applicant.

F. N. MUCHEMI
JUDGE