

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Civil Suit 1044 of 2000

DAVID NJOGU GACHANJA PLAINTIFF/APPLICANT

Versus

DANIEL MUTIE 1ST DEFENDANT/RESPONDENT

THE ATTORNEY GENERAL 2ND DEFENDANT/RESPONDENT

RULING

Having listened to and carefully considered what both learned counsel appearing before me during the hearing of this Chamber Summons dated 30th May, 2007 brought to my attention, I have no doubt in my mind that this case has triable issues and they include: Limitation of time; Lack of Statutory Notice; claim that Judge Emukule's ruling being relied upon by the Plaintiff is being challenged on appeal and whether this is a case of collateral attack.

Accordingly, the Applicant's Chamber Summons dated 30th May, 2007 is hereby dismissed with costs to the Respondent.

Dated and delivered at Nairobi this 21st day of February, 2008.

J.M. KHAMONI

JUDGE