



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**Misc Appli 1715 of 2004**

**JOSEPH MUGO MWANGI ..... APPLICANT**

**VERSUS**

**THE HON. ATTORNEY GENERAL ..... RESPONDENT**

**RULING**

This is an application to file suit out of time and is brought by way of a Notice of Motion rather than an Originating Summons. It does not cite the provisions of law under which it is brought. Because this application is made by a lay person, I will choose to ignore the procedural inadequacies, and go straight to the merit of the application.

Section 3 (1) of the Public Authorities Limitation Act, Cap 39 prescribes a time limit of 12 months from the date of the cause of action for the filing of a suit against the Government of Kenya, arising out of an action in tort.

Here the cause of action arose on 22nd May, 2000, and this application was made more than four years later on 14th December, 2004. The only reason provided for the delay in filing suit is “the lack of finance to pay for legal fees.” That is not a sufficiently good reason for not filing the suit in time, and in any event does not constitute “disability” envisaged by Section 5 of Cap 39. In addition, the delay is highly inordinate, and accordingly, this application is dismissed with Costs to the Respondent.

**Dated and delivered at Nairobi this 20th day of September, 2005.**

**ALNASHIR VISRAM**

**JUDGE**