

Somoe v Langant

High Court, at Kericho September 26, 2003

Lesiit J

Civil Suit No 55 of 2003

September 26, 2003, Lesiit J delivered the following Ruling.

The application is brought under section 27 of Limitation of Actions Act and OXXXVI r3 (c) (1) of the CPR and S3A of CPA.

It seeks that

**“a) The time for filing suit be extended and the applicant be allowed to file suit out of time.
b) That necessary directions be give.”**

I have carefully considered the application and the grounds for the same. Under Section 27 of Limitation of Actions Act, leave can be allowed only where the court is shown, to the satisfaction of the court, that failure to apply within time was due to lack of knowledge of certain material facts. The applicant must show to the satisfaction of the court that he had taken all reasonable steps and sought appropriate advice in respect of the facts.

Among reasons given for the failure to file suit within time, the suit, the most persuasive is the fact that the traffic case in which the accident that gave use to the cause of action herein was still pending as at the time this application was filed. Even though the advocate for the applicant did not state it, the out come of that case would determine who should be sued in this case. Those are material particulars of a decisive nature outside the knowledge of the applicant herein. I will allow the application on that ground with no order as to costs. The applicant should file the substantive suit within 15 days from date hereof and serve the same within 15 days from date of filing.

If said condition is not complied leave granted herein shall lapse forthwith.