



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT KISUMU**

**MISC. APPLICATION NO. 15 OF 2017**

*(Before Hon. Justice Mathews N. Nduma)*

**GIBSON AKARANGA KIDULA.....APPLICANT**

**VERSUS**

**THE ATTORNEY GENERAL ON BEHALF OF THE CABINET SECRETARY**

**MINISTRY OF WATER & NATURAL RESOURCES.....RESPONDENT**

**R U L I N G**

1. The Applicant seeks enlargement of time for filing suit against the Attorney General.
2. The cause of action arose in 1998 when the Claimant voluntarily retired from government service. The Claimant seeks payment of Kshs.239,625 being the balance of the exit package he was entitled to. At the time the cause of action arose, limitation of time of matters based on employment contract was governed by section 4(1) of Limitation of Actions Act, Cap 22 Laws of Kenya.
3. The Court of Appeal in the Devicon Case, which decision has been followed strictly by the court found that enlargement of time for a suit based on contract was not permissible at all. The limitation period was six (6) years then.
4. The Applicant wants to file the claim about twenty (20) years' from the date the cause of action arose.
5. The application is simply not permissible regardless of the cause of the inordinate delay. No plausible reason has been advanced in any event in this application.
6. The application lacks merit and is dismissed with no order as to costs.

**Ruling Dated, Signed and delivered this 6<sup>th</sup> day of December, 2018**

**Mathews N. Nduma**

**Judge**

**Appearances**

Mr. Momanyi & Co. advocates for the Applicant

Chrispo – Court Clerk