

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT MOMBASA

CAUSE NO 620 OF 2016

BONIFACE INONDI OTIENO.....CLAIMANT

VS

MEHTA ELECTRICALS LIMITED.....RESPONDENT

RULING

1. This ruling relates to the Claimant's application dated 13th June 2018 and amended on 21st February 2019, the Claimant seeks the following orders:

- a) That the Court be pleased to re-open and re-examine its judgment and order made on 25th November 2016;
- b) That the said judgment and order be declared a nullity and be set aside.

2. Although the Claimant's application refers to a judgment of 25th November 2016, a perusal of the court record reveals that what was delivered on that day was a ruling pursuant to a preliminary objection raised by the Respondent.

3. In the said ruling, my brother, **Makau J** stated the following:

“it is obvious that the claimant's case which is founded on both contract and tort is time barred because it was commenced 10 years after the respective cause of action arose. The court is therefore barred by the Law from entertaining this suit and I therefore down my tools for lack of jurisdiction.”

4. The Claimant wants me to set aside the ruling by my brother Judge. I have no power to do so; if the Claimant was dissatisfied with the decision of this Court, he should have moved to the Court of Appeal.

5. That said, I find and hold that the Claimant's application is without merit and proceed to dismiss it with no order for costs.

6. Orders accordingly.

DATED SIGNED AND DELIVERED AT MOMBASA THIS 19TH DAY OF SEPTEMBER 2019.

LINNET NDOLO

JUDGE

Appearance:

Boniface Inondi Otieno (the Claimant in person)

No appearance for the Respondent