



REPUBLIC OF KENYA
IN THE EMPLOYMENT & LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 270 OF 2016

(Before Hon. Justice Mathews N. Nduma)

MAURICE DOMINIC ODHIAMBO.....1ST CLAIMANT

DICKSON KIBET RONO2ND CLAIMANT

=VERSUS=

INSPECTOR GENERAL KENYA POLICE SERVICE.....1ST RESPONDENT

ATTORNEY GENERAL REPUBLIC OF KENYA.....2ND RESPONDENT

RULING

1. The Respondent raised a Preliminary Objection to the suit to the effect that the suit by the Claimants is time barred by dint of section 90 of the Employment Act, 2007, which provides for a limitation period of three (3) years for a suit arising from Employment contracts or relationship.
2. It is clear from the Memorandum of Claim filed on 25th February 2016, that the Claimants were dismissed from the police service by a letter dated 23rd July 2007, the dismissal to take effect on 3rd November, 2006.
3. The law of limitation applicable to this suit is section 4(1) of the Limitation of Actions Act, cap 22 of the laws of Kenya, which provides that a suit based on contract must be filed within six (6) years. This is because the Employment Act, 2007 came to effect in the year 2008 after the Claimants had been dismissed.
4. From the facts not in dispute and apparent on the face of the statement of claim, the suit was filed over eight (8) years after the cause of action arose.
5. Following the decision of the Court of Appeal in **Divecon v Samani [1995-1998] EA 48 cited with approval in HCC at Homa Bay Civil Appeal No.57 of 2015 KPLC Ltd v Collins Agumba Aboge** , no court has authority to extend time for filing of a matter based on contract.
6. Accordingly, this suit is dismissed for the court lacks jurisdiction to entertain it out of the limitation period. No order as to costs.

Dated and Signed in Kisumu this 1st day of February, 2018

Mathews N. Nduma

Judge

Delivered and signed in Nairobi this 16th day of February, 2018

Maureen Onyango

Judge

Appearances

Mr. Kioko for Objector

Mr. Oundo for Respondent

Anne Njung'e – Court Clerk