



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 1297 OF 2015

(Before Hon. Lady Justice Hellen S. Wasilwa on 30th July, 2017)

DAVID NYANUMBA MOSETI.....CLAIMANT

VERSUS

NAS AIRPORT SERVICES LIMITED.....RESPONDENT

RULING

1. The Application before me is the Preliminary Objection raised by the Respondent dated 4.5.2018 on the grounds of limitation of the claims pursuant to Section 4(2) of Cap 22. The Claimant's Advocates were served but failed to file any response.

2. The Claimant filed this claim on 28th July 2015 seeking the following orders:-

a) Damages and footing of aggravated or exemplary damages.

b) An injunction restraining the Respondent by themselves, their servants or agents or otherwise howsoever from further publishing or causing to be published words defamatory to the Claimant.

c) Costs of this suit.

d) Any such further or other relief as may to this Honourable Court appear to be fit and just to grant.

3. The issues raised in this claim relate to a tort of defamation. Section 4(2) of Cap 22 states as follows:-

“An action founded on tort may not be brought after the evidence of three years from the date on which the cause of action occurred”.

Provided that an action for libel and slander may not be brought after the end of twelve months from such date”.

4. The prayer No. (b) sought relates on libel perse and so that is a prayer which cannot be granted by this Court as it is purely a civil claim. This Court has no jurisdiction to deal with such claims by virtue of Section 12 of Employment & Labour Relations Court Act.

5. It is my finding that the issues complained of in the claim are purely civil and therefore this claim is not properly before this Court. I will allow the Preliminary Objection on that ground and strike out this claim accordingly.

6. Costs to the Respondents/Applicant.

Dated and delivered in open Court this 30th day of July, 2018.

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of:

No appearance for Parties