



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF

KENYA AT NAIROBI

CAUSE NO 2208 OF 2016

KENYA GAME CONSERVANCY TOURS &

SAFARIS WORKERS UNION.....CLAIMANT

VERSUS

GLORY CAR HIRE TOURS & SAFARIS LIMITED.....RESPONDENT

RULING

1. By a notice of preliminary objection filed on 5th June, 2017 the respondent averred that the claim herein is statute barred.
2. According to the respondent, the cause of action accrued on 25th April, 2004 when the claimant alleged he was unlawfully dismissed yet the suit was filed on 31st September, 2016 which was more than twelve years from when the cause of action arose. Section 4(1) of the Limitation of Action Act provided for 6 years limitation period in cases founded on contracts.
3. Counsel further submitted that a reading of Section 27 of the Limitation of Actions Act only applied to claims made in tort and even in torts, the claims must be in respect of claim for personal injuries arising from negligence, nuisance or breach of duty. The said provisions do not apply for extension in matters relating to breach of contract. Mr Ndolo did not deny there was delay in filing the suit but blamed it on the conduct of the respondent.
4. As properly pointed out by the respondent, the court under Limitations of Actions Act then or the current Employment Act, does not have jurisdiction to extend time for filing suits based on contract once time has lapsed.
5. But there is another important issue that makes the present suit incompetent. That is, the person on whose behalf it was brought has since died. The claimant union has not exhibited anything to show they are the legal representatives of the deceased to give them authority to bring the present suit. On this ground as well, the suit is incompetent and the same is hereby struck out with no order as to costs.
6. It is ordered.

Dated at Nairobi this 6th day of July, 2018

Abuodha J. N.

Judge

Delivered at Nairobi this 6th day of July, 2018

Abuodha J. N.

Judge

In the presence of:-

..... for the Claimant

..... for the Respondent