



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NUMBER 649 OF 2015**

**JOY NELLY AKOTH OWILI.....CLAIMANT**

**VERSUS**

**THE CENTRE FOR AGRICULTURE AND BIOSCIENCES**

**INTERNATIONAL (CAB International).....1<sup>ST</sup> RESPONDENT**

**MORRIS AKIRI.....2<sup>ND</sup> RESPONDENT**

**RULING**

1. By a Notice of preliminary objection filed on 31<sup>st</sup> July, 2015, the respondent herein contended that it enjoyed immunity from legal process by law and further that the parties herein entered into a contract for services and not a contract of service.
2. In support of the objection on the issue of immunity from process, Mr Akelo for the respondent submitted that the 1<sup>st</sup> respondent was an intergovernmental organization established by an agreement between 48 member countries and for the purpose of provision of information, scientific and related services in agriculture and allied sciences and Kenya is a member state having signed the agreement on 16<sup>th</sup> June, 1987 and ratified it on 13<sup>th</sup> November, 1987.
3. Further by virtue of article 57 and 63 of the Charter of the UN, the 1<sup>st</sup> respondent was a specialized agency within the meaning of section 1(i) of the convention on the Privileges and Immunities of the specialized Agencies of the UN and is such immune from every form of legal process.
4. Mr Akelo further submitted that article 111(b) of the agreement between the Government of Kenya and the 1<sup>st</sup> respondent provided that the respondent and its property shall enjoy immunity from suit and legal process for actions taken under the agreement.
5. Mr Mege for the claimant submitted that the objection affected only the 1<sup>st</sup> respondent but did not include the 2<sup>nd</sup> respondent who was a Kenyan citizen. The 2<sup>nd</sup> respondent was sued in his capacity as a director of the 1<sup>st</sup> respondent. Mr Mege in essence conceded to the objection by the 1<sup>st</sup> respondent that it was immune from the legal process. Article IV (i) of the multilateral agreement on the 1<sup>st</sup> respondent gives it the legal personality to contract and acquire and dispose of immovable and movable property and to institute legal proceedings. Nothing has therefore been demonstrated why the 2<sup>nd</sup> respondent as a director of the 1<sup>st</sup> respondent has been sued in his own name.

6. The claimants counsel having conceded that the 1<sup>st</sup> respondent indeed enjoys immunity from process and nothing has been demonstrated why the 2<sup>nd</sup> respondent as a director of the 1<sup>st</sup> respondent has been sued in his own name, the objection on the issue of immunity from process succeeds.

7. This objection having succeeded the court will not consider the objection on whether the contract between the claimant and the respondent was one for services or of service.

8. The suit therefore stands struck out with costs to the respondent.

9. It is so ordered.

Dated at Nairobi this 3<sup>rd</sup> day of March, 2017

**Abuodha J. N.**

**Judge**

Delivered this 3<sup>rd</sup> day of March, 2017

**In the presence of:-**

.....for the Claimant and

.....for the Respondent.

**Abuodha J. N.**

**Judge**