

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NAIROBI

CAUSE NO. 2007 OF 2014

JOB NDEGE.....CLAIMANT

VERSUS

IWAYAFRICA SERVICES LIMITED.... RESPONDENT

RULING

1. The Respondent raised as preliminary the objection that the court lacked jurisdiction to entertain the suit herein by reason of the fact that the contract of employment between the parties provided that any dispute concerning the contract shall be referred to arbitration.

2. The Court has reviewed and considered the sample contract attached to the claimant's own memorandum of claim and noted that clause 21.5 provided that any dispute, difference or question which may arise at any time between the parties touching upon the construction of the agreement or rights and liabilities of any party to the agreement shall be referred to the decision of the person to be appointed at the request of any of them by the Chairman of Kenya Chapter of the Institute of Chartered Arbitrators in accordance with and subject to the provisions of the Arbitration Act No. 4 of 1995.

3. There can be no doubt from the above that the parties herein had intended that their relationship to be subject to alternative form of dispute resolution. Under Article 159 of the Constitution, the Courts are encouraged in the exercise of their judicial authority to encourage alternative forms of dispute resolution.

4. The objection by the respondent is therefore merited and the suit herein is hereby stayed pending arbitration.

5. It is so ordered.

Dated at Nairobi this day of April, 2017.

Abuodha J. N.

Judge

Delivered this 28th day of April 2017

In the presence of:-

.....for the Claimant and

.....for the Respondent.

Abuodha J. N.

Judge