

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI

CAUSE NO. 2037 OF 2012

**KENYA UNION OF DOMESTIC, HOTELS,
EDUCATIONAL INSTITUTIONS, HOSPITALS
& ALLIED WORKERS(KUDHEIHA).....CLAIMANT**

VERSUS

GERMAN POINT LIMITEDRESPONDENT

Kithi for respondent/objector

Mwari Stephano Njiru for the claimant/respondent

RULING

1. The respondent filed a preliminary objection to the suit dated 20th May 2015 on 21st May 2015 to the effect that the suit is time barred by dint of section 90 of the Employment Act, 2007. That the suit is an abuse of the court process and ought to be dismissed.
2. The respondent filed a reply to the preliminary objection dated 10th June 2015 stating that the objection is misconceived as the suit was filed within the stipulated time, the matter having been commenced vide a mandatory report to the Minister for Labour under Trade disputes Act, Cap 234 of the laws of Kenya.
3. The statement of claim was filed on 9th October 2012 and states that the claimant worked for the respondent until 2007, when his employment was terminated and seeks terminal benefits set out in the statement of claim in the sum of Kshs.104,946.
4. It is clear from the face of the statement of claim that the suit was filed within six (6) years prescribed by the limitation of Actions Act, Cap 226 of the laws of Kenya which provides for a limitation period of six (6) years in respect of matters based on contract.
5. Section 90 of the Employment Act, 2007 is inapplicable in this suit because the Act came into effect in August 2008.
6. The preliminary objection is misconceived and is dismissed with costs to the claimant.

Dated, Signed and delivered at Nairobi this 25th day of August, 2017.

MATHEWS NDERI NDUMA

PRINCIPAL JUDGE