



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU**

**CAUSE NO. 174 OF 2013**

**GABRIEL OJWANG**

**CLAIMANT**

**v**

**KALI SECURITY COMPANY LTD**

**RESPONDENT**

**consolidated with**

**CAUSE NO. 170 OF 2013**

**NATHAN MUIRURI**

**CLAIMANT**

**v**

**KALI SECURITY COMPANY LTD**

**RESPONDENT**

**and**

**CAUSE NO. 171 OF 2013**

**FRANCIS CHAKAI MULAA**

**CLAIMANT**

**v**

**KALI SECURITY COMPANY LTD**

**RESPONDENT**

**and**

**CAUSE NO. 173 OF 2013**

**CHARLES OKALO**

**CLAIMANT**

**v**

**KALI SECURITY COMPANY LTD**

**RESPONDENT**

**RULING**

1. The consolidated Causes herein were filed in Court on 6 June 2013.

2. In Cause No. 170 of 2013 the Claimant alleged that his employment had been unfairly terminated in February 2007. The Claimant in Cause No. 171 of 2013 also pleaded that his employment had been terminated in February 2007.
3. The Claimant in Cause No. 173 of 2013 on his part pleaded that he had been dismissed in 2004, while the Claimant in Cause No. 174 of 2013 alleged unfair termination of employment on 24 February 2007.
4. When the Respondent was served with the Notice of Summons, it filed Notices of Preliminary Objections on 9 October 2013. The objection was on statutory limitation and section 90 of the Employment Act, 2007 was cited.
5. On 12 February 2014, the Claimants filed a joint Amended Memorandum of Claim and the date of alleged accrual of causes of action remained substantially the same.
6. On 9 November 2015, the consolidated Causes were fixed for hearing on 25 January 2016.
7. When the Causes were called for hearing on the scheduled date, the Respondent urged its preliminary objection and in the course of those submissions, the counsel for the Claimants walked in and applied to have the Causes withdrawn.
8. Mr. Githui who appeared for the Respondent did not object but the Court did not issue any orders upon the application to withdraw because it wanted to consider the issue of costs.
9. The Claimants had been put on notice way back in 2013 about the issue of limitation and therefore had ample time to consider the options available to them.
10. Instead of considering the options, the Claimants waited until the Causes were called for hearing and upon being confronted by the Respondent that the preliminary issue be dealt with first, that they applied to have the Causes withdrawn.
11. The approach adopted by the Claimants runs contrary to the policy that precious judicial time should be used wisely and for this reason, the Court will allow the application to withdraw the Causes but with costs to the Respondent. It is so ordered.

**Delivered, dated and signed in Nakuru on this 29<sup>th</sup> day of January 2016.**

**Radido Stephen**

**Judge**

**Appearances**

For Claimants        Mrs. Ndeda/Ms. Ndeda instructed by Ndeda & Associates

For Respondent      Mr. Githui instructed by Githui & Co. Advocates

Court Assistant     Nixon