



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

**AT NAIROBI**

**MISC. 52 OF 2016**

**DOMINIC MULINGE MUTEI.....CLAIMANT**

**VERSUS**

**KAKUZI LIMITED.....RESPONDENT**

**RULING**

1.The applicant herein seeks leave of this Court to extend time to enable him file a suit against the Respondent. The application was brought under section 7 and 22 of the Limitation of Actions Act and section 3A of the Civil Procedure Act.

2.These provisions do not apply to application of this nature, if tenable before this Court. The relevant section would be section 90 of the Employment Act.

**Notwithstanding the provisions of section 4(1) of the Limitations Actions Act, no civil action or proceedings based or arising out of this Act or a contract of service in general shall lie or be instituted unless it is commenced within three years next after the act, neglect or default complained or in the case of continuing injury or damage within twelve months next after the cessation thereof.**

3. This section does not seem to permit extension of time to bring actions founded on the Act or contract of employment after the 3 year period has lapsed or in the case of continuing injury, after 12 months from cessation thereof.

4. Regretfully therefore the application fails and the same is hereby dismissed with no order for costs.

It is so ordered.

Dated at Nairobi this 23<sup>rd</sup> day of September 2016

**Abuodha Jorum Nelson**

**Judge**

Delivered this 23<sup>rd</sup> day of September 2016

**In the presence of:-**

.....for the Claimant and

.....for the Respondent.

**Abuodha Jorum Nelson**

**Judge**