



REPUBLIC OF KENYA

IN THE INDUSTRIAL COURT AT KISUMU

MISC NO. 5 OF 2015

(Before Hon. Lady Justice Maureen Onyango on 16th March, 2015)

LAWRENCE OUKO OLILO }

DOMNIC ONGANY AKELLO APPLICANTS

-VERSUS-

1. JAPHETH

2. RAFIQ

3. SAROS

4. JRS SECURITY GROUP LTD RESPONDENTS

RULING

I have considered the application, the submissions by both applicants and counsel for respondents. The application before me is for extension of limitation period for filing claim for wrongful termination. The applicants have pleaded that their employment was terminated in 2005. At that time the Employment Act in force was the repealed Employment Act (1977). Limitation periods for such claims was 6 years. According to the Limitation of Actions Act, the only circumstances when the court may extend the limitation period are those provided for under Section 22. For contracts, the limitation period can only be extended on grounds of disability, part payment or acknowledgement of debt. The applicants allege they were not in employment and did not have money to file. Lack of funds is not a disability recognized under the Limitation of Actions Act. The law provides for pauper briefs for persons who do not have capacity to pay court fees.

The case filed in the High Court by the applicant was in 2013. Even in 2013 their claim was out of time and the case in the High Court can therefore not be used for purposes of extending time on the basis that they went to court in time but unfortunately went to the wrong court.

I appreciate that the applicants may be ignorant of the provisions of the law. I have noted that they were not even able to express themselves through English or Kiswahili and had to use an interpreter. I also note that they are undefended and had difficulty expressing themselves as they are already urging the merits of their claim yet what is before court is an application for extension of time to file the claim. Unfortunately ignorance is not a ground for extension of time. Their claim is therefore beyond redemption due to lapse of time.

I therefore dismiss the application for extension of limitation period with no orders for costs.

MAUREEN ONYANGO

JUDGE

16/3/2015

Appearances:-

M. M. Omondi for 4th respondent

Applicants present in person

CC. Wamache