



**Ramaita v Kenya Wildlife Service & another (Cause 35 of 2023)
[2024] KENET 518 (KLR) (22 April 2024) (Ruling)**

Neutral citation: [2024] KENET 518 (KLR)

**REPUBLIC OF KENYA
IN THE NATIONAL ENVIRONMENT TRIBUNAL - NAIROBI
CAUSE 35 OF 2023
EMMANUEL MUMIA, CHAIR, WINNIE Tsuma, VICE CHAIR,
DUNCAN KURIA & RONALD ALLAMANO, MEMBERS
APRIL 22, 2024**

BETWEEN

CHEPTOO SOLITEI RAMAITA APPELLANT

AND

KENYA WILDLIFE SERVICE 1ST RESPONDENT

**MINISTERIAL WILDLIFE AND COMPENSATION COMMITTEE 2ND
RESPONDENT**

RULING

Introduction

1. On 23rd November 2023, the Appellant instituted the instant appeal inviting the Tribunal to review the amount awarded to her by the 2nd Respondent as compensation following a snake bite. The appeal precipitated the 2nd Respondent's Notice of Motion application dated 2nd February 2024, which is before us for determination.
2. The 2nd Respondent has urged us to find that the appeal was filed outside the 30 days stipulated under the *Wildlife Conservation and Management Act*. In sum, the 2nd Respondent's application of 2nd February 2024 seeks the following orders:
 - a. THAT this Appeal be struck out for want of jurisdiction of this Honourable Tribunal to hear and determine it.
 - b. THAT the costs of the application be in the cause.
3. The application did not go unopposed. In opposition thereto, the Appellant filed a Replying Affidavit sworn on 26th February 2024 by herself. Following the directions of the Tribunal, parties canvassed the



application by way of written submissions. In this regard, the Appellant filed submissions dated 15th April 2024, while the 1st Respondent filed submissions dated 8th April 2024.

Issue for determination

4. Having carefully considered the pleadings and written submissions filed by parties, we find that the only issue dispositive of the instant application is whether this Tribunal has jurisdiction to entertain the instant appeal.

Whether this Tribunal has jurisdiction to entertain the instant appeal

5. The 1st Respondent has urged the Tribunal to find that the instant appeal is time-barred by dint of section 25(6) of the [Wildlife Conservation and Management Act](#). The section provides as follows:

“A person who is dissatisfied with the award of compensation by either the County Wildlife Conservation and Compensation Committee or the Service may within thirty days after being notified of the decision and award, file an appeal to the National Environment Tribunal and on a second appeal to the Environment and Land Court.”

6. We now turn to the facts presented before the Tribunal. The Appellant deponed that she only became aware of the existence of an award vide a letter dated 15th August 2023 emanating from the 1st Respondent's office. This is, however, not true. The 1st Respondent's letter of 15th August 2023 was in response to her letter dated 31st July 2023 which assumed the nature of an appeal.
7. In the letter, the Appellant demonstrates knowledge of an award of Kshs. 2,000 and invites the 1st Respondent to reconsider the sum awarded. It is, therefore, untrue that the Appellant only became aware of the existence of the award vide the 1st Respondent's letter of 15th August 2023. In fact, the Appellant further depones that the letter was delivered to her in October 2023. Therefore, it is her misleading position that she only became aware of the award in October 2023.
8. To demystify the Appellant's claim, we turn to her own bundle of documents. In a letter dated 11th July 2022 addressed to the 2nd Respondent, whose subject is titled “Re: Snake Bite Injury; Request For Review For Compensation”, the Appellant expresses dismay at the dismal award of Kshs. 2,000 and urges the 2nd Respondent to review the award in light of the circumstances detailed in the letter. For completeness of record, we shall reproduce the contents of the letter:

On 23-3-2016, I was bitten by a snake and the fourth digit of my left arm and was completely immobilised to date. It is deformed and cannot be used to hold anything.

I note with surprise and dismay that I was given a compensation of 2000 Kshs. To compare the pain that I underwent, the deformation of my digit, medical expenses involved, inability to attend to domestic chores for reasonable period of time, the trauma of possible death, I find the compensation of 2000 Kshs to be extremely below any humane consideration.

I kindly and earnestly request the committee to review my cause again and grant me the necessary due and appropriate compensation. I hereby attach relevant documents.

Yours faithfully

Cheptoo Solitei Ramaita

9. From the contents of the letter, it is evident that as of 11th July 2022, the Appellant was aware of the decision made by the 2nd Respondent in respect of her claim. It is, therefore, clear that the letters produced by the Appellant dated 31st July 2023 and 15th August 2023 are nothing but red herrings.



10. Regrettably, the Appellant's claim is outside the 30 days stipulated under section 25(6) of the [Wildlife Conservation and Management Act](#). Having found that the instant appeal was filed outside the 30 days stipulated under section 25(6) of the [Wildlife Conservation and Management Act](#), we now turn to the Appellant's plea made in her submissions that the Tribunal applies Solomonic wisdom to find that her appeal was filed within time. However enticing that invitation may be, more so in light of article 48 of [the Constitution](#), we are mindful to only act in a manner supported by legislation and case law. We still hold onto the view as expressed in *Beatrice Mwikali Musyoka v Kenya Wildlife Service [2021] eKLR Net Appeal No. 03 of 2021* that:

Nowhere in either that Act or in any other written law is this Tribunal empowered to extend the time within which an appeal under Section 25 of the [Wildlife Conservation and Management Act](#) of 2013 should be filed."

11. Therefore, in the absence of a statutory underpinning upon which we can enlarge time in the instant appeal, we find that we have no jurisdiction to hear and determine the instant appeal as the same is time-barred. As the Court of Appeal correctly observed in *Phoenix of E.A. Assurance Company Limited v S. M. Thiga t/a Newspaper Service [2019] eKLR*, 'jurisdiction is everything and is what gives a court or a tribunal the power, authority and legitimacy to entertain any matter before it.'

Orders

12. Having acquiesced to the 2nd Respondent's impassioned plea to down our tools, we proceed to make the following orders:
- The appeal is hereby struck out for want of jurisdiction; and
 - Each party shall bear their own costs.

DATED AND DELIVERED AT NAIROBI, THIS 22ND APRIL 2024.

EMMANUEL MUMIA - CHAIRMAN

WINNIE TSUMA - VICE-CHAIR

DUNCAN KURIA - MEMBER

RONALD ALLAMANO - MEMBER

