**Kihumika v Kaggwa and another**

**Division:** High Court of Uganda at Kampala

**Date of judgment:** 13 March 1974

**Case Number:** 872/1973 (99/74)

**Before:** Allen J

**Sourced by:** LawAfrica

*[1] Constitutional Law – Government – Proceedings against – Civil Servant may be joined in action*

*against Attorney-General.*

*[2] Limitation of actions – Proceedings against Government – Public duty – Doctor at government*

*hospital – Duties are public duty.*

**Editor’s Summary**

The first defendant was a doctor employed in a government hospital. Together with the Attorney-General she was sued for damages for negligence in treatment alleged to have been given by her. The case had not been filed within six months of the alleged neglect. Application was made to strike out the first defendant from the action and an affidavit filed stating that she was not on duty at the time. It was also argued that only the Attorney-General may be sued where the claim is against a civil servant, and that action against her should have been filed within six months of the alleged neglect.

**Held –**

(i) as it was disputed whether the first defendant treated the plaintiff there was a triable issue;

( ii) a civil servant may be sued together with the Attorney-General (*Bishop v. Attorney-General* (1) not

followed);

(iii) a doctor in a government hospital is a public servant and acting in the execution of a public duty

when carrying out his duties.

Second defendant struck out.

**Case referred to Judgment:**

(1) *Bishop v. Attorney-General*, [1967] E.A. 293.