



REPUBLIC OF KENYA
IN THE POLITICAL PARTIES DISPUTES TRIBUNAL AT NAIROBI
COMPLAINT NO. 161 OF 2017

ALVIN OLANDO PALAPALA.....APPLICANT

VERSUS

HENRY MARUBE OANYA..... 1ST RESPONDENT
ORANGE DEMOCRATIC MOVEMENT
(ODM) PARTY.....2ND RESPONDENT

JUDGMENT

Summary of the Complaint

1. In the complaint dated 8th May, 2017, the complaint avers that he was announced as the 1st Respondent's nominee as members of County Assembly, Kitisuru Ward following party nominations. The complaint was issued with a provisional nomination certificate on 30th April, 2017. The 2nd Respondent filed an appeal before the County Appeals Tribunal (Internal Dispute Resolution Mechanism) challenging the complainants' nomination.
2. By a judgment of the IDRMM dated 4th May, 2017, the appeal was dismissed with the confirmation of the Complainant's nomination. The Complainant avers that 1st Respondent has purported to issue the Nomination Certificate (dated 3rd May, 2017 to the 2nd Respondent). A copy of the said certificate was adduced by the Complainant. This is despite the Complainants follow up to be issued with the Nomination Certificate, no further appeal having been made on the matter. The Respondents did not participate in the proceedings although they were served and an Affidavit of Service filed by Nelson Mutai on 9th May 2017.

Issue for Determination

3. The only issue for our determination is whether the complaint is the legitimate nominee of the 1st Respondent. We have considered the evidence adduced before us and in particular the provisional certificate, the judgment of the IDRM and the demand letter from the complainant's advocates seeking the issuance of the Nomination Certificate. We find nothing before us to justify the issuance of the Nomination certificate to the 2nd Respondent contrary to the IDRM process and decision.

Orders

We make the following orders:

- (a) In the end the ODM Special County Appeals Tribunals decision dated 4th May 2017 be and is hereby upheld.
- (b) An order that the Respondent immediately issues the Complainant herein with a Certificate of Nomination be and is hereby issued.
- (c) A declaration that the Claimant is the legitimate nominated aspirant for the ODM Party Member of County Assembly seat be and is hereby made.
- (d) No orders as to costs.

DATED AND DELIVERED AT NAIROBI THIS 9TH OF MAY, 2017

M.O. LWANGA..... (PRESIDING MEMBER)

PAUL NGOTHO(MEMBER)

DR. ADELAIDE MBITHI(MEMBER)

DESMA NUNGO(MEMBER)