



**REPUBLIC OF KENYA**  
**POLITICAL PARTIES DISPUTES TRIBUNAL**  
**COMPLAINT NO. 116 OF 2017**

**GABRIEL OCHIENG .....COMPLAINANT**

**-VERSUS-**

**ORANGE DEMOCRATIC MOVEMENT .....1<sup>ST</sup> RESPONDENT**

**JOACHIM OKECH MIENO.....2<sup>ND</sup> RESPONDENT**

**RULING**

[1] This Preliminary Objection dated 8<sup>th</sup> May 2017 challenges the jurisdiction of this Tribunal on the basis that the Complainant did not attempt to canvass his dispute at the party’s internal dispute resolution mechanism (IDRM) as contemplated under section 40(2) of the Political Parties Act No. 11 of 2011.

[2] The Complainant avers that aggrieved with the outcome of the Orange Democratic Party (ODM) nomination process for Kondele Ward, Kisumu Central Constituency for the position of Member of County Assembly (MCA), he invoked the party’s IDRM on the same date as the nomination exercise held on 25<sup>th</sup> April 2017. He submitted two affidavits dated 27<sup>th</sup> April 2017 that he claimed he submitted to the Kisumu County ODM Appeals Board and a receipt dated 26<sup>th</sup> April 2017 itemizing a payment of Kenya Shillings Thirty Thousand for the party appeal process. This evidence was challenged by the 2<sup>nd</sup> Respondent on the basis that the affidavits were sworn two days after the alleged IDRM process had been conducted and the receipt was dated a day after.

[3] The Tribunal takes note that whereas the Complainant indeed avers that he attempted to canvass his dispute before the party’s IDRM, the evidence submitted before this Tribunal does not support this claim. The validity of the receipt adduced as proof of payment for the party’s IDRM process cannot be proved to have originated from the 1<sup>st</sup> Respondent. Further, the discrepancy in dates between the affidavits allegedly submitted before the

party's IDRМ and the date of the IDRМ hearing cast doubt on the Complainant's assertion that he attempted to participate in any party IDRМ process. We are therefore of the view that the Complainant did not attempt to resolve his dispute through the party's IDRМ process at the first instance.

[4] Accordingly, this Tribunal upholds the Preliminary Objection and dismisses the Complaint forthwith with no order on costs.

**DATED and DELIVERED AT NAIROBI this 9<sup>TH</sup> DAY of MAY 2017**

1. **M. O. Lwanga (Presiding Member) .....**
2. **Desma Nungo (Member) .....**
3. **Paul Ngotho (Member).....**
4. **Dr. Adelaide Mbithi (Member) .....**