



REPUBLIC OF KENYA
POLITICAL PARTIES DISPUTES TRIBUNAL
COMPLAINT NO. 165 OF 2017

PHANNY AKOSA ABUTICOMPLAINANT

-VERSUS-

ORANGE DEMOCRATIC PARTY OF KENYA.....1ST RESPONDENT

EVANS OTIENO.....INTERESTED PARTY

JUDGMENT

Summary of the Complaint

[1] The 1st Respondent conducted a party nomination exercise for the position of Member of County Assembly for Kwa Reuben Ward, Embakasi South Constituency on 30th April 2017, where the Complainant was declared winner and issued a provisional nomination certificate. The Complainant avers that upon presenting herself to receive the final nomination certificate from the 1st Respondent's offices, she learnt that it had been issued to someone else. The Complainant wrote a letter of appeal dated 4th May 2017 to the Nairobi County Appeal Tribunal (hereinafter referred to as the party's IDRM) but they refused to accept it as they were not accepting any further appeals. The Complainant is now before us seeking redress.

Response

[2] The Interested Party in this matter, Evans Otieno, also participated in the 30th April 2017 nomination exercise. He avers before this Tribunal that the exercise was peaceful and that he was declared the winner and was issued a provisional

nomination certificate. Further, that he was subsequently duly issued with a nomination certificate dated 3rd May 2017.

Analysis and Determination

- [3] From the foregoing, the main issue for determination is *whether or not the Complainant should be issued a nomination certificate for the position of Member of County Assembly for Kwa Reuben Ward, Embakasi South Constituency on 30th April 2017.*
- [4] Both the Complainant and the Interested Party have each submitted a Provisional Nomination Certificate. Both certificates were issued on the same date, 30th April 2017. The Interested Party has further adduced a final nomination certificate issued to him by the 1st Respondent signed by the Executive Director, Chairperson and Secretary of the National Elections Board dated 3rd May 2017.
- [5] From the documents on record, it is clear that although both parties have a provisional nomination certificate, only the Interested Party was issued a nomination certificate. Further, the Complainant has not adduced any further evidence in support of her claim. She has therefore failed to persuade this Tribunal why she should be awarded the party's nomination certificate for Member of County Assembly for Kwa Reuben Ward, Embakasi South Constituency.

Orders

The upshot is that the Statement of Claim dated 5th May 2017 fails and is hereby dismissed with no orders as to costs.

DATED and DELIVERED AT NAIROBI this 11TH DAY of MAY 2017

1. M. O. Lwanga(Presiding Member)
2. Desma Nungo(Member)
3. Paul Ngotho(Member)

4. Dr. Adelaide Mbithi(Member)