



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MISC CIVIL APPLICATION NO 360 OF 2017

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW
ORDERS OF CERTIORARI AND MANDAMUS**

AND

IN THE MATTER OF THE CONSTITUTIONAL OF KENYA, 2010 ARTICLE 50 (1)

AND

IN THE MATTER OF THE CONSTITUTION OF KENYA, 2010 ARTICLE 88

AND ARTICLE 159 (2)

BETWEEN

**KINGSLEY WELLINGTON ODIDA
OBONYO.....APPLICANT**

VERSUS

**THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION.....1ST
RESPONDENT**

**POLITICAL PARTIES DISPUTE TRIBUNAL.....2ND
RESPONDENT**

**ORANGE DEMOCRATIC MOVEMENT.....3RD
RESPONDENT**

JOSEPH OUMA NDONJI.....4TH RESPONDENT

RULING

The applicant herein is one of the candidates who contested on the Orange Democratic party ticket for the position of member of County assembly in Umoja II Ward, Embakasi West Constituency in Nairobi County.

He avers that the nomination which took place on the 3rd day of April, 2017 were properly conducted after which he was declared the winner and issued with a provisional Nomination certificate, which he used to obtain a final one from the 3rd Respondent.

That eventually, he came to learn that the person who had emerged as number three in the contest, one Thomas Abwao, had lodged a case before the 3rd Respondent's special Country Appeals Tribunal against Joseph Ouma Ndonji, (the 4th Respondent) who had emerged as number 12, challenging the nomination. He was neither a party to those proceedings nor was he aware of the same.

That he was also not aware that there was a case filed by the 4th Respondent before the political Parties Dispute Tribunal and Similarly, he was not made aware of the same. That the proceedings before the 2nd and 3rd Respondents were conducted and determined ex-parte and their decisions negatively affected his constitutional rights to a fair hearing.

Following the said developments, the Applicant filed a complaint to the IEBC Dispute Resolution Committee which declined to hear the matter on account of want of jurisdiction. The applicant has now moved to this court seeking leave to apply for orders of certiorari, mandamus and prohibition against the 1st, 2nd, 3rd and 4th Respondents. He has also sought that the leave so granted do operate as a stay of the decisions by the 1st and 2nd Respondents.

The court has considered the application, and the submissions made by the counsel for the applicant on the issue of stay. I am not satisfied that the court should grant a stay in this matter. The same is declined. However, leave is granted to the applicant to file a Judicial Review application as prayed.

Dated, Signed and Delivered at Nairobi this 28^h Day of June, 2017.

.....

L. NJUGUNA

JUDGE

In the Presence of

..... For the Applicant

..... For the 1st Respondent

..... For the 2nd Respondent

.....For the 3rd Respondent

.....For the 4th Respondent