



**REPUBLIC OF KENYA**

**High Court at Nairobi (Nairobi Law Courts)**

**Judicial Review 41 of 2013**

**MICHAEL FRANCIS CHEMONGES**

**KITIYO .....APPLICANT**

**AND**

**THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) .....1<sup>ST</sup>  
RESPONDENT**

**IEBC NOMINATION DISPUTE RESOLUTION COMMITTEE.....2<sup>ND</sup>  
RESPONDENT**

**AND**

**FORD KENYA .....1<sup>ST</sup>  
INTERESTED PARTY**

**JENNIFER MASIS .....2<sup>ND</sup>  
INTERESTED PARTY**

**JUDGMENT**

1. The application before the Court is a Chamber Summons dated 31<sup>st</sup> January 2013 which seeks leave to apply for an order of certiorari to quash the decision of the 2<sup>nd</sup> respondent’s decision of 28<sup>th</sup> January 2013 seeking to dismiss his complaint before the complainant’s tribunal.
2. The gravamen of the applicant’s dispute was that he was declared the winner for the Endebes Constituency Ford Kenya primary held on 17<sup>th</sup> January 2013 but the party declined to issue him with a nomination certificate but gave the 2<sup>nd</sup> interested party, Jennifer Masis a direct nomination. He also complains that the party declined to hear his complaint.
3. The applicant filed a complaint before the 2<sup>nd</sup> respondent’s complainant’s tribunal and on 28<sup>th</sup> January 2013, the tribunal dismissed the complaint for insufficient evidence and upheld the party position regarding the fact that no election was held.
4. When the matter came up for hearing on 1<sup>st</sup> February 2013, counsel for the applicant, who had appeared in court earlier, did not turn up nor did the applicant. We however scrutinised the application and the decision complained of and were satisfied that there were no grounds to impugn the decision of the board and the Board was entitled to come to the decision it did on 28<sup>th</sup> January 2013. Consequently

we dismissed the application.

**Dated and Delivered at Nairobi** this 5<sup>th</sup> February 2013

**D.S. MAJANJA**

**JUDGE**

**W. KORIR**

**JUDGE**

**G. V. ODUNGA**

**JUDGE**