



REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Petition 32 of 2013

NICODEMUS OCHIENG.....PETITIONER

AND

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

**ORANGE DEMOCRATIC MOVEMENT.....2ND
RESPONDENT**

PETER ANYUL IMWATOK3RD RESPONDENT

JUDGMENT

1. We heard this matter on 31st January 2013 and allowed the petition. We therefore directed the IEBC to rehear the matter. We now proffer the reasons for our decision.
2. The petitioner's complaint is that he won the ODM nomination contest for the Makongeni Ward County Assembly Representative in the primaries held on 18th January 2013. His win was disputed by the 3rd respondent, Peter Onyul Imwatok.
3. The petitioner's case was the subject of proceedings before the IEBC Tribunal and was determined on the basis that ODM conceded that elections were irregular and on that basis the 3rd respondent was issued with the nomination certificate.
4. The petitioner raised the issue that he was not properly served and on consideration of the material before us, we were so satisfied as the Notice issued in the newspaper, though it related to Makongeni ward, did not show the petitioner's name. We therefore directed the matter be reheard.

Dated and Delivered at Nairobi this 5th February 2013

D.S. MAJANJA

JUDGE

W. KORIR

JUDGE

G. V. ODUNGA

JUDGE