



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
PETITION NO. 255 OF 2013
(FORMERLY PETITION NO. 9 OF 2013 AT KISII)

BETWEEN

FRED OTIENO MWANGO 1ST PETITIONER

PENINA AKINYI WANDIGU 2ND PETITIONER

AND

INDEPENDENT ELECTORAL AND

BOUNDARIES COMMISSION 1ST RESPONDENT

THE CHAIRMAN, NOMINEES DISPUTE

RESOLUTION COMMITTEE 2ND RESPONDENT

MONICA ANYANGO OTIENO 3RD RESPONDENT

JUDGMENT

1. This matter was commenced by a plaint dated 6th May 2013 and it seeks to challenge the IEBC Dispute Resolution Committee (“Committee”) decision in **Complaint No. 270 /2013 and 273/2013**. We disregarded this deficiency in the manner of commencement of the proceedings and applied our minds to the substance of the dispute as required by **Article 159(2)** of the Constitution and in view of the fact that the plaintiffs were unrepresented.
2. The complaints concern the constitution of the Ford Kenya Party list for Migori County Assembly. The plaintiffs challenge the position of Monica Anyango Otieno on the basis that she

belonged to another party. This position was confirmed by the affidavit of Dr David Eseli Simiyu who deponed that the purported nominees for Migori County were not party members.

3. The complaint presented to the Committee by Fred Otieno Mwangi was in respect of the Gender Top – up list and he complained that the party failed to consider Peninah Wandigu, the 2nd petitioner. Peninah’s complaint was that the party failed to consider her efforts to popularise it in the county.

4. We have considered the matter in light of the depositions and we find that the petition lacks merit. The issue whether a person is entitled to be on the party list is an internal party matter to be resolved by the internal party mechanisms and failing which the mechanism established under the ***Political Parties Act, 2011***.

5. In view of our findings, we do not find any error in the Committees decision. The plaint is therefore dismissed with no order as to costs.

DATED and DELIVERED at NAIROBI this 12th July 2013

MUMBI NGUGI

JUDGE

D.S. MAJANJA

JUDGE

W.K.KORIR

JUDGE