



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MILIMANI LAW COURTS**  
**JUDICIAL REVIEW DIVISION**  
**JUDICIAL REVIEW NO. 206 OF 2013**

**BETWEEN**

**WILKISTER KERUBO MOSOMI ..... APPLICANT**

**AND**

**THE INDEPENDENT ELECTORAL AND**

**BOUNDARIES COMMISSION ..... 1<sup>ST</sup> RESPONDENT**

**WILKISTER KWAMBOKA OSANDO ..... 2<sup>ND</sup> RESPONDENT**

**ORANGE DEMOCRATIC MOVEMENT ..... 3<sup>RD</sup> RESPONDENT**

**JUDGMENT**

1. By its decision made on 4<sup>th</sup> May 2013, the IEBC Dispute Resolution Committee (“the Committee”) indicated Wilkister Kerubo Mosomi as the Orange Democratic Movement (“ODM”) party list nominee for Nyamira County Assembly and not Wilkister Kwamboka Onsando.
2. In a subsequent decision delivered on 7<sup>th</sup> June 2013, Wilkister Kwamboka Onsando was indicated as the Nyamira County Assembly nominee for the ODM Party. The applicant’s case is that IEBC nominated Wilkister Kwamboka Onsando instead of Wilkister Kerubo Otochi. She claims that she is also known as Wilkister Kerubo Mosomi.
3. According to the replying affidavit of Moses Kipkogei sworn on 4<sup>th</sup> July 2013, during the adjudication process Wilkister Mosomi appeared before the Committee claiming she was Wilkister Otochi and requested that the identification number which was missing in the list be included.
4. In view of the conflicting identification, the Committee directed the ODM to arbitrate the matter and its executive director confirmed by a letter that its nominee was Wilkister Kwamboka Onsando and not Wilkister Kemunto Otochi. The Committee adopted this decision.
5. The issue of the identity of the nominee was one of fact which the Committee was bound to resolve on the evidence before it. The approach taken by the Committee was reasonable and we do not think a basis has been laid for the court to interfere.
6. The application is therefore dismissed with no order as to costs.

**DATED and DELIVERED at NAIROBI this 12<sup>th</sup> July 2013**

**MUMBI NGUGI**

**D.S. MAJANJA**

**W. K. KORIR**

JUDGE

JUDGE

JUDGE