

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA NAIROBI**  
**CIVIL APPELLATE DIVISION**  
**HCCA E1051 OF 2025**

**JOSEPH ONYANGO MICHAEL.....**  
**APPELLANT**

**VERSUS**

**THE ODM NATIONAL ELECTIONS**

**CORDINATING COMMITTEE.....1<sup>ST</sup>**  
**RESPONDENT**

**ORANGE DEMOCRATIC MOVEMENT .....2<sup>ND</sup>**  
**RESPONDENT**

*(Being an appeal from the Judgment of the Political Parties Disputes Tribunal  
in PPDTC E002 of 2025 delivered on 21<sup>st</sup> May 2025)*

**JUDGMENT**

1. This is an Appeal from the decision of the Political Parties Dispute Tribunal which was delivered on the 21 May of 2025. The brief history of this matter is that ODM elections were conducted in Suna West Constituency sometimes last year and being aggrieved with the results, The Appellant here lodged a complaint with Internal Dispute Resolution Mechanism (IDRM) protesting on the integrity of the Elections. Amongst his reasons contained in his complaint was that the elections were conducted irregularly, the presiding officer who conducted the elections was a

stranger, the results conducted by a genuine returning officer was shelved, that there were two parallel elections which were conducted among other reasons which I shall analyze later.

2. The Respondent opposed the complaint and affirmed that the elections were legally and properly conducted. The IDRMM dismissed the Complaint and directed that "harmonization" was to be conducted only in Wasweta. This decision was affirmed by Political Parties Dispute Tribunal (PPDT).
3. I have read the proceedings, pleadings and the submissions and to dispose of this I appeal I shall make the following notes:

### **Consent**

4. The center of this Appeal rotates around a consent dated the 5th day of April 2025 in which the Appellant signed. The Tribunal noted that the Appellant did not dispute the said consent and besides, after going through the proceedings before the tribunal, I have not seen any challenge to the authenticity of the consent. When this matter came to Court, the Appellant sensationally claimed that his signature was forged. This being an Appellate Court, new issues which were not captured in the proceedings cannot be considered because there is no chance of cross examination and most importantly, the issue did not inform the decision of the tribunal which is a subject of scrutiny by this Court. Needless to say, it is now well settled that where forgeries

are alleged in any proceedings, there must be prove of fraud and it is not enough to ask a Court to compare signatures since the Court lacks expertise in document examination.

## **Returning Officers**

5. The Appellant alleged that the results presented by a genuine presiding officer were not considered and that the IDRMM made a wrong determination on who was the Presiding officer. The Appellant is not the Parties' appointment authority of the RO and so he cannot tell who is the genuine PO. In this case the Appointing authority confirmed who was the Parties' RO. Confirmation can be done orally or through a letter as long as it is done by the designated authority. It appears that there were two parallel elections which were conducted and upon deliberation, the body tasked with conducting the elections decided that harmonization be done in Wasweta. The fact that there were two parallel elections cannot per se nullify elections. The correct approach is to verify which is genuine and this can be done only by the mandated body. If all cases where parallel elections are conducted by different factions deserves nullification, then this would open a Pandora's box for those willing to scuttle elections which is unacceptable

## **Interference by Courts**

6. The Courts have for many instances refrained from interfering in operation of political parties lest it is deemed as playing politics. The only instances when the Court can interfere is when there is a clear infringement of rights and for this to happen, there must be clear evidence but not mere verbose. Description in words on how rights were infringed must be supported by real evidence otherwise it will remain that- just allegations.

## **Conclusion**

7. The upshot of the above is that the Appellant has not demonstrated any reason for this Court to find a fault in the decision of the tribunal and to this extend the Appeal is dismissed with costs.

**DATED, DELIVERED VIRTUALLY AND SIGNED ON THIS 27<sup>TH</sup> DAY OF NOVEMBER 2025.**

**HON L P KASSAN  
JUDGE**

## **In the presence of;**

Agwei for Appellant

Nohi for Respondent

Carol - Court Assistant