



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: NAMBUYE, MUSINGA & GATEMBU, JJA)

CIVIL APPEAL NO. 168 OF 2017

BETWEEN

GABRIEL BUKACHI CHAPIA.....APPLICANT

AND

ORANGE DEMOCRATIC MOVEMENT.....1ST RESPONDENT

EDWIN SIFUNA.....2ND RESPONDENT

(Being an Appeal against the Judgment of the High Court of Kenya at Nairobi (Ong'undi, J) on 26th May, 2017 in NAIROBI H. C. ELECTION PETITION APPEAL NO. 64 OF 2017)

JUDGMENT OF THE COURT

1. This is an appeal from the judgment of the High Court (H. Ongudi, J) delivered on 26th May 2017 rejecting the appellant's appeal from a decision of the Political Parties Disputes Tribunal (PPDT).
2. In his complaint presented before the PPDT on 12th May 2017, the appellant contended that he was the unopposed contender for nomination by the 1st respondent as a candidate for the position of Senator, Nairobi County,
3. During the forthcoming general elections scheduled for 8th August 2017. In that regard, he asserted that he holds a valid nomination certificate issued by the 1st respondent. He complained that despite holding a valid nomination certificate, the 1st respondent purported to substitute his nomination and to proclaim the 2nd respondent as its nominee as the candidate for the position of Senator, Nairobi County.
4. In its judgment delivered on 16th May 2017, PPDT held that the appellant's claim was premature in that the *"dispute was never brought subjected (sic) to any kind of internal dispute resolution mechanism...to give the party a good faith chance to resolve it in the first instance"* and ordered that *"the dispute between the [appellant] and the 2nd respondent over the position of Member of the Senate, Nairobi County is referred back to the 1st respondent's National Elections Board to nominate its Senator candidate in Nairobi County."*
5. Dissatisfied, the appellant appealed to the High Court, which dismissed his appeal in its judgment

given on 26th May 2017 that is the subject of this appeal.

6. Having considered the appeal and the submissions by learned counsel, we are not satisfied, for reasons to be given by the Court on 28th July 2017, that the appeal has any merit. It is hereby dismissed. Each party shall bear their own costs of the appeal.

Dated and delivered at Nairobi this 23rd day of June, 2017.

R. N. NAMBUYE

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JUDGE OF APPEAL

D. K. MUSINGA

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JUDGE OF APPEAL

S. GATEMBU KAIRU, FCI Arb

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JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR