



**REPUBLIC OF KENYA**  
**IN THE COURT OF APPEAL**  
**AT NAIROBI**  
**(CORAM: NAMBUYE, OUKO & GATEMBU , JJA)**  
**CIVIL APPEAL NO.150 OF 2017**

**BETWEEN**

**PHYLIP O. MWABE.....APPELLANT**

**VERSUS**

**ORANGE DEMOCRATIC MOVEMENT.....1<sup>ST</sup> RESPONDENT**

**JOSEPH OBIERO NDIEGE.....2<sup>ND</sup> RESPONDENT**

*(Appeal from the Judgment and Order of the High Court of Kenya at Nairobi (Onyiego, J) Dated 25<sup>th</sup> May, 2017*

in

Election Petition No. 19 of 2017)

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**JUDGMENT OF THE COURT**

This appeal was exhaustively argued before us by learned counsel on board for the respective parties on the 14<sup>th</sup> day of June, 2017. We have accordingly considered the record in totality, in the light of the rival submissions by the said respective learned counsel, and the authorities relied upon by either side in support of their respective submissions, and for the reasons that we shall give on the 21<sup>st</sup> July, 2017, we hereby make the following orders:

The appeal is hereby dismissed in its entirety. Each party to bear own costs.

**DATED AND DELIVERED AT NAIROBI THIS 16<sup>TH</sup> DAY OF JUNE, 2017**

**R.N. NAMBUYE**

.....

**JUDGE OF APPEAL**

**W. OUKO**

.....

**JUDGE OF APPEAL**

**S. GATEMBU KAIRU FCIArb**

.....

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR.**