



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

CONSTITUTIONAL & HUMAN RIGHTS DIVISION

ELECTION PETITION APPEAL NO 81 OF 2017

MICHAEL GITHII GAKUNGU.....APPLICANT/APPELLANT

VERSUS

MBOGO JOHN JOSEPH NJUGUNARESPONDENT

INDEPENDENT ELECTORAL AND

BOUNDARIES COMMISSIONINTERESTED PARTY

(Being an Appeal from the Judgment and Decree of the Political Parties Disputes Tribunal in Complaint No. 268 of 2017 delivered on 25th May, 2017 at Nairobi.)

BETWEEN

MBOGO JOHN JOSEPH NJUGUNACLAIMANT

VERSUS

JUBILEE PARTY OF KENYA RESPONDENT

FURTHER JUDGMENT

DETERMINATION

1. Further to my judgment, I called for affidavits from the Presiding Officers which have now been filed before the court. Most of the Presiding Officers have stated that most of those forms left their hands without any change. I have heard the Returning Officer who was cross examined by the Advocates herein.

2. From the documents presented before the court I am unable to determine who was the actual nominee of this nomination exercise taking into account the gap between the Appellant and the 1st Respondent in terms of votes received and therefore cannot establish the will of the people of Kiru Ward.

3. This is a matter where the party ought to carry out fresh nomination exercise in the entire ward so as to establish the will of the people.

4. In the final analysis, I hereby declare that there was no validly elected candidate in respect of the Kiru Ward of Mathioya Constituency.

5. The second Respondent is therefore directed to conduct fresh nomination exercise in Kiru Ward within the next 72 hours from the date herein and the Independent Electoral and Boundaries Commission to accept the candidate so nominated at the end of the exercise.

6. I therefore make the following orders.

1) The Judgment of the PPDT dated 25th May, 2017 declaring **MBOGO JOHN JOSEPH NJUGUNA** the duly nominated Jubilee Party of Kenya candidate for Kiru Ward member of County Assembly is hereby set aside.

2) The party to conduct fresh nominations in respect of Kiru Ward within the next 72 hours.

3) The candidate so nominated have his/her name forwarded and accepted by the independent electoral and boundaries commission notwithstanding any timelines in respect of the presentation of candidates

4) Each party to bear its own costs.

DATED, SIGNED and DELIVERED at Nairobi this 5th day **June, 2017**.

.....

J. WAKIAGA

JUDGE

5/6/2017



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