



Case Number:	Petition 56 of 2016
Date Delivered:	04 Apr 2017
Case Class:	Civil
Court:	Sports Disputes Tribunal
Case Action:	Decision
Judge:	John M Ohaga FCIArb,
Citation:	Bidian Okoth & 12 others v Gor Mahia Football Club [2017] eKLR
Advocates:	-
Case Summary:	-
Court Division:	Tribunal
History Magistrates:	-
County:	Nairobi
Docket Number:	-
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Case Outcome:	Suit Dismissed
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-
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REPUBLIC OF KENYA

THE JUDICIARY

OFFICE OF THE SPORTS DISPUTES TRIBUNAL

PETITION No. 56 OF 2016

BIDIAN OKOTH.....1ST PETITIONER
MASCELINE OGORE.....2ND PETITIONER
DANIEL ODOYO.....3RD PETITIONER
DAMARIS OBUYA.....4TH PETITIONER
KOLALE KISSINGER.....5TH PETITIONER
CHARLES ORETE.....6TH PETITIONER
CHRISTINE ACHOLA.....7TH PETITIONER
ISAAC OTIENO.....8TH PETITIONER
ANITA MWAMBUA.....9TH PETITIONER
EUNICE ONEGE.....10TH PETITIONER
KENNEDY JUMA.....11TH PETITIONER
CHRISTINE AWINO12TH PETITIONER
LAVELA ACHIENG.....13TH PETITIONER

(Suing on their own behalf and on behalf of the following 14th to 1,564th Petitioners annexed and any other person who may apply to be made a party to this Application)

-versus-

GOR MAHIA FOOTBALL CLUB.....RESPONDENT

DECISION

Hearing: 1st & 10th March, 2017

Panel: John M Ohaga, FCI Arb - Chairman

Elynah Sifuna- Shiveka (Mrs) - Vice - Chairperson

J Njeri Onyango (Mrs) - Member

Appearances: Mr. Arthur Omollo Omondi instructed by Kibungei & Co. Advocates for the Petitioner

Mr Geoffrey Orao-Obura instructed by Obura Mbeche & Co. Advocates for the Respondent.

Background

1. This Petition goes to the root of the validity of the process for the elections of the officials of Gor Mahia Football Club ('the Club'). The complaints call into question compliance with the provisions of Article 81 of the Constitution, 2010 as read with the Second Schedule to the Sports Act, 2013

The Parties

2. The 1st to 13th Petitioners are adults of sound mind and claim to bring this action on their own behalf and on behalf of the 14th to the 1,564th Petitioners and for the benefit of the members of the Club; they say that they were and continue to be registered and fully paid up members of the Club.

3. The Club, which is the Respondent to the Petition, is an unincorporated body operating as a football club established and registered under the provisions of the Societies Act, Chapter 108, laws of Kenya and subject to regulation pursuant to the provisions of the Sports Act, No. 25 of 2013.

Pleadings and Preliminaries

4. The matter was commenced vide Petition dated 8th December 2016; simultaneously with the Petition was filed an application by way of Notice of Motion of the same date which was accompanied by a Certificate of Urgency.

5. The application sought various orders of injunction the main purpose of which was to stop the election until the Petitioners had been able to verify the voters' register.

6. Upon considering the application, the Tribunal duly certified it as urgent and issued directions to the effect that the elections which were then scheduled for Sunday 11th December, 2016 could proceed save that the Registrar of Sports would be precluded from accepting the result of such elections as conclusive pending the *inter-partes* hearing of the application;

7. The matter was then mentioned on 13th December, 2016 on which date the parties agreed by consent that the officials elected on Sunday, 11th December, 2016 would be deemed to be interim officials for the purpose of meeting the club licensing requirements set out in the CAF and FKF regulations.

8. The Club filed its Statement of Defence dated 10th January 2017 together with replying affidavit sworn on the same date. At paragraph 24 of the Statement of Defence, the Club indicated that it would, before the hearing of the Petition, raise a preliminary objection on the competence and efficacy of the Petition on the basis that it was bad in law and should be struck out.

9. The Tribunal duly heard the preliminary objection and delivered its ruling on 24th January, 2017 in which it dismissed the preliminary objection with costs to the Petitioners. The Tribunal determined that although the Petition had not been brought against the officials of the Club as required under the Societies Act, this ground alone was not sufficient to warrant the striking out of the Petition. The Tribunal was of the view that the Constitution gave a wide latitude to the definition of 'person' and determined that such latitude was sufficient to sustain the Petition.

10. After delivery of the ruling on the preliminary objection, Counsel for the Respondent applied for stay of the decision for at least fourteen (14) days to enable the Club seek a stay of the decision at the High Court to enable the Club pursue judicial review. The Tribunal declined to stay of its proceedings noting that the Respondent had not demonstrated the prejudice it would suffer if the order of stay was not granted.

11. The Tribunal is aware that the Club has subsequently filed Constitutional Petition No. 40 of 2017 at the High Court which is awaiting hearing and determination.

12. On 1st March 2017 when the matter came up for hearing, Ms. Otieno who was holding brief for Mr. Omollo requested an adjournment on the basis that Mr. Omollo was unwell. It was therefore agreed that the hearing would commence on Friday 10th March from 11:00 am.

The Petitioners' Case

13. The Petitioners' case is as set out in the supporting affidavit of Bidian Okoth dated and filed on the 8th December 2016 and the Statement of Claim dated and filed on the same day.

14. The Petitioners' case is explained by Mr. Omollo as is briefly that the 1,577 Petitioners were and continue to be registered and fully paid up members of the Respondent. That between 20th October 2016 and 21st November 2016, the Respondent conducted a member registration exercise in preparation for the Annual General Meeting to be held on 11th December 2016. The registration exercise was to be undertaken electronically so that an individual would send his or her National Identity Card Number together with the membership fees to a paybill number. An entity known as IFEOS Enterprises was conducting the registration exercise and it was expected that at the end of the registration exercise, parties would be invited to the verification exercise. If a person desiring to register as a member did not have a Safaricom number, he would have to get a proxy to register for him as the platform for registration was only open to Safaricom subscribers. It was therefore possible that a proxy's name would appear several times but with different I D Numbers. In some branches, officials would register on behalf of their members. The Petitioners went to verify their details and indeed had their ID card numbers from which their remittance of membership fees could be verified. However, as identification of names on the IFEOS list was taking too long, the Petitioners were informed that they could nominate one person among them to appear the following day with copies of the respective Identity Card numbers.

15. Mr. Omollo submitted that the members participated in the verification exercise from 23rd to 27th November and it was expected that having gone through the verification exercise, their names would be transferred to the final list

16. It is the Petitioners' case that the Respondent's Chairman handpicked an electoral board to conduct the elections that would be held on the 11th December 2016. The electoral board was chaired by Rtd. Justice Nicholas Ombija. The Respondent handed over to the electoral board members the membership list as verified by IFEOS Enterprises (IFEOS List). The deponent claims that his details and those of the 1,576 Petitioners were included in the IFEOS List.

17. As already stated, verification of the membership list was conducted between 23rd November 2016 and 27th November 2016 and was subsequently extended to 29th November 2016. The Petitioners say that they participated in the verification exercise and confirmed that their names were on the list.

18. On or about 30th November 2016, three out of four members of the electoral board resigned from the electoral board. The electoral board was reconstituted on the 2nd December 2016 by the Chairman of the Respondent and Police Inspector Lumumba was appointed to head the board.

19. The new electoral board published a revised member list which apparently excluded all the 1,577 Petitioners. It is the Petitioners' claim that their exclusion from the membership list has left them unlawfully and unfairly disenfranchised. The Petitioners claim that they were excluded from the membership list because of suspicion that they would oppose the then incumbent office bearers.

20. The Petitioners further stated that there was no objective criteria as to how the members of the Electoral Board were constituted. Counsel stated that the criteria for the appointment of the Board was not impartial and credible. He submitted that the members of the Board are credible by being independent of the appointing authority and must be impartial from the persons participating in the elections as candidates. Counsel referred to Article 81(3) of the Constitution and stated that independence and impartiality stipulated therein implies independence from the contestants in the elections and the appointing body. He submitted that neutrality is fair treatment to all members.

21. It is the Petitioners' case that the Respondent's actions are in breach of Articles 38 and 81 of the Constitution of Kenya 2010; the Sports Act, No. 25 of 2013; the Societies Act, Chapter 108, the Club's Constitution; the Football Kenya Federation Constitution and the FIFA Statute 2016. The Petitioners aver that they should have been allowed to participate in the elections, that the elections were not free and fair from intimidation, there was improper influence and corruption and that the members of the Board were not

impartial as most of the members were participating in the elections.

22. In conclusion, the Petitioners claim that they were disenfranchised and that the body that conducted the elections was not credible. The Petitioners therefore pray that the 1,577 Petitioners be allowed to participate in a secondary election in which the only participants would be the members who are disenfranchised and the results from the two exercises be tallied and the outcome of the same be communicated.

23. The Petitioners accordingly seek an award against the Respondent in the following terms:

A. A declaration that the Respondent is in breach of the provisions of Article 81 of the Constitution of Kenya, 2010;

B. A declaration that the Respondent is in breach of the threshold stipulated in the second schedule to the Sports Act;

C. A declaration that the Respondent is in breach of the provisions of Section 29 (1) (b) of the Societies Act;

D. A declaration that the Respondent is in breach of the provisions of Article 8 of the Gor Mahia Football Club Constitution;

E. A mandatory injunction compelling the Respondent or its electoral board and or its members and or its employees and or its agents and or anybody whosoever to allow the annexed 1,577 Petitioners to attend the annual general meeting scheduled for 11th December 2016 or any adjournment thereof and vote in the elections scheduled therein; and

F. Costs of this action.

The Respondent's Case

24. The Respondent's case is as advanced in the Statement of Defence, the Replying affidavit of Mr. Ambrose Rachier filed with the Tribunal on 10th January 2017 and the oral submissions put forward on 10th March 2017 by the Club's Counsel, Mr. G Orao-Obura.

25. The Respondent denied that Retired Justice Ombija had been handpicked by the Chairman of the Respondent and asserted that his appointment was pursuant to a resolution of the Executive Committee. The Respondent also submitted that the resignation by the members of the first board was not due to pressure from the chairman but it was attributable to threats that the board members received. It was also the Respondent's case that the second board was picked by the Executive Committee contrary to the allegation by the Petitioners that the second board was handpicked by the Chairman of the Club, Mr. Ambrose Rachier.

26. In its defence, the Respondent contends that the second board, with the assistance of IFEOS Enterprises scrutinized the membership register and that those who did not appear in the final register failed to either supply their names against the Identification Card Numbers provided, pay the appropriate prescribed fees, register within the stipulated time or turn up for verification.

27. The Respondent contends that the elections were free, fair and transparent and that the elections were conducted by employees of the Independent Electoral and Boundaries Commission (IEBC) being Chrispine Owiye and Jack Adienge. That therefore if the Petitioners had any grievances, those should not be directed at the Club but at Board which arranged and oversaw the elections and the persons who conducted the elections. The Respondent further contends that the prayers seeking declarations of violations of rights sought by the Petitioners had been overtaken by events and that the mandatory injunction sought would no longer be efficacious.

28. The Respondent also argued that the Petitioners had not produced any evidence to the Tribunal to confirm that they were eligible members of the Club who should have been allowed to participate in the elections but were disenfranchised. In this respect, the Respondent urged the Tribunal to interrogate whether the Petitioners had showed up with identification cards during the verification exercise and were therefore entitled to vote. The Respondent submitted that the claim does not show this and that all the Petitioners are relying on are the identification numbers used for registration.

29. It was the Respondent's further case that the Petitioners had had ample time to approach the Tribunal so as to challenge the constitution of the electoral board but they had slept on their rights; that Article 81 of the Constitution should be applied from a practical perspective in the context of the circumstances of the Club bearing in mind that the club has limited resources, unidentified members who only register at election time and that it lacks the capacity to conduct elections in the manner in which elections are, for instance, conducted by the Independent Electoral and Boundaries Commission.

30. The Respondent also submitted that the suggestion that a secondary election be conducted just for the Petitioners would be contrary to Article 81 of the Constitution of Kenya 2010 because it would lack the full participation of the membership and would lead to disenfranchisement of those members who were not part of the Petitioners.

31. Another limb of argument taken by the Respondent was that the Petitioners' 'Authority to Appear, Plead and Act' had been executed by only 12 Petitioners who are the ones declared as the 2nd to the 1^{3th} Petitioners and that there was no appointing authority in respect of the 1,564 Petitioners and that the complaint is accordingly only by the 1st to 1^{3th} Petitioners. It was the Respondent's submission that the 1,564 Petitioners could therefore not be recognized as being properly before the Tribunal.

32. The Respondent therefore asked that the Petition be dismissed with costs on the ground that there is no evidence that the Petitioners are 1,564 or that they are members of the Club and that since the elections had already been held, the claim had no substance.

Issues for Determination

33. The Tribunal now directs its mind to the issues to be determined in this suit. The issues are framed as follows:

- i. Whether the prayers sought by the Petitioners have been overtaken by events since the elections of officials of the Club had already taken place;
- ii. Whether the Petitioners are members of the Club;
- iii. Whether the Respondent breached Article 81 of the Constitution of Kenya 2010 in conducting elections of its officials;
- iv. Whether the Respondent breached the second schedule of the Sports Act, No. 25 of 2013 in conducting the elections of its officials;
- v. Whether the Respondent breached Section 29 (1) (b) of the Societies Act in conducting elections of its officials;
- vi. Whether the Respondent breached the Constitution of the Club;
- vii. Whether Authority to Appear, Plead and Act had been given to the 1st to the 13th Petitioners by the 1,537 Petitioners; and
- viii. Whether secondary elections that are exclusive to the disenfranchised members should be ordered.

Analysis

34. The first question to be determined by the Tribunal is whether the prayers sought by the Petitioners have been overtaken by events since the elections of the officials had already taken place. In interrogating this question, the Tribunal directs its mind to its Directions No. 1 delivered by the Tribunal on the 8th December 2016 in which the Tribunal pronounced itself as follows:

'The Elections of the Respondent scheduled for Sunday 11th December, 2016 may proceed but the Registrar of Sports shall not accept the result of such elections as conclusive pending the inter partes hearing of the application'

35. Further, in considering the question whether the prayers sought by the Petitioners have been overtaken by events, the Tribunal has also directed its mind to its orders of 13th December, 2016 in which it pronounced itself as follows, with the consent of the

parties:

'By consent, the officials elected on Sunday 11th December 2016 be deemed to be interim officials for the purpose of meeting the licensing requirements set out in the CAF and FKF Regulations respectively;'

36. In conclusion of the foregoing, the Tribunal determines that the prayers sought by the Petitioners have not been overtaken by events as it is clear from the foregoing that the Tribunal as well as the parties have at all times proceeded on the basis that the results of the elections would be deemed to be interim pending the hearing and determination of this matter on its merits.

37. The next question to be determined by the Tribunal is whether the Petitioners are members of the Club. This question is central to the determination of the matters in issue as it is the foundation for the prayers sought which accrue from the Petitioners assertion of their status as members of the Club.

38. The membership of the Petitioners to the Club is instrumental because rights accrue to them based on their membership. The Tribunal has to this end directed its mind to the case of Justo Ngoka & 225 Others -vs- Rai Ply Wood (K) Ltd & 2 Others^[1] where Lady Justice J Gacheche stated as follows:

"There are 226 Plaintiffs here, it is imperative that I point out, that first and foremost, at the time of filing the Plaint, each of the 226 Plaintiffs was a Plaintiff in his own right, and each should be treated individually"

39. The onus of establishing membership to the Club rests on the Petitioners as it is a cardinal principle of law that he who avers must prove. The Petitioners' case with regard to their membership is as enumerated at the third paragraph of their statement of Claim. The Petitioners aver that they were and they continue to be registered and fully paid up members of the Respondent in good standing. The Petitioners' case is that their details were included in the list by IFEOS Enterprises, they participated in the verification within the stipulated timeframe and that they had given out their identification cards so as to participate in the verification exercise. The Petitioners' case is that the 1537 Petitioners were registered by the 1st to the 13th Petitioners.

40. The Constitution of the Club stipulates that membership is attained at registration. Article 5 thereof provides as follows:

(a) Any person over the age of eighteen years shall be eligible for membership of the club and shall subject to approval of the executive committee become a member on payment of membership fee of one hundred Kenya Shillings (Kshs. 100/- payable annually). Life membership fee shall be Kenya shillings Ten Thousand (Kshs. 10,000) payable once which payment shall exempt such members from annual subscriptions.

(b) Annual subscriptions shall be Kenya shillings one hundred (Kshs. 100/-) which shall be paid not later than March 31st of each year.

(c) The Club will be open to anybody who is interested in joining the club and who is prepared to promote the good understanding among the club members.

41. The Petitioners say that they have not been informed of the reason for their exclusion from the final list. The Petitioners also advanced an argument that all those who had been registered under the name of 'Christopher Rachier' all appeared in the final list. The Petitioners' case was that it was suspect that everyone who appeared on the list at page 280 of the Petitioners' Bundle was invited to the elections.

42. The Respondent argues that the Petitioners have the burden to prove that they showed up with identification cards at the verification exercise and were therefore entitled to vote. The Respondent's case is that the Petitioners did not provide any evidence of their participation in the verification exercise hence they cannot prove membership to the Club. Counsel for the Respondent referred to pages 181-275 of the Petitioners' Bundle and submitted that they were copies of the Identification Cards of some of the purported Petitioners in the suit. However, the material placed before the Tribunal does not demonstrate that the Petitioners participated in the verification exercise.

43. The Tribunal is constrained to agree with the contention of the Respondent in this regard. The Petitioners have not provided cogent evidence to the Tribunal that they took part in the verification exercise. All we have is the affidavit of Bidian Okoth asserting

that the Petitioners attended the verification exercise. Is he in a position to make this factual assertion on behalf of all 1500 plus Petitioners" We think not. Counsel for the Petitioners submitted that because of the numbers involved, it had been agreed that some representatives could attend the verification exercise on behalf of the listed Petitioners. The Tribunal is very uncomfortable with the state and veracity of the evidence placed before it and cannot establish on a balance the membership of the Petitioners to the Club.

44. This discomfort arises from a study of the list of members annexed to the Statement of Claim as being the 14th to 1564th claimants. There are numerous alleged claimants with similar names but this is not material. What is material is the fact that Counsel for the Petitioners submitted that the Identity Card Number was the controlling feature in identifying the persons seeking to register as members of the Club. A study of the names submitted has revealed what would clearly have amounted to double registration for the elections and what therefore amounts to 'double' claimants before the Tribunal. For instance, the Claimant identified as John Ouma (also known as John Ouma Milonde) of Identity Card Number 30332839 appears thrice as having been 'introduced' by or had his membership subscription paid by the following persons: Victor Oswago, Daniel Odoyo and Raphael Bukhala. Another example is Olive Atieno Oyugi of Identity Card Number 3327788 who appears twice as having had her membership remitted by Victor Oswago and Raphael Bukhala.

45. The foregoing obviously raises doubt about the veracity of the list submitted by the Petitioners. As if this is not enough, the Tribunal has noted that after the name of Zippora Abuya on the list of claimants, the rest of the alleged claimants are not even identified. What appears is only Identity Card Numbers and the names of the persons who allegedly forwarded the subscription on behalf of the proposed members.

46. This state of affairs is highly unsatisfactory and obviously begs the question whether there are in fact 1564 claimants and the Tribunal therefore finds that the Petitioners have failed to demonstrate their compliance with the registration subscription process and have therefore failed to demonstrate their registration as members of the Club and their entitlement to participate in the Club's elections.

47. To this question is tied the question whether the named Petitioners properly have 'Authority to Appear, Plead and Act' on behalf of the alleged 1,537 other Petitioners.

48. The Petitioners have specifically founded their authority to act on the basis of Order 1 Rule 13 of the Civil Procedure Rules. The rule provides as follows:

(1) where there are more plaintiffs than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding, and in like manner, where there are more defendants than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding, and in like manner, where there are more defendants than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding.

(2) The authority shall be in writing signed by the party giving it and shall be filed in the case.

49. In the present case, the authority to appear, plead and act appears at pages 1 and 2 of the Petitioners' bundle. Bidian Okoth has been given the authority to act on behalf of 12 Petitioners who are identified as: Masceline Ogore, Daniel Odoyo, Damaris Obuya, Kolale Kissinger, Charles Orete, Christine Achola, Isaac Otieno, Anita Mwambua, Eunice Onege, Kennedy Juma, Christine Awino and Lavela Achieng.

50. The status of the rest of the alleged 1,564 Petitioners are unknown since no authority to appear, plead and act have been filed with the Tribunal.

51. In [John Kariuki & 347 Others -vs- John Mungai Njoroge & 8 Others](#)^[2] the Court had the occasion to deal with a case of similar circumstances pronounced itself as follows:

"The plain reading of the above rule (Order 1 rule 12 Civil Procedure Rules) is that where a party requires another party to appear, plead, or act on his behalf he has to give the authority in writing before such a person filing suit can claim to be representing such person. The said written authority has to be signed by the person giving the authority and must be filed in court where the suit is to be filed. The mischief that the said rule was meant to address, in my humble view, is to prevent a

situation where a party may become bound by a court decision without his having any knowledge of the suit that led to the said decision. The court can envisage a scenario, where, let's say, after the dismissal of a suit, such a plaintiff whose name has been included declines to settle the costs on the pretext that he did not authorize the suit to be filed in his name. In my considered view, this requirement is mandatory. A party cannot be condemned or enjoy a benefit from a court process without his say so."

52. This position was reiterated in M'bechi Nkandau & 5 Others v Attorney General & 3 Others^[3] where it was held as follows:

"I find in this case that the Plaintiffs have not complied with Order 1 Rule 13(2) of the Civil Procedure Rules and to allow the applicants to continue to purport to represent the Plaintiff would amount to miscarriage of justice as no proper procedure has been followed and no written authority has been filled indicating which parties wanted to be represented by who in the suit."

53. The reason for the mandatory requirement for the signed authority will be clear from what we have observed above with respect to the list of claimants. If the Tribunal was not diligent, it could easily be misled into accepting the persons placed before it as proper claimants when in fact there are serious doubts as to the veracity of the list.

54. The Tribunal has considered the arguments made by the Petitioners that this Petition has been filed in a representative capacity; the Petitioners argued that Article 22 of the Constitution of Kenya 2010 should apply. Article 22 of the Constitution provides as follows:

(1) Every person has the right to institute court proceedings claiming that a right or a fundamental freedom in the Bill of Rights has been denied, violated or infringed or is threatened.

(2) In addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by-

(a) A person acting on behalf of another person who cannot act in their own name;

(b) A person acting as a member of, or in the interest of, a group or class of persons;

(c) A person acting in the public interest; or

(d) An association acting in the interest of one or more of its members.

55. Whilst Article 22 may provide some latitude, the Petitioners cannot escape the fact that they framed their claim and determined how to approach the Tribunal and which provisions of law to cite. Having cited the Civil Procedure Rules, the Petitioners cannot now take refuge in the provisions of the Constitution. As a matter of fact, the Petitioners knew very early in the life of the Petition that the Respondent would be taking issue with the capacity of the 'represented' Petitioners but took no steps to file even a supplementary argument exhibiting the authority of these individuals.

56. In any event, the Respondent would argue, with considerable force, that the right avenue to plead any violation of the Bill of Rights is the High Court and that the Tribunal would not be clothed with the requisite jurisdiction to hear this Petition as framed under Article 22 of the Constitution.

57. The Tribunal therefore determines that the alleged 1,564 Petitioners who did not give authority to appear, plead and act are not Petitioners for purposes of this Petition; there are therefore only 13 Petitioners in this matter.

58. The last question that the Tribunal has pondered is the question whether there should be secondary elections in which only the disenfranchised members of the Club should participate.

59. The Tribunal has already determined that the status of the membership of the Petitioners is unknown and has held against the Petitioners as the onus of establishing membership lies on the Petitioners. The Tribunal has also already determined that there are only 13 Petitioners in this matter. Therefore, even if it is established that they are members or that they should be members of the Club, holding a reelection would be an exercise in futility as voting by the 13 Petitioners would not change the outcome of the

elections.

Conclusion

60. In summation of the foregoing, the Tribunal dismisses this suit.

61. Whilst the usual consequence with respect to costs is that these should follow the event, in this case the Tribunal orders that each party should bear its own costs. The reason for this is that even though the Petitioners have not been successful in establishing their status as members entitled to vote at the elections held last December, it would appear that the Club is in receipt of funds from certain of the claimants who had hoped to be registered as members. The Club is therefore in possession of funds from the Petitioners which funds can be applied towards meeting the costs incurred by the Club in defending this Petition.

62. The Tribunal wishes to commend Counsel for their very helpful submissions and the cordial manner in which they conducted themselves.

Dated at Nairobi this 4th day of April **2017**

Signed:

John M Ohaga FCIArb

Chairman, Sports Disputes Tribunal

Signed:

Elynah Sifuna-Shiveka (Mrs)

Njeri Onyango (Mrs)

[1] Eldoret High Court Civil Case No. 69 of 2001

[2] Nakuru HCCC No. 152 of 2003 (unreported)

[3] (2011) eKLR



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