



THE REPUBLIC OF KENYA

IN THE SUPREME COURT OF KENYA

(Coram: Maraga: CJ & President, Mwilu; DCJ & V-P, Ojwang, Wanjala, Njoki & Lenaola, SCJJ)

PRESIDENTIAL ELECTION PETITION NO. 4 OF 2017

(APPLICATION FOR JOINDER AS INTERESTED PARTY)

BETWEEN

NJONJO MUE.....1ST PETITIONER

KHELEF KHALIFA.....2ND PETITIONER

AND

THE CHAIRPERSON OF INDEPENDENT

ELECTORAL AND BOUNDARIES COMMISSION.....1ST RESPONDENT

INDEPENDENT ELECTORAL AND

BOUNDARIES COMMISSION.....2ND RESPONDENT

H.E UHURU MUIGAI KENYATTA.....3RD RESPONDENT

NATIONAL SUPER ALLIANCE (NASA).....4TH RESPONDENT

AND

EKURU AUKOTAPPLICANT/ INTERESTED PARTY

RULING

(An application for joinder as an interested party under Rule 25 of the Supreme Court Rules, 2012 as read with Rule 4 (2) of the Supreme Court (Presidential Election Petition) Rules, 2017)

1. UPON perusing the application dated 10th November, 2017 and filed on 11th November, 2017 by Ekuru Aukot for joinder as an interested party in **the Presidential Election Petition No. 4 of 2017** and;

2. **UPON** reading: **the affidavit of Mr. Ekuru Aukot**, the Party Leader of the Thirdway Alliance Kenya, sworn on the 10th November, 2017; and;

3. **UPON** considering the arguments made for the applicant in which **it is contended that the applicant has direct and legitimate interest in the present petition; he was a presidential candidate for both the General Election held on the 8th of August 2017 and the fresh Presidential election held on 26th October, 2017; being a presidential candidate in the election which is the subject of the present petition, he will suffer prejudice if he is not enjoined as a party in the proceedings; he shall advance submissions that are relevant and useful to the petition and which will be different from those of the other parties since he has been an active player in the elections and has gathered crucial information, facts and analysis that have a direct bearing on the current proceedings and the ultimate outcome; and, that he will be directly affected by the outcome of this petition.**

4. The applicant had made a similar application within Presidential Election Petition No. 1 Of 20017 in the month of August and the Court found he would have been prejudiced if not enjoined and that had an identifiable stake in the matter in line with the criteria laid down in ***Trusted Society of Human Rights Alliance v Mumo Matemu & 5 Others***, Supreme Court Petition No. 12 of 2013, [2015] eKLR and ***Francis Kariuki Muruatetu & another v Republic & 5 others***, Supreme Court Petition No. 15 & 16 of 2015 (consolidated); [2016] eKLR

5. Having considered the application, by a unanimous decision of the Court, we find that the applicant qualifies to be joined as an interested party and make the following orders under Rule 25 of the Supreme Court Rules as read with Rule 4(2) of the Supreme Court (Presidential Election Petition) Rules 2017.

6. ORDERS

REASONS

The application is allowed.

The application meets the principles laid out in ***Trusted Society of Human Rights Alliance v Mumo Matemu & 5 Others***, Supreme Court Petition No. 12 of 2013, [2015] eKLR and ***Francis Kariuki Muruatetu & another v Republic & 5 others***, Supreme Court Petition No. 15 & 16 of 2015 (consolidated); [2016] eKLR in that the applicant having been a presidential candidate in the fresh Presidential Election will be directly affected by the outcome of the petition in the event of invalidation of the declared results.

DATED and DELIVERED at NAIROBI this 14th Day of November, 2017.

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D. K. MARAGA

CHIEF JUSTICE & PRESIDENT

OF THE SUPREME COURT

.....

.....

P. M. MWILU

DEPUTY CHIEF JUSTICE &

VICE-PRESIDENT OF THE SUPREME COURT

.....

J.B. OJWANG

S. C. WANJALA

JUSTICE OF THE SUPREME COURT

JUSTICE OF THE SUPREME COURT

.....
S. N. NDUNGU

.....
I. LENAOLA

JUSTICE OF THE SUPREME COURT

JUSTICE OF THE SUPREME COURT

I certify that this is a true copy of the original

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