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| Case Number: | Presidential Election Petition 4 of 2017 |
| Date Delivered: | 14 Nov 2017 |
| Case Class: | Civil |
| Court: | Supreme Court of Kenya |
| Case Action: | Ruling |
| Judge: | David Kenani Maraga, Jackton Boma Ojwang, Isaac Lenaola, Philomena Mbeti Mwilu, Smokin C Wanjala, Susanna Njoki Ndungu |
| Citation: | Njonjo Mue & another v Chairperson of the Independent Electoral and Boundaries Commission & 3 others [2017] eKLR |
| Advocates: | - |
| Case Summary: | <p style="text-align: center;">Supreme Court strikes out a party to a presidential election petition on grounds of having a common cause with other parties in the petition.</p> <p style="text-align: center;">Njonjo Mue & another v Chairperson of the Independent Electoral and Boundaries Commission & 3 others</p> <p style="text-align: center;">Presidential Election petition No 4 of 2017</p> <p style="text-align: center;">Supreme Court at Nairobi</p> <p style="text-align: center;">D K Maraga, CJ & P, P M Mwilu, DCJ & V-P, J B Ojwang, S C Wanjala, N S Njoki and I Lenaola, SCJJ</p> <p style="text-align: center;">November 14, 2017</p> <p>Reported by Beryl A Ikamari</p> <p><i>Civil Practice and Procedure-parties to a suit-</i></p> |

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| | <p><i>joinder of parties to a suit-whether it was appropriate to join a party with a common cause with other parties to a suit, including the Petitioners, as a Respondent-whether it was appropriate for a Respondent which had such a common cause to be struck out.</i></p> <p>Issues</p> <p>1. Whether party, which had a common cause with other parties to a presidential election petition, would be struck out as a party to the petition.</p> <p>Held</p> <p>1. There was an intricate network of common cause which linked the 4th Respondent, the National Super Alliance, to other parties in the petition. It was detrimental to the 3rd Respondent who in view of the mode of joinder of the 4th Respondent, would have no opportunity to safeguard his rightful interests in the electoral process. In the circumstances, it was appropriate to strike out the 4th Respondent as a Respondent in the petition.</p> <p><i>Orders issued for the striking out of the 4th Respondent as a Respondent in the petition.</i></p> |
| Court Division: | Civil |
| History Magistrates: | - |
| County: | Nairobi |
| Docket Number: | - |
| History Docket Number: | - |
| Case Outcome: | Strucked out |
| History County: | - |
| Representation By Advocates: | - |
| Advocates For: | - |
| Advocates Against: | - |
| Sum Awarded: | - |
| <p>The information contained in the above segment is not part of the judicial opinion delivered by the Court. The metadata has been prepared by Kenya Law as a guide in understanding the subject of the judicial opinion. Kenya Law makes no warranties as to the comprehensiveness or accuracy of the information.</p> | |

REPUBLIC OF KENYA

IN THE SUPREME COURT OF KENYA AT NAIROBI

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

PRESIDENTIAL ELECTION PETITION NO. 4 OF 2017

–BETWEEN–

1. NJONJO MUE

2. KHELEF KHALIFA.....PETITIONERS

AND

**1. THE CHAIRPERSON OF THE INDEPENDENT ELECTORAL AND
BOUNDARIES COMMISSION.....RESPONDENTS**

2. THE HON. THE ATTORNEY-GENERAL

3. H.E. UHURU MUIGAI KENYATTA

4. NATIONAL SUPER ALLIANCE

RULING [IN SUMMARY]

[1] An intricate network of common cause links the 4th respondent to the other parties to this petition, in a formation that is clearly detrimental to the 3rd respondent who, in view of the mode of joinder of the 4th respondent, will have no opportunity to safeguard his rightful interests in the electoral process – a subject which is, quite significantly, one of the most important public interest.

[2] In the circumstances, the 4th respondent must be struck out as a respondent in this petition.

Orders accordingly.

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

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D. K. MARAGA

**CHIEF JUSTICE & PRESIDENT
SUPREME COURT**

PRESIDENT OF THE SUPREME COURT

.....

P. M. MWILU

DEPUTY CHIEF JUSTICE & VICE OF THE

.....

.....

J. B. OJWANG

S. C. WANJALA

JUSTICE OF THE SUPREME COURT

JUSTICE OF THE SUPREME COURT

.....
NJOKI 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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SUPREME COURT OF KENYA



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