



**Mue & another v Chairperson of the Independent Electoral and Boundaries Commission & 3 others (Election Petition 4 of 2017)
[2017] KESC 29 (KLR) (Election Petitions) (14 November 2017) (Ruling)**

Njonjo Mue & another v Chairperson of the Independent Electoral and Boundaries Commission & 3 others [2017] eKLR

Neutral citation: [2017] KESC 29 (KLR)

**REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA
ELECTION PETITIONS
ELECTION PETITION 4 OF 2017
DK MARAGA, CJ & P, PM MWILU, DCJ & VP, JB
OJWANG, SC WANJALA, N NDUNGU & I LENAOLA, SCJJ
NOVEMBER 14, 2017**

BETWEEN

NJONJO MUE 1ST PETITIONER

KHELEF KHALIFA 2ND PETITIONER

AND

THE CHAIRPERSON OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION 1ST RESPONDENT

THE HON. THE ATTORNEY-GENERAL 2ND RESPONDENT

H.E. UHURU MUIGAI KENYATTA 3RD RESPONDENT

NATIONAL SUPER ALLIANCE 4TH RESPONDENT

Supreme Court strikes out a party to a presidential election petition on grounds of having a common cause with other parties in the petition

Reported by Beryl Ikamari

Civil Practice and Procedure - parties to a suit - 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.

Issues

Whether a party which had a common cause with other parties to a presidential election petition, would be struck out as a party to the petition.



Held

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.

4th respondent struck out.

Citations

Cases

None referred to

Statutes

None referred to

Advocates

None mentioned

RULING

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 OF THE SUPREME COURT

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P. M. MWILU

DEPUTY CHIEF JUSTICE & VICE PRESIDENT OF THE SUPREME COURT

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J. B. OJWANG

JUSTICE OF THE SUPREME COURT

.....

S. C. WANJALA

JUSTICE OF THE SUPREME COURT

.....

NJOKI NDUNGU



JUSTICE OF THE SUPREME COURT

.....

I. LENAOLA

JUSTICE OF THE SUPREME COURT

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

REGISTRAR

SUPREME COURT OF KENYA

