

**REPUBLIC OF KENYA**

**IN THE SUPREME COURT OF KENYA AT NAIROBI**

*(Coram: Koome; CJ & P, Mwilu; DCJ & V-P, Ibrahim, Wanjala, Njoki, Lenaola & Ouko, SCJJ)*

**PRESIDENTIAL ELECTION PETITION NO. E003 OF 2022**

**—BETWEEN—**

**KHELEF KHALIFA.....1<sup>ST</sup> PETITIONER**  
**GEORGE OSEWE.....2<sup>ND</sup> PETITIONER**  
**RUTH MUMBI .....3<sup>RD</sup> PETITIONER**  
**GRACE KAMAU .....4<sup>TH</sup> PETITIONER**

**—AND—**

**INDEPENDENT ELECTORAL AND**  
**BOUNDARIES COMMISSION.....1<sup>ST</sup> RESPONDENT**  
**THE CHAIRPERSON OF THE INDEPENDENT**  
**ELECTORAL AND BOUNDARIES COMMISSION.....2<sup>ND</sup> RESPONDENT**  
**WILLIAM RUTO .....3<sup>RD</sup> RESPONDENT**  
**ATTORNEY GENERAL.....4<sup>TH</sup> RESPONDENT**

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*(Being an application by the 3rd respondent to strike out the name of the Attorney General in Petition E003 of 2022.)*

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## **RULING OF THE COURT**

**[1]** This application is dated the 27<sup>th</sup> of August, 2022 and filed on the 29<sup>th</sup> of August, 2022 by William Samoei Ruto, (the 3<sup>rd</sup> Respondent). He seeks leave to strike out the name of the Attorney General in Petition No. E003 of 2022 on grounds of misjoinder. It is supported by the Affidavit of William Samoei Ruto, sworn on the 27<sup>th</sup> of August, 2022 and filed on the 29<sup>th</sup> of August, 2022. It is brought pursuant to Rule 17 of the Supreme Court (Presidential Election Petition) Rules, 2017.

**[2]** We have considered the application, Affidavit in support, as well as the petitioners' Replying Affidavit and submissions in opposition thereto. We find that the application, which was filed on the 29<sup>th</sup> August, 2022 at 4:45 pm was filed out of time, is therefore incompetent and an abuse of the Court Process. In any event, the Court has determined the issue in the said application in its Ruling delivered on the 29<sup>th</sup> August, 2022 in Petition E002 of 2022.

**[3]** Consequently, the application is hereby dismissed with no Orders as to costs.

**DATED and DELIVERED at NAIROBI this 30<sup>th</sup> Day of August, 2022.**

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**M. K. KOOME**  
**CHIEF JUSTICE & PRESIDENT**  
**OF THE SUPREME COURT**

.....  
**P. M. MWILU**  
**DEPUTY CHIEF JUSTICE &**  
**VICE-PRESIDENT OF THE**  
**SUPREME COURT**

.....  
**M. K. IBRAHIM**  
**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**

.....  
**W. OUKO**  
**JUSTICE OF THE SUPREME COURT**

I certify that this is a true copy  
of the original

**REGISTRAR,**  
**SUPREME COURT OF KENYA**

