

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

JUDICIAL REVIEW CAUSE NO 3 OF 2016

1. MARY WAMBUI KABIRU

2. FRANCIS MWANGI KIMANI

3. JOHN GICHOYA GITONGA.....APPLICANTS

VERSUS

1. MINISTRY OF INTERIOR &

CO-ORDINATION OF NATIONAL GOVERNMENT

2. ATTONEY GENERAL.....RESPONDENTS

RULING

1. On 11/05/2016 this court granted leave to the Applicants herein to apply for judicial review and seek orders of *prohibition*, *mandamus* and *certiorari*. The court directed that the prayer that the leave so granted do operate act as a stay pending disposal of the substantive application be canvassed *inter partes* on 07/06/2016. The Respondents were duly served, but come 07/06/2016, there was no appearance for them, and none of them filed any papers in response.

2. I have perused the statement of facts and verifying affidavit filed together with the chamber summons for leave. I have also considered the submissions of the learned counsel for the Applicants. Counsel also informed the court that the substantive notice of motion for judicial review was filed on 03/06/2016 vide *Murang'a HC Judicial Review Cause No 4 of 2016*.

3. The Applicant's position is that they are running lawful businesses of selling a lawful product (molasses, among others). They argue that the possibility of molasses being used to manufacture illicit brews is beyond their control as they have no control over what the customers who buy the molasses do with them. They point out that there are many other lawful and legitimate use that the molasses can be put into – for instance in cattle feed.

4. The Appellants also argue that they have invested heavily in their businesses. Yet the Respondents seek to close them without according to them the basic natural right of being heard before being condemned.

5. Having heard learned counsel for the Applicants, and there being no opposition from the Respondents, I will allow prayer 6 of the chamber summons dated 08/04/2016. The leave granted on 11/05/2016 shall, pending disposal of Murang'a HC Judicial Review Cause No. 4 of 2016, act as a stay of the several acts of the Respondents complained of in prayers 2, 3, 4, and 5 of the application. It is so ordered. Costs shall be in the substantive motion.

DATED AND SIGNED AT MURANG'A ON THIS 23RD DAY OF JUNE 2016

H P G WAWERU

JUDGE

DELIVERED AT MURANG'A THIS 24TH DAY OF JUNE 2016