



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KITALE**

**PETITION NO. 5 OF 2018**

**WYCLIFFE WAMALWA.....1ST PETITIONER**

**BENJAMIN WANJALA TATULL..... 2ND PETITIONER**

**SCHOLASTICA NAFULA WAMALWA.....3RD PETITIONER**

**VERSUS**

**DEPUTY COUNTY COMMISSIONER**

**ENDEBESS.....1ST RESPONDENT**

**ATTORNEY GENERAL.....2ND RESPONDENT**

**R U L I N G**

1. The application dated 29<sup>th</sup> November, 2018 by the Applicants prays for a conservatory order to stop the Respondents from closing its premises known as “Chiyumba Utamaduni Umoja Investments” pending the determination of the petition. The same is supported by the affidavit of Wycliffe Wamalwa sworn on the even dates.
2. The application has not been opposed. According to the Applicants, they run a “busaa Club” which they have been operating from 2016. They exhibited annual licences and the documents from NEMA. According to him the Respondents unilaterally closed the premises and threw out its products without any valid reasons or notices or at all.
3. I have perused the same together with the annexures. As stated above the same is not opposed. It appears that there is another suit pending at the lower court between the Applicants and the Respondents, though at Kwanza Sub – County.
4. As the same is not opposed, there would not be any problem with allowing it. The only requirement is that the Applicants seeing that the annual licence expired at the end of December 2018 must thus obtain one.
5. In the premises and pending the hearing of the petition, there be conservatory orders barring the Respondents, its agents and Servants from closing the Applicants premises situated at Moleum Kitale. The Applicants are hereby to comply with the appropriate Laws or by laws of procuring the relevant annual Licences or any other Statutory conditions.
6. Costs to await the outcome of the petition.

**Delivered, signed and dated at Kitale this 7<sup>th</sup> day of February, 2019.**

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**H.K. CHEMITEI**

**JUDGE**

**7/2/19**

**In the presence of:**

**Wanyonyi for the Petitioner**

**No appearance for the Respondent**

**Court Assistant – Kirong**

**Ruling read in open court.**