



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT BOMET**

**PETITION NO. 6 OF 2019**

**GILBERT K. MUTAI .....1<sup>ST</sup> PETITIONER**  
**BEATRICE CHEPKURUI.....2<sup>ND</sup> PETITIONER**  
**GEOFFREY SIGEI ..... 3<sup>RD</sup> PETITIONER**  
**LEONARD CHEPKWONY.....4<sup>TH</sup> PETITIONER**  
**EDWIN KIMUTAI MARITIM.....5<sup>TH</sup> PETITIONER**

**-VERSUS-**

**CABINET SECRETARY, MINISTRY OF INTERIOR & CO-ORDINATION  
OF NATIONAL GOVERNMENT.....1<sup>ST</sup> RESPONDENT**  
**THE INSPECTOR GENERAL OF POLICE.....2<sup>ND</sup> RESPONDENT**  
**HON. ATTORNEY GENERAL.....3<sup>RD</sup> RESPONDENT**  
**COUNTY GOVERNMENT OF BOMET..... 4<sup>TH</sup> RESPONDENT**

**RULING**

1. This matter came up in court yesterday 2<sup>nd</sup> October 2019 for mention for directions, having been filed during the vacation and placed then before the Judge at Naivasha, who referred the file to Bomet.
2. When the matter was mentioned before me yesterday, Ms. Chepkemai counsel for the petitioners asked for grant of interim orders as requested in prayer 2 of the application dated 29<sup>th</sup> August 2019 and that their matter be consolidated with Bomet High Court Petition No. 4 of 2019 already fixed for hearing on 6<sup>th</sup> November 2019. Mr. Koech for the 4<sup>th</sup> respondent, in his response, said that his client had a minimal role in the matter and that the actions complained of were conceived, notices issued and implemented by organs of the National Government, the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents, who in their wisdom had already closed the businesses. He asked for time 14 days to file a response for the 4<sup>th</sup> respondent.
3. In response, counsel for the petitioners agreed that the respondents be allowed to respond and explain their position, but urged that the court issues interim orders.
4. With regard to consolidating this matter with the other petition slated for hearing on 6<sup>th</sup> November 2019, I will not consolidate the two matters at this time, as I do not have the other file, and cannot be certain if there might be any objection to the request by parties therein. I will only fix this petition for mention on 06/11/19, and the issue of consolidation will be dealt with on that day.
5. As regards, the request of 4<sup>th</sup> respondent for 14 days to file their response, the same has not been objected to. I will grant the request.
6. I now turn to the interim orders sought. It is actually prayer (b) of the application dated 29<sup>th</sup> August, 2019. It states as follows:

**“b) That the respondents hereon jointly and severally be and are hereby restrained and/or stopped by themselves, agents, servants, assigns or representatives from arresting, charging in court, harassing, interfering and stopping the applicants from carrying on their business pending hearing and determination of this application”.**

7. The application is actually an interlocutory application to a Petition filed on same date 29<sup>th</sup> August, 2019, which is yet to be fixed for hearing. When the counsel for the 4<sup>th</sup> respondent stated that the businesses were already closed, counsel for the applicants/petitioners did not say anything on that submission. I expected her to clarify the actual status position as at now.

8. I cannot go into the merits of this application now as it was not for hearing today. I however, find it inappropriate to issue the interim orders sought now, until the application is fixed for hearing, and all parties served with a hearing notice which has not happened, as prayer (b) is the main prayer in the application. In my view, issuing the interim orders sought therein will be a final determination of the application before fixing it for hearing, which is wrong.

9. I thus order as follows:

**1. The respondents are granted 14 days from today to file responses to the application.**

**2. This matter will be mentioned on 6<sup>th</sup> November 2019 with Bomet Petition No. 4 of 2019 to consider consolidation of the two matters.**

**3. In the meantime, I decline to grant the main prayer in the application dated 29/8/2019 at this mention stage.**

**Dated at Bomet this 3<sup>rd</sup> October, 2019.**

**GEORGE DULU**

**JUDGE**