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**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: 076420/2024

(1) REPORTABLE: ~~YES~~/NO

(2) OF INTEREST TO THE JUDGES: ~~YES~~/NO

(3) REVISED.

DATE: 16/10/25

SIGNATURE:

In the matter between:

F[...] W[...] J[...] B[...]

Applicant

and

B[...] B[...]

First Respondent

B[...] B[...] N.O.

Second Respondent

**(in his capacity as trustee of
SABURCO FAMILY TRUST)**

JRR TRUSTS AND ESTATES (PTY) LTD

Third Respondent

represented by

JACOBUS JOHANNES JACOB N.O.

**(in his capacity as trustee of
SABURCO FAMILY TRUST)**

MASTER OF THE HIGH COURT, PRETORIA

Fourth Respondent

In *re*:

B[...] B[...]

Applicant

and

**F[...] W[...] J[...] B[...]
(nee P[...])**

First Respondent

**JOHANNES JAKOBUS PRINSLOO N.O.
(In his capacity as trustee of AMARIKA TRUST
and OUDEWERF TRUST)**

Second Respondent

**JOHANNA ALETTA PRINSLOO N.O.
(In her capacity as trustee of AMARIKA TRUST
and OUDEWERK TRUST)**

Third Respondent

**AMALIA PRINSLOO N.O.
(In her capacity as trustee of AMARIKA TRUST)**

Fourth Respondent

**F[...] W[...] J[...] B[...]
(nee P[...]) N.O.
(In her capacity as trustee of AMARIKA TRUST)**

Fifth Respondent

**HENDRIK STEYN PRINSLOO N.O.
(In his capacity as trustee of OUDEWERF TRUST)**

Sixth Respondent

JJ PRINSLOO BOERDERY (PTY) LTD

Seventh Respondent

MASTER OF THE HIGH COURT, PRETORIA

Eighth Respondent

ORDER

1. The First Respondent Mr B[...] B[...] is ordered to pay the costs of the Applicant Mrs F[...] W[...] J[...] B[...] on an attorney and client scale in the joinder application and the counter-application.

2. The Applicant in the counter-application is ordered to pay the costs of the Second to Seventh respondents on an attorney and client scale.

JUDGMENT ON COSTS

TOLMAY J

1. This is a joinder application after hearing argument, the parties agreed that an order for the joinder could be granted. That order was made and judgment on the issue of costs was reserved. This is the judgment on costs.

2. The applicant Mrs B[...] and Mr B[...] are involved in what seems on all accounts to be a very acrimonious divorce. She instituted the joinder application to join the second to fourth respondents, who will be referred to collectively as 'the Trust'. Mr B[...] filed a notice of intention to defend and a counter-application in which he cited the second to seventh respondents, which will be collectively referred to as the 'Affected Parties'. The Affected Parties are not parties to the litigation between Mr and Mrs B[...] or the joinder application.

3. Both Mrs B[...] and the Affected Parties seek punitive costs orders against Mr B[...]. Mr B[...] opposed this and his position in relation to costs will be dealt with in what follows.

4. It was argued on behalf of Mr B[...] that he did not defend the joinder application despite the notice to defend. However, it did not state that Mr. B[...] concedes to the order. It quite confusingly states that he does not oppose the joinder of the Trust, but subject to a counter-application that will be filed. In the counter-application he added the Affected Parties as respondents and contemplated the possibility of joining them as parties in the main action. This confusing stance caused the matter to escalate into a full-blown opposed and voluminous application,

containing inter alia an answering and supplementary affidavit being filed on behalf of Mr B[...].

5. A perusal of the papers and the way that the litigation was conducted on behalf of Mr. B[...] made it abundantly clear that he did not agree to the order. The explanation for his lengthy answering affidavit is that he was obliged to answer in detail due to the alleged slanderous and scandalous content of the founding affidavit. First the content of the founding affidavit must be seen in the context that, according to Mrs B[...], the Trust is a sham. Only the evidence at trial will test the veracity of those allegations, but for now she must convince the court that the Trust should be joined and to do so those allegations are necessary to prove her case.

6. No application to strike was brought on behalf of Mr B[...]. If he truly intended not to oppose the application, he should have filed a notice to abide and placed on record that he disputes the allegations made in the founding affidavit.

7. Mr B[...] also filed a supplementary affidavit. In this affidavit he refers to a letter sent by his attorney. In this letter his attorney indicates that Mr B[...] is willing to concede, subject to Mrs B[...] successfully proving her s7(3) claim in terms of the Divorce Act¹. He qualifies his concession and states "Then and only for that limited purpose, the assets of the Saburco Family Trust be regarded as forming part of our client's estate for calculation purposes only, in relation to your client's Section7(3) claim." In a further paragraph in the same letter, Mrs B[...] is threatened that should she want to continue with the joinder application, she does it at her own peril. Despite protestations on behalf of Mr B[...] to the contrary the matter remained opposed.

8. The concerning attitude to the litigation continued as initially no heads of argument was filed on behalf of Mr B[...]. Only on the afternoon before the hearing this Court received a request that heads of argument be filed. The explanation advanced at the hearing was that counsel was only briefed during the weekend. Why counsel was briefed only at this belated stage was not explained at all. This shows

¹ 70 of 1979.

not only a disregard for the other parties, but also a lack of respect towards the Court. This type of behaviour by a litigant should not be countenanced by a court.

9. In the heads of argument filed, it was submitted that the joining of the Trust is not necessary for a redistribution of the assets. Thus, continuing the actual opposition of the application, despite argument to the contrary.

10. The Affected Parties were added in a counter- application to a main application wherein they are not cited as parties. No application to join them was brought, the possibility was merely contemplated in the answering affidavit. The counter- application was eventually withdrawn, but it was initially proposed that costs either be costs in the cause or reserved.

11. The Affected Parties invoked Rule 41(1)(c) to insist on a costs tender, A tender was made on 17 September 2025 by Mr. B[...] for attorney and client costs up to the date of 19 August 2025. The costs was however limited to costs on scale A for counsel. I pause to say that all the parties were represented by senior counsel. At the hearing counsel on behalf of Mr. B[...] persisted with the argument that the costs should indeed be awarded, if at all, on scale A. No good reason exists why the costs should be limited as proposed on behalf of Mr B[...].

12. Mr B[...] and his legal team furthermore continued to cause costs to be incurred after the withdrawal of the counter-application, by serving further papers on the attorneys of the Affected Parties. This obviously required consideration which led to further costs being incurred.

13. Subpoenas were issued against the Affected Parties. Mr B[...] in writing confirmed that it would not be used. Correspondence ensued and there was an attempt to withdraw some of the subpoenas. The subpoenas against the Affected Parties' bank was however not withdrawn. A notice in terms of Rule 30 was delivered by the Affected Parties to challenge the regularity of the subpoenas issued and Mr. B[...]s inadequate undertaking in this regard.

14. A notice in terms of Rule 6(5)(d) was delivered on 20 August 2025 on behalf of the Affected Parties in which a complaint was raised regarding the procedures and processes followed by Mr. B[...]. For purposes of the cost argument, it is not necessary to deal with the veracity of these complaints, suffice it to say the Affected Parties were dragged into litigation to which they were not parties.

15. It is also concerning that Mr B[...]'s attorney is a trustee of the Trust. It was argued on behalf of the Affected Parties that this constitutes a conflict of interests. This issue was not addressed in argument on behalf of Mr B[...]. It is indeed of grave concern that Mr B[...] is represented by an attorney who is also a trustee of the Trust which Mrs B[...] seeks to join on the basis that it is a sham.

16. During argument Mr. B[...] did not make any concessions that could have persuaded the Court that a punitive cost order was not appropriate. The conduct by Mr B[...] and the way that the litigation was conducting is even more concerning considering this is ultimately a divorce action. To deplete assets that could have been used to the benefit of the parties and their children by wasteful and unnecessary litigation should not be tolerated. Mr. B[...] demonstrated a total disregard for court processes and procedures and by doing so inflated the costs of the litigation.

17. The court has a discretion when awarding costs and based on the way Mr B[...] chose to approach and conduct the litigation in this application punitive cost orders are appropriate.

The following order is made:

1. The First Respondent Mr B[...] B[...] is ordered to pay the costs of the Applicant Mrs F[...] W[...] J[...] B[...] on an attorney and client scale in the joinder application and the counter-application.
2. The Applicant in the counter-application is ordered to pay the costs of the Second to Seventh respondents on an attorney and client scale.

R TOLMAY
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Appearances

Counsel for applicant: Adv S Stadler instructed by Emma Nel Attorneys.

Counsel for 1st Respondent: Adv SG Maritz SC instructed by Jarvis Jacobs Raubenheimer Inc.

Counsel for 2nd - 7th Respondents (Affected Parties): Adv G Naude SC instructed by De Jager Incorporated.

Date heard: 7 October 2025.

Date of Judgment: 16 October 2025.