



**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

JUDGMENT

**Not Reportable
Case No: 15691/2023**

In the matter between:

RYNETTE PIETERS N.O.

Applicant

(In her capacity as the liquidator of King Financial Holdings Limited, formerly Biz Africa 1332 (Pty) Ltd (in liquidation) ("KFH"))

and

DEON JOHAN PIENAAR

1st Respondent

ELSABE ELISABETH PIENAAR

2nd Respondent

Coram: DA SILVA SALIE, J

Heard on: 18 November 2025

Delivered on: 18 November 2025

Summary:

Interlocutory applications (intervention, Rule 45A, oral evidence) dismissed for lack of standing, irrelevance, and abuse; respondent's whistleblower and collateral

allegations held not to constitute special circumstances under s 12; matters long res judicata; provisional sequestration confirmed and final order granted.

ORDER

1. The rule nisi issued on 27 February 2025 and extended on 15 April is made absolute and the estate of the first respondent is placed under final sequestration.
2. The costs of the sequestration application, including the costs of the first return day on 15 April 2025, are costs in the sequestration, including costs of counsel on scale B.
3. Adrian Warren King's application for leave to intervene in the above sequestration application is dismissed with costs, including costs of counsel on scale B.
4. The first respondent's application in terms of Uniform Rule of Court 45A to suspend order of the Court and application to adduce oral evidence is dismissed with costs, including costs of counsel on scale B.

JUDGMENT

DA SILVA SALIE J:

Introduction

[1] This is the application for the final sequestration of the estate of the first respondent, Mr. Deon Johan Pienaar ("Mr. Pienaar"). The application for the provisional sequestration of Pienaar's estate was heard in November 2024 simultaneously with:

- (a) An application to declare Mr. Pienaar a vexatious litigant (case no 16769/23), and
- (b) An application for rescission of the order of Justice Binns-Ward of 13 February 2013 ("the Binns-Ward judgment") and of Acting Justice Sievers of 30 November 2018 ("the Sievers judgment"). In the Sievers judgment (also referred to as Mr. Pienaar's first rescission application) he sought to rescind the Binns-Ward judgment which application was dismissed with costs. Attempts to appeal this finding was dismissed by the Supreme Court of Appeal and the Constitutional Court with costs. The rescission application before Acting Justice Van Zyl is referred to herein as the second rescission application, and
- (c) An application to declare Mr. Pienaar a vexatious litigant.

[2] On 27 February 2025, Acting Justice Van Zyl delivered judgment in respect of which the following orders were made:

- (a) Provisionally sequestrating Mr. Pienaar's estate, and
- (b) Dismissing the second rescission application, and
- (c) Declared Mr. Pienaar a vexatious litigant.

PART A: INTERLOCUTORY APPLICATIONS:

[3] This is the return day of the provisional sequestration order. Before I consider whether the provisional sequestration order should be made final, it is necessary to determine the three (3) interlocutory applications presently before this Court:

- (a) an intervention application brought by Mr Adrian Warren King in terms of Rule 12, and
- (b) an application by the first respondent ("Mr Pienaar") in terms of Rule 45A seeking to suspend the operation of various judgments delivered by Van Zyl AJ, and
- (c) an application by Mr Pienaar for leave to adduce oral evidence.

[4] Both Mr Pienaar and Mr King appeared in person. The applicant was represented by counsel. The Financial Sector Conduct Authority ("FSCA", formerly the Financial Services Board) is not a party to the sequestration but has delivered notices in terms of Rule 6(5)(d)(iii) and correspondence placing on record its objections, particularly in relation to non-joinder and the irrelevance of the allegations levelled against it. Counsel for the FSCA was present.

The Intervention Application (Mr King)

[5] Rule 12 requires an applicant for intervention to demonstrate a direct and substantial interest in the subject-matter of the litigation which may be affected by the Court's order.

[6] Mr King does not assert that he is a creditor, nor that he holds any financial or proprietary interest capable of being affected by the sequestration.

[7] Rather, his papers seek to revisit numerous judgments relating to the King Group, spanning multiple years and involving multiple courts. A sequestration Court has no jurisdiction to revisit, reconsider, or suspend such judgments.

[8] In his oral submissions, Mr King confirmed that he does not assert a direct and substantial interest in the sequestration, nor any legal right of his that would be affected by the granting or refusal of a final order. His stated basis for seeking intervention was his personal gratitude for what he termed lengthy legal struggles, and his desire to stand “in solidarity” with Mr. Pienaar. These motivations, however genuine, do not establish a legal interest capable of grounding intervention under Rule 12 or at common law.

[9] The application further suffers from material non-joinder, as many of the persons whose rights Mr King contends are implicated are not before the Court.

[10] The intervention application is therefore incompetent and must be dismissed.

Rule 45A Application (Mr Pienaar)

[11] Mr Pienaar seeks to suspend the judgments of 27 February 2025, including the dismissal of his rescission application and the granting of a vexatious litigant order.

[12] Rule 45A empowers a Court to suspend execution of an order. None of the orders that Mr Pienaar seeks to suspend are capable of execution, nor do they call for execution. The dismissal of an application is not executable.

[13] Rule 45A may not be used to frustrate appeal processes or to mount collateral challenges to final judgments.

[14] In any event, the Court found that Mr Pienaar lacked *locus standi* in the rescission application. He cannot now assert standing to suspend a judgment in proceedings where he had none.

[15] The Rule 45A application is devoid of merit and must be dismissed.

Application to Adduce Oral Evidence (Mr Pienaar)

[16] Mr Pienaar seeks leave to lead oral evidence, including from Mr Anderson, a former employee of the FSCA. The FSCA's correspondence records that neither it nor Mr Anderson has been cited or joined, and it asserts that the allegations raised in relation to them are irrelevant, improper, and vexatious.

[17] Oral evidence is permitted in motion proceedings only where a genuine, material dispute of fact exists that cannot be resolved on the papers. It is clear from the papers that no such dispute has been identified. The proposed evidence concerns historic disputes involving the FSCA and the King Group. These issues bear no relevance to the statutory requirements relating to sequestration.

[18] The application also suffers from non-joinder and appears to continue the vexatious litigation pattern previously identified by this Court.

[19] The application must therefore be dismissed.

[20] For the reasons set out above, the interlocutory applications must fail with costs.

PART B: RETURN DAY OF THE PROVISIONAL SEQUESTRATION

Background

[21] On 27 February 2025, Van Zyl AJ granted a provisional sequestration order against the first respondent. The judgment found *prima facie* that the applicant is a judgment creditor for R351 329.34 plus interest; that the debt is liquidated, due, and payable; that a *nulla bona* return had been issued; that the respondent is hopelessly insolvent; and that there exists a reasonable prospect of advantage to creditors. On that basis, she held that a proper case had been made out and granted the provisional sequestration order.

[22] The test for a final order of sequestration is different. In an application for final relief, the applicant must establish its case on a balance of probabilities, that being: (i) a liquidated claim against the debtor for not less than R100; (ii) the debtor has committed an act of insolvency or is insolvent; and (iii) there is reason to believe that it will be to the advantage of creditor of the debtor if the estate is sequestrated. Where facts are disputed, the Court does not determine the balance of probabilities on the affidavits but must instead apply the *Plascon-Evans* rule.

[23] Whilst Mr. Pienaar raised several issues, in line with his narratives of fraud and corruption in respect of which he has been a “whistleblower”, these averments do not address the requirements for final sequestration. The application is based on common cause facts and so too, facts which were placed before the Court by the respondents. In other words, there are no disputes regarding the jurisdictional requirements which requires resolve via *Plascon-Evans*.

[24] The jurisdictional requirements herein are met on the common cause facts, briefly stated as follows:

(a) The applicant's claim is in respect of three (3) taxed bills of costs totalling R351 329-34 plus accruing interest.

(b) Mr. Pienaar is also indebted to PriceWaterhouseCoopers Inc. ("PwC") in the amount of R3 919 588-31 plus interest arising from PwC's taxed costs under case number 12511/13.

(c) Mr. Pienaar does not deny his own costs accumulated in his own circular to readers of 7 March 2023, in excess of R50 million.

(d) Mr. Pienaar is factually insolvent. The claims of judgment debts against him exceed R6.5 million.

(e) His only asset is a half share in the house situate at Parow, co-owned with his wife who delivered an affidavit confirming their co-ownership. The forced sale value is estimated to be R3 250 000 and his nett half share in the region of R1,8 million.

(f) The sheriff made a return of nulla bona after attempted execution upon Mr. Pienaar with no indication that his position had improved since then.

(g) There is sufficient free residue in the property to cover the costs of sequestration and provide a small dividend to concurrent creditors.

Applicable Principles after jurisdiction requirements are met:

[25] Once the requirements of section 12(1)(a)–(c) of the Insolvency Act are met, the Court retains a discretion whether to grant a final order. That discretion is judicial and must be exercised on proper grounds.

[26] “Special circumstances” must be exceptional, relevant, and supported by evidence.

Have Special Circumstances Been Shown?

[27] Mr Pienaar has shown no improvement in his financial position since the provisional order. He has not discharged any portion of his indebtedness. No new asset or arrangement has been disclosed.

[28] Instead, he reiterates allegations relating to the FSCA, PwC, KFH, and others which are matters long determined by courts at various levels, and wholly irrelevant to the question of insolvency.

[29] None of his submissions establish special or unusual circumstances under section 12.

Discretion Under Section 12

[30] The Court’s discretion under section 12 is not unfettered, but once the statutory requirements for final sequestration are established, a final order should ordinarily follow unless special or compelling considerations dictate otherwise. No such

considerations arise here. The first respondent's continued pattern of obstructive litigation, persistent collateral challenges, and failure to satisfy his admitted debts underscores the need for the sequestration to proceed to finality for the protection of creditors and the integrity of the insolvency process.

Mr Pienaar's "Whistleblower" Submissions as a special circumstance:

[31] Mr Pienaar emphasised that he regards himself as a whistleblower in what he describes as a myriad of fraudulent schemes which allegedly resulted in the loss of billions of rand to investors. He contends that, once the Companies and Intellectual Property Commission ("CIPC") finalises its investigation under section 41 of the Constitution, his position will be vindicated. On this basis he requested that the Court exercise its discretion to suspend the final determination of this sequestration application. Even if his narrative had any merit, it falls outside his estate and cannot be a discretionary factor in relation to a final sequestration order.

[32] These assertions do not meet the definition or requirements of a protected disclosure under the Protected Disclosures Act 26 of 2000. The Act does not afford blanket protection, nor does it confer standing to resist sequestration or to delay insolvency proceedings. His self-characterisation as a whistleblower, even if sincerely held, does not constitute a special circumstance under section 12.

[33] In any event, the issues he raises are *res judicata*. They have been the subject of extensive litigation, including judgments of this Division, consideration by the Supreme Court of Appeal, and applications to the Constitutional Court, all of which were unsuccessful. His subsequent rescission application (the second rescission application) was dismissed by Acting Justice Van Zyl. These matters cannot be revived in sequestration proceedings, nor can they obstruct the granting of a final order.

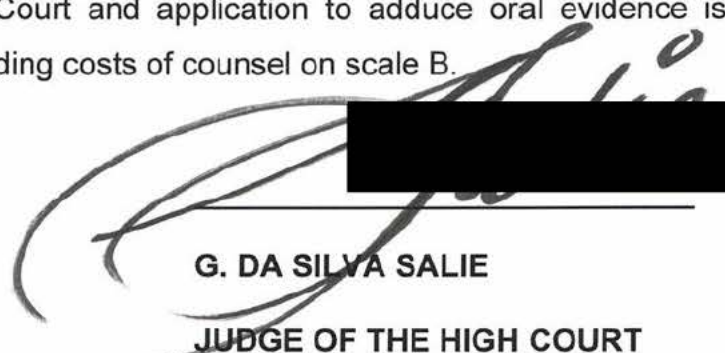
Conclusion on the Merits

[34] No special or unusual circumstances have been shown. All the jurisdictional requirements for final sequestration remain satisfied, and the Court's discretion must be exercised in favour of confirming the order.

ORDER

[35] In the premise and for the reasons aforesaid I order as follows:

1. The rule nisi issued on 27 February 2025 and extended on 15 April is made absolute and the estate of the first respondent is placed under final sequestration.
2. The costs of the sequestration application, including the costs of the first return day on 15 April 2025, are costs in the sequestration, including costs of counsel on scale B.
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G. DA SILVA SALIE

JUDGE OF THE HIGH COURT

WESTERN CAPE

Appearances

For Applicant: Adv. C Morgan

Instructed by: ENS Inc.

For Respondents: Mr D Pienaar (In Person)

For Intervening Application: Mr King (In Person)

For FSCA: Bisset Boehmke McBlain

For SARB: Gildenhuys Malatji Inc.