



**IN THE LAND COURT OF SOUTH AFRICA
HELD AT RANDBURG**

Case number: LCC 122/2009

Case number: LCC 129/2012

Before: The Honourable Acting Judge Montzinger

Hearing: 10 September 2025

Delivered: 13 November 2025

(1) REPORTABLE: Yes ☐ / No ☒
(2) OF INTEREST TO OTHER
JUDGES: Yes ☐ / No ☒

Date: 13 November 2025

In the matter between:

CHRISTOFFEL FARAO

Applicant

[Representative of the Farao Family]

and

THE REGIONAL LAND CLAIMS COMMISSIONER

First Respondent

Summary: Rule 12 of the Land Court Rules - Application by a beneficiary-family of a Community land claim, to intervene in two extant applications with case numbers (LCC 122/2009; LCC 129/2012) – The extant applications were stayed by a prior order of the court and not capable of being proceeded with absent leave of the Judge President – applicant failed to show that the extant applications were pending proceedings open to intervention - even assuming that the stay was uplifted, the proposed intervention sought different relief from the relief in the extant matters and was brought without a mandate from the duly elected s 10(4) of the Restitution Act Committee – intervention application dismissed - no order as to costs.

ORDER

1. The application to intervene in matters with case numbers LCC 122/2009 and LCC 129/2012 is dismissed.
 2. No order as to costs.
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JUDGMENT

Montzinger AJ:

Introduction

[1] On 5 May 2025 Mr Christoffel Farao¹, describing himself as the “Family representative for the Farao family”, launched an application to intervene in the matters with case numbers LCC 122/2009 and LCC 129/2012 (the “extant applications”).

[2] Mr Farao claims to represent the Farao family who are all alleged to be beneficiaries in an existing land restoration claim by the Saron Community. The claim was lodged during August 1998 and is still not finalised.

[3] The relief sought, in essence, is leave to intervene in the extant applications, and an order directing that certain disputes be referred to mediation in terms of section 13 (d) of the Restitution Act² read with section 29 and 35A of the Land Court Act³ further read with rules 13(2)(b), 26(1)(d) and 72(2)(b) of the Land Court Rules. In the replying affidavit and the heads of argument the relief was expanded to include a request for legal representation.

[4] The Regional and Chief Land Claims Commissioners (the “Commissioners”) were joined as the first and second respondents respectively. Both opposed the application but instead of an answering affidavit, filed an explanatory affidavit. The Commissioners’ main objections are: (i) that the extant applications no longer present live issues and cannot be the subject of intervention, (ii) the applicant or the Farao family lacks standing to pursue the intervention application, and (iii) if the Farao family disputes the finding in the Chief Commissioner’s research report or the work of the verification service provider, in respect of the verification and

¹ The notice of motion cites only Mr Farao (in his personal designation as the “family representative”) and does not cite the “Farao family” as a party. It is not clear who is the real application (i.e. Mr. Farao in his representative capacity or the Farao family represented Mr Farao.

² Restitution of Land Rights Act 22 of 1994.

³ Land Court Act 6 of 2023.

extend of the Saron Community's land claim, the proper remedy is for the Farao family or the Saron Community to launch a review under PAJA⁴, not an intervention application. Furthermore, the Commissioners assert that Mr Farao's family can still participate in the ongoing verification process, which is currently being finalised, implying that any issue the family may have can be raised in that process.

[5] The matter initially came before me under judicial case management. A case management conference was held with the parties⁵ on 15 August 2025. At the conclusion of the conference, I issued directions regulating the further conduct of the matter and in particular service on the Saron Land Claims Committee, the third respondent.

[6] The intervention application was argued on 10 September 2025. At the hearing Mr Pieter George Frantz ("Pieter Frantz") also appeared on behalf of the Saron Community as a representative of the Saron Land Claims Committee. He filed an affidavit in his personal capacity as well and the Saron Land Claims Committee. Pieter Frantz is not to be confused with Mr Christopher Charles Frantz ("Charles Frantz") who featured prominently in the court papers of the extant applications. In his affidavit, Pieter Frantz explains that he is the duly elected chairperson of the Saron Land Claims Committee that was elected in terms of section 10(4) of the Restitution Act by the Saron Community on 23 August 2018 under the auspices of the Regional Commissioner. He stressed his

⁴ Promotion of Administrative Justice Act 3 of 2000 ("PAJA").

⁵ The third respondent did not participate in the case management conference.

continuing commitment to bringing the Saron Community's land claim to finality for the benefit of all of the legitimate beneficiaries.

[7] Having regard to the record, I am required to decide whether the litigation previously conducted under the case numbers of the extant applications⁶ remain live, and if so, susceptible to intervention. If the answers to those questions are negative, it would mean the end of the matter. If answered in the affirmative, then the next issue for determination is whether the applicant, Mr Farao, acting as "family representative for the Farao family", has standing to intervene in his own capacity or on behalf of the "Farao family" to seek to intervene in the extant applications having regard to the relief the Farao family is seeking. Lastly, I have to decide what the appropriate order should be regarding costs.

A Brief history of the litigation involving the land claim⁷

[8] The Saron Community lodged two land claims. Mr Charles Frantz, referenced earlier, lodged the claims on behalf of the community. The first claim was lodged in August 1998 and concerned a list of farms including Saron Farm No. 40, and a second claim in December 1998 described as "*Foot of the Cape, Twenty-Four Rivers ...*" in the Tulbagh, Western Cape district.

[9] Multiple court proceedings followed the institution of the Saron Community's land claim. The extent and outcome of those court proceedings were all referred

⁶ LCC 122/2009 and LCC 129/2012

⁷ The factual and procedural history of the Saron Community's restitution claim has already been traversed at length in a series of judgments, both in this Court and in the Western Cape Division. It is sufficient to refer to Acting Judge Canca's judgment of 15 June 2020 under case numbers LCC 122/2009 and LCC 129/2012, which records the chronology and antecedent litigation, and to the judgment of Bozalek J delivered on 5 March 2019. In light of those comprehensive accounts, I do not repeat the full narrative here. What is set out is an attempt at a concise overview to contextualise the present application. To the extent that this summary is incomplete, this judgment should be read with reference to the Canca J and Bozalek J judgments.

to and summarised by Canca J in a 2020 judgment of this court⁸ in *Frantz and Another v Sanlucar De Hoek (Pty) Ltd and Others* LCC 122/2009; LCC 129/2012 [2020] ZALCC 27⁹ (“*Canca judgment*”). While the merits of the multiple court proceedings are not before me, it is necessary for me to briefly record the chronology that includes the extend of each court application as it relates to the finding of whether Mr Farao and his family may intervene in the extant applications.

[10] During 2009, and prior to the conclusion of the Regional Commissioner’s investigation of the Saron Land claim and the finalisation of the final report on the validity of the community’s claim the ‘*Saron Forum*’ launched an application under case number LCC 122/2009, seeking to review certain actions taken by the Regional Commissioner¹⁰. Christo Frantz, in turn, during 2012 also launched an application seeking to review certain actions taken by the Regional Commissioner under case number LCC 129/2012.

[11] However, on 15 November 2013 Davis J of the Western Cape Division, under case number 2483/2012, granted a judgment against Christo Frantz, effectively declaring him a vexatious litigant. The relief was granted on request by the Drakenstein Municipality to declare him a vexatious litigant in response to court proceedings in which he sought relief against the Municipality. Christo Frantz had apparently done the same in many unsuccessful applications prior to the Davis J judgment.

⁸ As it then was, i.e. the Land Claims Court.

⁹ The ‘Frantz’ referred to in the heading of the judgment is a reference to Mr. Christo Frantz.

¹⁰ Paras 2 and 12 *Canca judgment*.

[12] During June 2014, the Regional Commissioner published its Research Report in accordance with Rules 3 and 5 of the Commission¹¹. The report concluded that restitution was feasible only in respect of Farm No. 40, Saron and not in respect of the farms Hoeree No. 176 and the non-existent farms called Arnim, Lilyvale and Morrison, which were all rejected. The claim in respect of the sixty-five Tulbagh farms did not meet the Commissioner's acceptance criteria and was also rejected.

[13] After the research report identified Farm No. 40 as the only land the Saron Community could lay claim to, the Department of Agriculture, Land Reform and Rural Development appointed a verification service provider to conduct verification of the beneficiaries of the Saron Community's claim. This beneficiary verification process is still ongoing.

[14] While the verification process, was presumably ongoing, on 11 June 2015 Rodgers J (as he then was) of the Western Cape Division, under case number 4881/2014, also granted a judgment against Christo Frantz, who apparently instituted that application in his representative capacity on behalf of the Provincial House of the First Indigenous Leaders. The respondents in that application instituted a counter-application seeking to declare Christo Frantz a vexatious litigant, which was granted by Rodgers J.

[15] During July 2016, the Saron Community under the auspices of the 'Saron Forum' launched a second application under the extant applications' case

¹¹ The Commission on Restitution of Land Rights.

numbers seeking an order for the restoration of the claimed farms to a traditional authority.

[16] However, it seems that during 2016 there appeared to have been some issue regarding the committee who should or could represent the Saron Community in pursuing its restoration claim. This also resulted in litigation as an order was issued by Bertelsmann J of the Western Cape Division¹² directing the Chief Land Claims Commissioner to promulgate rules under section 10(4) of the Restitution Act. I have not had sight of Bertelman J's judgment, but it is not in dispute that the judge issued a directive and his directive resulted in the publication of the election rules in the Government Gazette during December 2016¹³. This had the ultimate effect that on 23 April 2017 a section 10(4) committee was elected under the auspices of the Regional Commissioner to represent the Saron community for purposes of its claims.

[17] On 5 March 2019, Bozalek J, of the Western Cape Division, dismissed an application brought by Christo Frantz and confirmed the restrictions previously imposed on him by the judgment of Davis and Rogers J in declaring him a vexatious litigant.

[18] Despite the Bozalek J judgment, Christo Frantz was not deterred and during August 2019 he launched another application, again under the same case numbers as the extant applications in this court, seeking to certify the restitution claim as a Class Action with certain ancillary relief. It appears that in response to this application the owners of the land that is subject to the Saron Community's

¹² as is it now known.

¹³ Government Gazette 40480, General Notice 866 of 9 December 2016

land claim and the Regional Land Claims Commissioner launched two applications¹⁴ of their own, in this court. These applications both sought to declare Christo Frantz being in contempt of the Rodgers J order and to once again declared him a vexatious litigant with certain consequential relief.

[19] Canca J delivered his judgment on 15 May 2020. In his judgment he also navigated his way through all the interrelated litigation and in the end issued various orders. However, relevant for the intervention application before me is his order declaring that the elected section 10(4) Committee to be the body entitled to represent the Saron Community for the purposes of its two land claims. Canca J further ordered the stay of all applications under case numbers LCC 122/2009 and LCC 129/2012, holding that those proceedings *“may not be proceeded with unless written leave is obtained from the Judge President”*. Certain relief was also directed against Charles Frantz that related to his status as a vexatious litigant.

[20] By virtue of the May 2020 order by Canca J, when the intervention application came before me under the same case numbers as the extant applications, the status of the extant applications was that they are stayed and could not be proceeded with until the Judge President of this court grants written leave in accordance with the terms of the Canca J order of May 2020.

Are the extant applications under case numbers LCC 122/2009 and 129/2012 “alive” and capable of intervention?

[21] Rule 13 of the Land Court Rules provides that: *“[a]ny person whose rights may be affected by the relief claimed in a case and who is not a party may, within*

¹⁴ The owners and Regional Commissioner must have launched two counter-applications as their applications have the same case numbers as the extant applications.

a reasonable time after becoming aware of the case, apply to the Court for leave to intervene in the case”, and permits the Court to grant such leave on appropriate conditions.

[22] The Land Court Rules is analogous to Uniform Rule 12 that in turn provides that an intervening party must demonstrate a direct and substantial interest in the subject matter and the order to be made, i.e., a legal interest that may be prejudicially affected by the judgment.

[23] The legal position is that a party seeking to intervene must seek the leave of the court¹⁵ and show: (i) a concern regarding the issue under consideration; (ii) the matter is of common interest; and (iii) that the issues pursued by the third-party application are the same as the issues in the matter sought to be intervened in. Essentially, the party seeking to intervene must show a direct and substantial interest in the subject matter of the extant court proceedings. As per *United Watch & Diamond Co*¹⁶ the court exercise a discretion whether to grant an intervention by a third party.

[24] However, in this matter before I consider whether the applicant has made out the jurisdictional requirements to be allowed to intervene in the extant applications, I must first consider whether a party can be granted leave to join proceedings that have been stayed by a related order of court that has set out conditions for the reactivation of the stayed proceedings. Essentially, I must consider what is the status of a matter that has been stayed by a court order.

¹⁵ *Fisheries Development Corp of SA Ltd v Jorgensen, Fisheries Development Corp of SA Ltd v AWJ Investments (Pty) Ltd* 1979 (3) SA 1331 (W).

¹⁶ *United Watch and Diamond Co (Pty) Ltd v Disa Hotels Ltd* 1972 (4) SA 409 (C).

[25] Having regard to how Rule 13 of the rules of this court is framed I conclude that intervention presupposes a pending case into which a third party may be admitted. I accept that notionally a stay does not *pe se* terminate litigation as it holds that very matter in abeyance, with the practical effect that no further steps may be taken in the stayed matter until the impediment is removed or the stay is lifted. However, an intervention application will be premature by definition, because it invites the Court to “proceed” in a matter that the same Court has already ordered not to proceed.

[26] While a court has the power to regulate its own proceedings, that power is restricted where an existing court order has laid down requirements to reactivate a stayed matter and the party wanting to intervene has not sought to rescind the stay order.

[27] I therefore find that until the 2020 stay ordered by Canca J is uplifted there are no extant applications under case numbers LCC 122/2009 or LCC 129/2012 into which anyone can intervene. The extant applications are kept in abeyance and it “lives” only in the sense that it can be revived upon compliance by Christo Frantz with the Canca J order, but it is procedurally closed to further steps, including joinder or intervention, while the stay endures.

[28] The Farao’s family’s first obstacle is therefore insurmountable. There is no leave from the Judge President uplifting the stay. There is no application to uplift or vary the stay order before me. Consequently, there are no extant applications into which the Farao family may intervene. The application to intervene must therefore fail.

Does the Farao family have standing to pursue the application

[29] Even assuming the stay in respect of the extant applications were uplifted, the Farao family has not satisfied the jurisdictional prerequisites for intervention. Measured against the requirements to be allowed to intervene, the application by the Farao family fails on its own terms. First, the extant applications (LCC 122/2009 and LCC 129/2012) are PAJA review applications directed at the lawfulness of steps taken by the Regional Land Claims Commissioner in processing the Saron community's claims. By contrast, the relief now sought by the Farao family in the intervention application is to procure court-ordered mediation and legal representation. These are therefore different disputes with different remedies. Intervention would therefore have failed on this basis.

[30] There is another reason why the intervention application does not get out of the starting blocks. Again, assuming the stay impediment could be overcome. Representation of the Saron community concerning its land claims lies, by statute and the order of the Canca J judgment, with the section 10(4) committee elected in terms of the Restitution Act. That committee is the only body entitled to act for the Saron Community in relation to its restoration claims. The applicant in the intervention application is not that committee, nor does Mr Farao act on the strength of the mandate of that committee.

[31] Accordingly, even assuming the stay in respect of the extant applications were lifted and they were procedurally "alive," the Farao family has not shown (a) that the issues they would pursue are the same as those in the reviews; (b) that they possess the requisite direct and substantial interest in the orders sought in those reviews; or (c) that they are properly authorised to represent the Saron

Community for purposes of this litigation. The jurisdictional threshold for intervention is therefore not met, and the application would have failed on this basis as well.

[32] While it may well be that Mr Farao, or the family he purports to represent as beneficiaries, could in principle seek to vindicate their individual or familial interests in having the Saron community land claim properly finalised they can do so by formally raising their grievances with the section 10(4) committee, or, should that process fail, by approaching a competent court for appropriate relief. However, that is not the case presently before this Court. What is before me is an application to intervene in litigation that no longer presents a live issue.

Conclusion

[33] For all the reasons foreshadowed the intervention application must fail.

[34] However, nothing in this judgment prevents Mr Farao, as well as the rest of the family, in their capacities as lawful beneficiaries from approaching the Commissioner regarding mediation under section 13 of the Restitution Act, or to institute appropriate review proceedings, if a review is still viable and if they have standing apart from the section 10(4) committee, should they wish to challenge any administrative decisions affecting their claim.

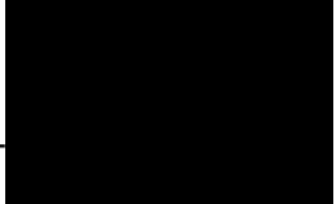
[35] In respect of costs, although the application is ill-conceived procedurally and legally, I am not persuaded that it is vexatious. The members of the Farao family are on the face of it all lawful beneficiaries seeking finality regarding the Saron restoration claim. The litigation was driven on their behalf by Mr. Farao who is by all account a layperson. While lay status does not immunise a litigant

from costs, these restitution matters are of public importance and the family's pursuit, though misguided, was not an abuse of process. In the exercise of my discretion I make no order as to costs.

Order

[36] Accordingly, I make the following order:

1. The application to intervene in matters with case numbers LCC 122/2009 and LCC 129/2012 is dismissed.
2. No order as to costs.

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A MONTZINGER
Acting Judge of the High Court

Appearances:

Applicant in person:	Mr George Farao
First and Second Respondents' counsel:	Mr M Combrink
First and Second Respondents' attorney:	State Attorney
Third Respondent:	Mr. Pieter Frantz