



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Appeal: A160/2025

Court a quo: 017060-2024

DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE: NO	
(2) OF INTEREST TO OTHERS JUDGES: NO	
(3) REVISED: NO	
9 December 2025	
DATE	SIGNATURE

In the matter between:

TEMPELHOF FILLING STATION (PTY) LTD

Appellant

Trading as Shell Ultra City, Limpopo, Musina

and

THE CONTROLLER OF PETROLEUM PRODUCTS

1st Respondent

SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LTD

2nd Respondent

MUSINA LOCAL MUNICIPALITY

3rd Respondent

EAGLE GREEK INVESTMENTS 154 (PTY) LTD

4th Respondent

MMJ LOUW ACCOUNTING ASSOCIATES 1070 CC

5th Respondent

SHELL DOWNSTREAM SOUTH AFRICA (PTY) LTD

6th Respondent

JUDGMENT

MINNAAR AJ (Swanepoel J and Mooki J concurring)

[1] The appeal is before us with the Supreme Court of Appeal's special leave. The appeal is against an order ('the order') granted by Nyathi J on 11 October 2024 ('the court *a quo*'). Only the fourth and fifth respondents ('the respondents') are opposing the appeal.

[2] The appellant launched an application in March 2024. The application consisted of Part A and Part B. In Part A, the appellant sought an urgent interim interdict pending the finalisation of Part B. In Part B, the appellant, in terms of the provisions of Rule 53, sought an order to review and set aside the site and retail license rights granted by the first respondent to the respondents for the site situated at Portions 6 and/or 7 of the Farm Uitenpas 2, N1, Musina.

[3] The central issue in this appeal is whether the Gauteng Division of the High Court ('Gauteng Division') had jurisdiction to adjudicate Part A of the application.

[4] On 13 March 2024, Collis J granted the interim relief sought in Part A and issued a rule *nisi* returnable on 22 May 2024. The application became opposed, and the rule *nisi* was extended. Part A was eventually argued before the court *a quo*.

[5] In their opposition to Part A, the respondents raised a point *in limine* that the Gauteng Division lacked the required jurisdiction as:

- a. Part A is solely directed and aimed against the respondents from ceasing any construction of a fuel filling station and the operation thereof. It is not aimed at or affects any rights of any other respondents in the application.
- b. The appellant's sole reliance on vesting jurisdiction is premised on the first respondent's offices situated in Pretoria. This, whilst the first respondent also has regional offices located in different provinces and more specifically, a regional office in Polokwane.
- c. The jurisdiction vested in the first respondent's Pretoria office only finds application to Part B of the application.
- d. The respondents' registered addresses are situated in Musina, Limpopo. The respondents do not conduct any business within the court *a quo*'s jurisdiction. As such, the respondents' registered and business addresses fall within the sole and exclusive area of jurisdiction of the Polokwane High Court ('Limpopo Division').
- e. As Part A only relates to the respondents, the court *a quo* had no jurisdiction over the respondents.

[6] The court *a quo* upheld the point *in limine* by finding that the Gauteng Division lacked jurisdiction. As to the order, the rule *nisi* issued on 13 March 2024 was discharged, and Part A of the application was dismissed.

Jurisdiction:

[7] In its judgment, with reference to the provisions of Section 21(1) of the Superior Court's Act, 10 of 2013¹ ('the Act'), the court *a quo* found that the application ought to have been initiated in the Limpopo Division, as that court was empowered and authorised to adjudicate the dispute between the parties. The basis for this finding was the respondents' residence, business activities, and registered addresses, all of which are situated in Limpopo. Further justification was that the cause of action, namely the authorisation and issuing of the permits at issue, occurred in Polokwane, Limpopo. The court *a quo* also concluded that since the subject property is situated in Limpopo, the Limpopo Division had sole jurisdiction to entertain the interdict.

[8] The court *a quo* failed to take into account the provisions of section 21(2) of the Act, which provides:

"(2) A Division also has jurisdiction over any person residing or being outside its area of jurisdiction who is joined as a party to any cause in relation to which such court has jurisdiction or who in terms of a third party notice becomes a party to such a cause, if the said person resides or is within the area of jurisdiction of any other Division."

¹ (1) A Division has jurisdiction over all persons residing or being in, and in relation to all causes arising and all offences triable within, its area of jurisdiction and all other matters of which it may according to law take cognisance, and has the power-

- (a) to hear and determine appeals from all Magistrates' Courts within its area of jurisdiction;
- (b) to review the proceedings of all such courts;
- (c) in its discretion, and at the instance of any interested person, to enquire into and determine any existing, future or contingent right or obligation, notwithstanding that such person cannot claim any relief consequential upon the determination.

[9] The court *a quo* failed to consider that the first, second and sixth respondents are all domiciled within the Gauteng Division. In terms of section 21(2), where a court has jurisdiction over one of the respondents, it would have jurisdiction over all other respondents joined to the proceedings.

[10] The appeal must succeed as the Gauteng Division had jurisdiction to consider the relief sought in Part A of the application.

Mootness:

[11] The respondents raised the point that the appeal might be moot, as Part B had already been adjudicated. Part B of the application was argued on 25 August 2025 and was subsequently dismissed on 8 October 2025. The appellant applied for leave to appeal against the dismissal of Part B. The appeal process is still pending.

[12] Usually, a court will not adjudicate a matter that will have no practical effect and/or result.² The court, however, has discretion in this regard.³

[13] In light of the pending appeal to Part B, it would be in the interest of justice that the merits of this appeal be adjudicated.

² *City Capital SA Property Holdings Ltd v Chavonnes Badenhorst St Clair Cooper and Others* 2018 (4) SA 71 (SCA)

³ *Centre for Child Law v Hoërskool Fochville* 2016 (2) SA 121 (SCA) at para 11

Costs:

[14] There is no basis to depart from the regular order that costs should follow the outcome. There exists no grounds to justify any punitive costs order. The issues in the appeal are not complex and, as such, costs on Scale B are appropriate.

Consequently, I propose the following order:

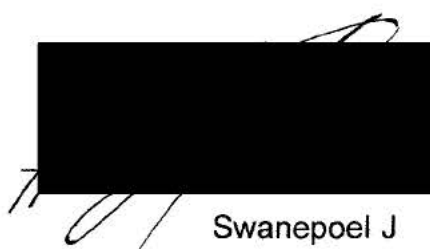
1. *The appeal is upheld with costs on scale B.*
2. *The order granted by the court a quo is set aside and replaced with the following order:*

'This point in limine to the effect that the Gauteng Division lacks jurisdiction to hear Part A of the application is dismissed with costs.'
3. *Part A is remitted to the court a quo to be placed on the opposed motion roll.*


Minnaar AJ

Acting Judge of the High Court
Gauteng Division, Pretoria

I agree:


Swanepoel J

Judge of the High Court
Gauteng Division, Pretoria

I agree:

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Mooki J

Judge of the High Court
Gauteng Division, Pretoria

Heard on : 9 October 2025

For the Appellant : Adv. B G Savvas

Instructed by : Murray Kotzé & Associates Attorneys

For the 4th and 5th Respondents : Adv. R de Leeuw

Instructed by : Schabort Potgieter Attorneys

Date of Judgment : 9 December 2025