REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

CASE NUMBER: **111486-2025**

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: NO

In the matter between:

SRE RENTALS (PTY) LTD	Applicant
And	
OLD iSTUDY4 (PTY) LTD	First Respondent
CUZEN RANDEREE DYSASI INC	Second Respondent
BROLL AUCTION AND SALES (PTY) LTD	Third Respondent
RIAZ BADAT	Fourth Respondent

WRITTEN REASONS FOR THE ORDER

KHABA AJ

Introduction:

[1] On 29 January 2026, the applicant's main application was enrolled on the unopposed motion Court roll.

[2] On 28 January 2026, a day before the hearing of the applicant's main application in the unopposed motion Court roll. The first respondent launched its application for postponement which was set down for hearing on 29 January 2026 in the same unopposed motion Court roll.

[3] The first respondent's sought an order for the postponement of the applicant's main application *sine die* alternatively the removal of the applicant's main application from the unopposed motion Court on 29 January 2026 and moved to the opposed motion Court roll.

[4] The grounds advanced by the first respondent in its application for postponement was the alleged existence of a statutory moratorium under section 133 of the Companies Act 71 of 2008 *("the Act"),* arising from the business rescue application launched against the first respondent on 23 December 2025. A preliminary contention that the relief sought against the second respondent *("the conveyancers")* was legally incompetent.

[5] The applicant delivered its notice of intention to oppose the first respondent postponement application and delivered an answering affidavit and comprehensive heads of arguments.

[6] The applicant's main application was granted. On 30 January 2026, the first respondent applied in terms of Rule 49(1)(c) for written reasons to be provided in respect of the order that I delivered. These are the reasons for the order.

[7] Before setting out the issues and the reasoning, it is necessary to record the unsatisfactory procedural context.

[8] The first respondent failed to file a replying affidavit to address the applicant's answering affidavit and failed to file any heads of arguments in support of its own application for a postponement. Mr. Muller, counsel who appeared for the first respondent failed to file his practice note. The matter stood down to afford Mr. Muller the opportunity to upload his practice note on Caselines.

[9] When Mr. Muller was questioned of his failure to comply with the provisions of the Practice Manual read together with the Consolidated Directive 1 of 2004, as amended of this Division, Mr. Muller explained that he had only been briefed in the early hours on the day of the hearing of this matter, hence his non-compliance with the practice directives. This conduct is contrary to the Practice Directive of this Division and unacceptable. Mr. Muller's explanation was unsatisfactory and indicative of lack of diligence and preparedness. Mr. Muller failure constitutes a

material breach of the Practice Directive of this Division. Mr. Muller's practice note was not substantiated and was, in my view, a distraction from the real issues that required determination. As a result, the substantive arguments and written submissions before Court were those of the applicant. The applicant sought an order for the payment of the purchase price of R 11 850 000.00 currently held in the second respondent's trust account to be paid to the applicant, and secondly the refusal of the first respondent's postponement application. In the absence of any substantive legal of factual challenge from the first respondent's side, the Court was compelled to decide the matter on the papers and arguments as presented by the applicant.

The Parties and the Factual Background:

[10] The applicant is the SRE Rentals (Pty) Ltd a private company incorporated and registered in terms of the company laws of the Republic of South Africa. *("the purchaser").*

[11] The first respondent is Old iStudy4 (Pty) Ltd a private company incorporated and registered in terms of the company laws of the Republic of South Africa. *("the seller").*

[12] The second respondent is Cuzen Randeree Dyasi Inc Attorneys, t/a Cuzen Randeree Attorneys, Notaries and Conveyancers a law firm practising as such, under the provisions of the Legal Practice Act, of 2014 as amended with registered address at Costwold Building, First Floor Greenacres Office Park, corner of Berry Hertzog and Victoria Road in Randburg*. ("the conveyancers").*

[13] The third respondent is Broll Auction and Sales (Pty) Ltd is a private company incorporated and registered as such in terms of the Company Laws of the Republic of South Africa and has its registered address at 61 Katherine Street, Sandton Johannesburg, Gauteng. The third respondent is cited as an interested party against the whom no relief is sought, save in the event of opposition. *("the auctioneers").*

[14] The fourth respondent is Riaz Badat an adult male person conducting business at R82 De Deur Johannesburg, Gauteng. The fourth respondent is cited an interest party and against whom no relief is sought, save in the event of opposition in which event costs of this application is sought on Scale C.

The following chronology, distilled from the affidavits and documents filed by the execution creditor, is largely undisputed and forms the factual matrix of this dispute:

Summary of the Main Application:

[15] The applicant *("the purchaser")* and the first respondent *("seller")* concluded a written sale agreement, subsequently amended by an addendum, for the purchase of immovable property in Vereeniging for the total purchase price of R 11 850.000.00.

[16] The purchase price was paid in full by the applicant and was held in second respondent's trust account, the conveyancing attorneys appointed in terms of the sale agreement. The second respondent confirmed that it holds the purchase price in a section 86 investment account. The second respondent requested a joint

instruction from the purchaser and the seller to release the purchase price and accrued interest, failing which the second respondent, will continue to hold the funds in trust to safeguard both parties rights and interest and it will continue to do so until a Court orders the second respondent to release the funds to a particular party.

[17] The first respondent breached the sale agreement by failing to obtain the rates; clearance certificate a prerequisite to pass transfer of the property into applicant's name despite repeated demands and notices of breach.

[18] The letters dated 22 August 2024; 11 March 2025; and 25 June 2025, the applicant lawfully cancelled the sale agreement due to the first respondent's material breach. In the alternative, the first respondent repudiated the sale agreement, which repudiation has been accepted by the applicant. The cancelation was communicated to all relevant parties.

[19] On 11 July 2025, the applicant launched the main application. The main application sought an order directing the second respondent to repay the purchase price held in second respondent's trust account to the applicant.

[20] The application was duly served upon all the respondents. The first respondent filed its notice of intention to oppose the main application, which was served upon the applicant's attorneys on 14 August 2025 by email. It must be pointed out that it was agreed between parties to exchange pleadings by email. The second respondent did not oppose the main application. The third respondent filed a notice to abide. The fourth respondent did not oppose the main application. Critically, the first respondent

failed to deliver an answering affidavit to the main application despite having more than five months to do so.

[21] The main application was enrolled by the applicant's attorneys for hearing on 29 January 2026 on the unopposed motion Court roll. The notice of set down was served on the on all the respondents by email. Mr. Uwais Essop an adult male person currently in the employ of applicant's attorneys filed a service affidavit and confirmed a copy of the notice of set was served upon the respondents.

Legal Principles Governing Postponements:

[22] An application for a postponement is not a matter of right, but an indulgence granted at the discretion of the Court. The party seeking a postponement must show good cause. The Court considers factors including (i) whether the application was made timeously; (ii) whether the explanation for the postponement is full and satisfactory; (iii) the prospects of success in the main matter; (iv) prejudice to the parties; and (v) the broader interest of justice. A party seeking an indulgence from the Court must comply with the procedural requirements. The first respondent's failure to file complete papers meant its own application was not properly before Court.

[23] The postponement application was brought at the proverbial eleventh hour, a day before the hearing of the main application, despite the first respondent having been aware of the set down since 13 January 2026. The first respondent's explanation is that it was awaiting the outcome of a business rescue application filed on 23 December 2025. The business rescue application post- dated the main application's

set down by several weeks. The first respondent could have taken steps much earlier to either file its opposition or apply for a postponement.

The Prospects of Success: The section 133 Moratorium Argument:

[24] The first respondent's primary argument was that the business rescue application triggered a moratorium under section 133 of the Companies Act, which prohibits legal proceedings against a company in relation to any property belonging to the company, or lawfully in its possession.

[25] This argument was fundamentally misconceived and lacked any prospects of success for the following reasons, as cogently argued by Mr. Karolia, counsel who appeared for the applicant. The sale agreement had been lawfully cancelled due to the first respondent's breach. Upon cancellation, the first respondents right to the purchase price held in the second respondent trust account ended. The funds in the second respondent's trust account were not the property "*belonging to" or "lawfully in the possession of"* the first respondent. The second respondent *("the conveyancers")* hold such funds in a fiduciary capacity, akin to trustee, for the party ultimately entitled to them. Following the cancellation, the entitlement reverted to the applicant. The first respondent's postponements application conspicuously failed to engage with the fact of cancellation, a fatal omission that undermined the first respondent entire case.

The Prospects of success: The alleged Incompetency of Relief:

[26] The first respondent's secondary argument is that a claim for payment must lie against the principal debtor (first respondent) and not its agent (second respondent) ignored the practical reality and the nature of the relief sought.

[27] The applicant was not seeking to *"attach"* property of the first respondent. It is seeking the return of its own money currently held in the second respondent's trust account, whose mandate to retain those funds had terminated with the cancellation of the underlying sale agreement. An order directing the stakeholder to release the funds is a competent and common form of relief in such circumstances, especially where, as in this matter the stakeholder (second respondent) had expressly indicated that it requires a Court to order the releasee of the funds.

The Prejudice and the interest of Justice:

[28] The granting of a postponement would have caused significant prejudice to the applicant, who had been out of substantial sum of money for years due to the first respondent's breach and who had not followed due process throughout.

[29] The funds remain secure in the second respondent's trust account. The first respondent would suffer no prejudice from the refusal of postponement, as it failed to advance any substantive opposition to the main application despite ample opportunity.

[30] The interest of justice and the efficient administration of the Court system militated against granting an indulgence to a party who had been dilatory, filed its application at the last minute, and failed to comply with basis procedural requirements.

[31] A critical factor in the decision was the first respondent's failure to file an answering affidavit in the main application. A party cannot, in good faith, seek to move a matter to the opposed motion Court roll when it has filled no papers in opposition. The first respondent counsel attempt to do so, was an abuse of Court process. The first respondent had since August 2025 to explain its breach of the contract or why the cancellation was invalid. The first respondent's silence on the merits of the main application, while seeking an indefinite delay, weighed heavily against granting the indulgence.

Conclusion on the Postponement and Merits of the Main Application:

[32] The points raised by counsel for the first respondent were unmeritorious and appeared dilatory. The main application was properly enrolled for hearing in the unopposed motion Court roll. Mr. Muller's failure to file heads of arguments on merits in his own postponement application, despite the Practice Directives, left the Court with no substantive counter argument to consider. A Court cannot countenance a strategy of avoiding merits hearing by raising weak procedural points at the eleventh hour.

[33] On undisputed facts presented by the applicant, which the first respondent choose not contests the applicant provided its facts. The first respondent failed to establish any grounds for the indulgence of a postponement. Its application was late, its explanation unsatisfactory, and its prospects of success on the purported defences were nil.

[34] On the merits of the main application, which was unopposed on the papers, the applicant presented a clear, cogent, and undisputed case. It demonstrated that a valid agreement; full compliance with its obligations; A material breach by the first respondent; a lawful cancellation of the sale agreement and a consequent entitlement to the return of the purchase price held in the second respondent trust account. No defence having been raised in the main application, and the papers establishing the applicant's clear right to the relief sought.

Conclusion:

[35] The awarding of costs on a punitive scale was justified by the first respondent's conduct throughout, the original breach that caused the dispute, the respondent's failure to oppose the main application timeously, the launch of a last minute postponement application on unmeritorious grounds, and the failure to comply with procedural rules. This conduct unnecessarily increased the applicant's legal costs.

Order:

[36] Accordingly, I made the following order:

1. The second respondent shall pay to the applicant an amount of R 11 580.000.00 within three days of service of this Order upon the second respondent.

2. Payment in terms of Order 1 above shall be made into the following bank account:

Account Name:	A[…] M[…] A[…] T[…] A[…]
Bank:	F[…] N[…] B[…]
Account Number:	6[…]
Brach Code:	2[…]

Ref: CSR/LI/089

3. The first respondent shall pay the costs of this application on an attorney and client scale.

KHABA AJ

ACTING JUDGE OF THE HIGH COURT

GAUTENG DIVISION, JOHANNESBURG

Delivered: The written reasons for the order granted on 29 January 2026 were delivered in this matter on 12 February 2026, are digitally delivered by circulation to the parties' representatives by email and by uploading them to the electronic file of this matter on CaseLines. The date of the delivery of the written reasons is deemed to be 12 February 2026.

Counsel for the Applicant:	Adv. M Karolia
Instructed by:	ARM Inc Attorneys
Tel:	011 025 1473
Email:	zaeem@armalw.co.za
Counsel for the First Respondent:	Adv. E Muller
Instructed by:	Mooney Ford Attorneys
Tel:	031 304 9881

Email:	sarahr@mfp.co.za

Date of hearing:	29 January 2026
Date of order:	29 January 2026
Date of request for reasons:	30 January 2026
Date of reasons:	12 February 2026