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

CASE NO: 241863/25

1. REPORTABLE: NO
2. OF INTEREST TO OTHER JUDGES: YES/NO
3. REVISED: YES/NO

DATE 23 FEBRUARY 2026

SIGNATURE

In the matter between:

M[...]: S[...]

Applicant

and

M[...]: N[...] R[...]

First Respondent

FIRST NATIONAL BANK

Second respondent

ABSA BANK LIMITED

Third respondent

NEDBANK LIMITED

Fourth respondent

TYME BANK

Fifth respondent

Delivered: this judgment was prepared and authored by the judge whose name is reflected and is handed down electronically and by circulation to the parties/their legal representatives by email and by uploading it to the electronic file of his matter on Caselines. The date for handing down is deemed to be 23 FEBRUARY 2026.

JUDGMENT

NDLOKOVANE AJ

Introduction

[1] This is an opposed urgent application brought in terms of Rule 6(12) of the Uniform Rules of Court. The applicant seeks, inter alia:

- (a) Condonation for non-compliance with the rules relating to form, service, and time periods, and that the matter be enrolled and heard as one of urgency;
- (b) An interdict safeguarding the joint estate of the applicant and the first respondent pending finalisation of the divorce action;
- (c) An order directing the second to seventh respondents to freeze the first respondent's bank accounts;
- (d) Alternatively, an order directing the second to seventh respondents to pay 50% of the first respondent's pension interest, allegedly held in her bank accounts, into the trust account of Mashitisho Attorneys Inc, to be held pending finalisation of the divorce action; and
- (e) Costs on an attorney-and-client scale in the event of opposition.

[2] When the matter was called, argument was confined to the issue of urgency. I reserved judgment to determine whether the matter warranted enrolment on the urgent roll and indicated that, depending on that finding, I would consider the merits if necessary.

[3] The notice of motion is dated 9 February 2026. The founding affidavit was commissioned on the same day.

[4] The applicant required the respondents to file a notice of intention to oppose by 10 February 2026 and an answering affidavit by 13 February 2026. The applicant indicated an intention to file a replying affidavit by 16 February 2026. The matter was set down for hearing on 17 February 2026 at 10h00.

[5] The papers reflect that the application was electronically served on the first respondent on 10 February 2026 at 13h56.

[6] The first respondent's notice of intention to oppose was delivered electronically on 11 February 2026. The answering affidavit was commissioned on 12 February 2026, delivered by email, and uploaded to CaseLines on the same day. There was no opposition from the remaining respondents. The applicant's replying affidavit was delivered electronically on 13 February 2026.

Urgency

[7] It is common cause that the matter was launched on an extremely truncated timeframe. Counsel for the applicant properly conceded that the papers do not provide a satisfactory explanation for this. He further conceded that the matter was brought on an exceptionally urgent basis.

[8] On urgency, Uniform Rule 6(12) permits a court to dispense with the forms and service provided for in the Rules and to dispose of a matter at such time and in such manner as it deems fit. An applicant must, however, explicitly set out the circumstances rendering the matter urgent and the reasons why substantial redress cannot be obtained at a hearing in due course.

[9] The applicable test is well established: whether the applicant will be afforded substantial redress in due course if the matter is not heard urgently.

[10] It is equally trite that self-created urgency will not suffice. Where an applicant delays in bringing proceedings, such delay must be satisfactorily explained.

[11] In *East Rock Trading 7 (Pty) Ltd v Eagle Valley Granite (Pty) Ltd*,¹ the Court emphasised that the critical enquiry is whether substantial redress will be available in due course. A mere desire for expeditious relief does not render a matter urgent. It was held that urgency is determined contextually and on a case-by-case basis.

[12] The Consolidated Practice Directive 1 of 2023: Court Operations in the Gauteng Division, effective from 1 October 2023, provides the following in respect of urgent family law cases:

“An urgent family law case is one where a cogent case can be made out that the relief is required before the prescribed procedure has run its course. Such matters may be set down before noon on a Thursday for the following Tuesday, in accordance with standard urgent motion court practice. All other standard factors pertinent to urgent matters shall continue to apply.”

I hasten to mention that in the present matter, as demonstrated above, this was not the case.

[13] A brief factual basis advanced for urgency in the papers is that the parties are married in a community of property, and divorce proceedings are pending. The applicant contends that, during the subsistence of the marriage and the divorce proceedings, the first respondent withdrew her pension fund benefits and dealt with the proceeds unilaterally, allegedly to the prejudice of the joint estate.

¹*East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others*, unreported judgment of the Gauteng Division of High Court, Johannesburg, Case No 11/33767 (23 September 2011).

[14] The applicant avers that on or about 28 January 2026, the respondent's attorneys demanded spousal and child maintenance *pendente lite*. He contends that shortly thereafter, on 3 February 2026, he became aware that the respondent had withdrawn her pension benefits and was utilising the proceeds not for the benefit of the joint estate.

[15] Correspondence was addressed to the respondent, demanding that she desist from dissipating the pension proceeds and provide full financial disclosure. The applicant states that no satisfactory undertaking was forthcoming, hence, the present urgent application.

[16] The respondent contends that the alleged urgency is self-created. It is submitted that the applicant was aware as early as September 2025 of the respondent's resignation and the likelihood that pension benefits would become payable.

[17] The respondent further contends that the applicant has alternative remedies available within the divorce action, including appropriate interlocutory relief, and that no case has been made out demonstrating that substantial redress cannot be obtained in due course. Even though the respondent raised points *in limine*, some were forgone, and only the lack of urgency was pursued. This judgment is accordingly confined to that issue.

Conclusion

[18] On a proper reading of the founding affidavit, the gravamen of the complaint is the alleged dissipation of pension proceeds forming part of the joint estate. While potentially serious, that complaint does not in itself establish that substantial redress cannot be obtained in due course.

[19] The applicant does not allege that the funds are about to be irretrievably transferred beyond the jurisdiction of this Court, nor that they will be rendered untraceable. The relief sought is essentially preservatory in nature and concerns patrimonial consequences which may be addressed within the pending divorce proceedings.

[20] Moreover, the applicant was aware of the respondent's resignation several months prior to launching this application. No satisfactory explanation is provided for the delay between acquiring that knowledge and the institution of these urgent proceedings.

[21] In matrimonial disputes concerning joint estates, courts are slow to permit truncated procedures absent compelling evidence of imminent and irreparable harm. On the facts before me, such compelling circumstances have not been demonstrated.

[22] I am accordingly not persuaded that the applicant will be deprived of substantial redress if the matter proceeds in the ordinary course.

Costs

[23] Given the matrimonial context and the ongoing divorce proceedings, I consider it appropriate that each party bears their own costs.

Order

[24] As a result, the following order is made:

1. The application is struck from the roll for lack of urgency.
2. Each party shall pay their own costs.

**N NDLOKOVANE AJ
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA**

APPEARANCES

FOR THE APPLICANT:

ADV. Z OLIVIER

INSTRUCTED BY:

MASHITISHO ATTORNEYS INC.

FOR THE RESPONDENTS: ADV K KHATLE
INSTRUCTED BY: NHLAPO MOKHOSI INC.ATTORNEYS

HEARD ON: 17 FEBRUARY 2026
DATE OF JUDGMENT: 23 FEBRUARY 2026