

**IN THE HIGH COURT OF SOUTH AFRICA
(MPUMALANGA DIVISION, MBOMBELA MAIN SEAT)**

CASE NUMBER: 3344/2021

(1) REPORTABLE: NO

(2) OF INTEREST TO THE JUDGES: NO

(3) REVISED: YES

DATE: 18/03/2026

SIGNATURE:

In the matter between:

MM STURGESS CC t/a FAIRVIEW GUEST HOUSE

1ST APPLICANT

MARIE MAGDALENA STURGESS

2ND APPLICANT

and

CHARLES ALFRED STURGESS

1ST RESPONDENT

ALAN STURGESS

2ND RESPONDENT

ANELIA STURGESS

3RD RESPONDENT

This Order is made an Order of Court by the Judge whose name is reflected herein, duly stamped by the Registrar of the Court and is submitted electronically to the Parties/their legal representatives by email. This Order is further placed on the Court file of this matter by the Judge or her/his Secretary. The date of this order is deemed to be 18 March 2026.

JUDGMENT

GUMEDE AJ

1. The applicants seek urgent restoration of what they refer to as shared joint possession, including various buildings, outbuildings and domestic quarters on the property known as Farm Roodepoort, Carolina, Mpumalanga, pending the finalisation of the action already instituted under this case number.
2. They also seek that the respondents provide keys to the installed locks of the main entrance gate and any and all doors and/or gates of Fairview Guesthouse situated on the premises as well as an interdict, restraining the respondents or any person or agents on their behalf from interfering with the applicants' possession and/or joint possession, including access to the control of the property until finalisation of the proceedings under this case number.
3. According to the second applicant, she is involved in an acrimonious litigation with the first respondent, for which a trial date is on 24 April 2028. This litigation involves a claim where the second applicant seeks registration of a usufruct and/or servitude over the property of the first respondent, and the first respondent seeks an eviction of the applicants in his counterclaim.

APPLICANT'S OCCUPATION OF THE RESPONDENT'S PROPERTY

4. The second applicant and the first respondent were married to each other out of community of property and without accrual system. During their marriage, the first respondent permitted the second applicant to operate a guesthouse from his premises since the year 2003. This Guesthouse (the first applicant) was formally registered in 2005.
5. The applicant even erected some building structures at these premises using her own finances, with the permission of the first respondent.
6. Although the first respondent instituted divorce proceedings in 2016, the second applicant alleges that the first respondent agreed to allow her to continue to

operate the Guesthouse from his premises until his death,¹ however, the respondent changed his mind in November 2016 and only agreed to permit the Guesthouse to operate for two years.

7. In June 2021, the first respondent instructed his attorneys to launch eviction proceedings against the applicants.

8. The second applicant alleges that in 2021, she had to sell her property in Garsfontein, Pretoria in order to fund the ongoing litigation between them and she moved to the first respondent's premises together with a certain Mr Jacobs appears to be in a romantic relationship with the second applicant.

9. Despite the eviction claim that the first respondent launched against the applicants, they continued to utilise the premises for the operation of the guesthouse. As such, the applicants continued to have undisturbed possession.

10. The second applicant alleges that on about June 2025, she visited Bloemfontein, leaving behind a manager/caretaker to oversee the operations of the first applicant (the guesthouse). She further alleges that there was also a housekeeper who attended to the upkeep and the cleaning of the premises.

11. She says that there were two tenants, renting two rooms in the guesthouse monthly and paying R7500-00 per month.

12. She alleges that on 3 September 2025, the said tenants were locked out of the premises and were met by the second respondent who conveyed the message that the respondents had changed the locks and that the tenants were no longer welcome at the premises. Apparently the second respondent opened the rooms for that night only. The tenants left the next day, upset that they had been displaced.

13. The caretaker and the housekeeper arrived for duty on the following day, 4 September 2025, and found the premises locked. They were met by the first

¹ FA, para 5.12

respondent who ordered them to leave the property and to never return. The caretaker reported this to the applicant at about 10h30 that morning. The second applicant informed her attorney, who in turn telephoned the first respondent's attorney and was allegedly informed that the applicant vacated the premises voluntarily.

14. The applicant says that she had intended to return to the premises in early September, however, after the incident, she was in a state of shock and felt unsafe. She found a temporary accommodation in Bloemfontein and hoped that the lawyers would resolve the matter.

15. She alleges that all her personal belongings are still at the premises.

16. The applicants make these allegations in respect of the factual events that took place at the premises, while the second applicant was away and yet does not attach any confirmatory affidavits from any of the persons mentioned, such as the caretaker, cleaner or the two tenants that she alleges were locked out and displaced by the respondents.

THE RESPONDENTS' CASE

17. The respondents raised a number of points in limine, including that the applicants have no locus standi due to the fact that the first applicant, a close corporation ceased to exist when it was deregistered in January 2024. The second applicant in this matter, acts in her capacity as the sole member of the close corporation. The second applicant does not dispute that the first applicant had been deregistered at the time of launching these proceedings, she merely states that she is in the process of reinstating it.

18. The respondents also point out that there are disputes of fact in that the applicant moved out of the premises on her own volition and took with her most of her possessions, including furniture and livestock.

19. I make no findings on these points in limine as the matter is decided on the question of urgency.

URGENCY

20. In their answering affidavit, the respondents furnished copies of correspondence between the attorneys of the parties where the first respondent made it clear that he refused to restore the premises to the applicants as according to him, the applicants had vacated the premises of their own volition. This was communicated to the applicants on 17 October 2025. Notwithstanding that clear message, the applicants waited until 24 November to serve an urgent application in respect of a spoliation which allegedly took place on 2 September 2025. There is no sound reason indicated in the papers to justify this delay.

21. In the premises, I find that this matter is not urgent and make the following order:

1. The matter is struck off the roll for lack of urgency.
2. The applicants are ordered to pay the costs on party and party scale A.

Zodwa Gumede
Acting Judge of the High Court

APPEARANCES

For the applicants	Mr JT Lindhout, Briefed by Michael Erasmus Attorneys, Pretoria
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For the respondents	Mr MJ Kleyn Briefed by Cavanagh and Richards Attorneys, Emalahleni
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Heard on	9 December 2025
Judgment	18 March 2026

**IN THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION MBOMBELA (MAIN SEAT)**

CASE NO: 3344/2021

**BEFORE THE HONOURABLE JUSTICE: GUMEDE AJ
DATE: 18 MARCH 2026**

In the matter between:

MM STURGESS CC t/a FAIRVIEW GUEST HOUSE 1ST APPLICANT

MARIE MAGDELENA STURGESS 2ND APPLICANT

and

CHARLES ALFRED STURGESS 1ST RESPONDENT

ALAN STURGESS 2ND RESPONDENT

ANELIA STURGESS 3RD RESPONDENT

COURT ORDER

The Judge heard the matter on 09 December 2025 and electronically circulated the judgment on 18 March 2026 and gave an order in paragraph “21” as follows:

1. The matter is struck off the roll for lack of urgency.
2. The Applicants are ordered to pay the costs on party and party scale A.

BY ORDER OF THE COURT

REGISTRAR