

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

CASE NO: 2024/001744

1. REPORTABLE: NO

2. OF INTEREST TO OTHER JUDGES: NO

3. REVISED: NO

DATE: 06 March 2026

In the matter between:

J[...] E[...] P[...]

First Applicant

(Identity number: 9[...])

I[...] P[...] S[...]1 (PTY) LTD

Second Applicant

(Registration number: 2018/494957/07)

J[...] E[...] P[...] N.O.

Third Applicant

(Identity number: 9[...])

NICHOLLE SAMANTHA ADAMS N.O

Fourth Applicant

(Identity number: 9[...])

I[...] P[...] S[...]2 (PTY) LTD

Fifth Applicant

(Registration number: 2015/000165/07)

and

L[...] B[...] P[...]

First Respondent

(Identity number: 9[...])

ABSA BANK

Second Respondent

FIRST NATIONAL BANK

Third 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 this matter on Caselines. The date for handing down is deemed to be 06 March 2026

JUDGMENT

NDLOKOVANE AJ

INTRODUCTION

[1] This is an urgent application brought in terms of Rule 6(12) of the Uniform Rules of Court. The Applicants seek condonation for their non-compliance with the prescribed forms, service, and time periods provided for in the Uniform Rules, and request that the matter be heard as one of urgency.

[2] The Applicants further seek an order setting aside subpoenas issued under case number 2024-001744 by and/or on behalf of the First Respondent against the Second Respondent, ABSA Bank Ltd, and the Third Respondent, First National Bank Ltd.

[3] In addition, the Applicants seek a costs order against the First Respondent, alternatively, in the event of opposition, against such Respondent or Respondents who oppose the application, together with further and/or alternative relief.

PROCEDURAL HISTORY

[4] The Notice of Motion dated 13 February 2026 stipulated that any respondent intending to oppose the urgent application was required to deliver written notice of such intention by 10h00 on Monday, 16 February 2026, and to file an answering affidavit by 17h00 on Wednesday, 18 February 2026.

[5] The First Respondent duly delivered a Notice of Intention to Oppose electronically on 16 February 2026 at 08h59 and filed its answering affidavit on 18 February 2026. The Applicants thereafter filed a replying affidavit by electronic service in terms of Rule 4A(1)(c) of the Uniform Rules of Court on 19 February 2026. On the same date, the Applicants filed their practice note and subsequently delivered their heads of argument

on 23 February 2026.

The matter was set down for hearing on 24 February 2026. On 24 February 2026 the First Respondent filed a practice note. The application was opposed only by the First Respondent.

[6] It is necessary to mention that on 20 February 2026, the Applicants filed a further notice of motion seeking leave for the First Respondent to file a supplementary answering affidavit addressing new matter raised in the replying affidavit. At the hearing of the matter, I rejected this application for lack of merit. The Applicants then proceeded on the basis of the original notice of motion and requested that the parties limit their submissions to the issue of urgency only.

[7] The main divorce action between the parties was set down for hearing on 2 March 2026.

[8] The urgent application arises from subpoenas issued by the First Respondent to Absa Bank Ltd and First National Bank Ltd requiring the production of bank statements for the period 2020 to 2025 in respect of accounts held by the First to Fifth Applicants. These include the deponent's personal bank accounts, as well as the bank accounts of the Second and Fifth Applicants and the P[...] G[...] Trust.

PARTIES

[9] The deponent, Mr J[...] P[...] brings this application in his personal capacity and on behalf of the Second Applicant, the P[...] G[...] Trust, and the Fifth Applicant.

He states that he is duly authorised to do so. In this regard, resolutions and confirmatory affidavits in respect of the Fifth Applicant and the P[...] G[...] Trust are attached to the founding affidavit as Annexures "FA1.1" to "FA1.3". He further states that she acts in several capacities, namely in his personal capacity, as the sole director of the Second Defendant, as one of two trustees of the P[...] G[...] Trust, and as one of two directors of the Fifth Applicant.

[10] He states that he has been a non-executive director of the Fifth Applicant since July 2022 and that he holds no shares in, nor any financial interest in, the Fifth Applicant. The only other director of the Fifth Applicant is his mother, Ms R[...] P[...] , who holds one hundred percent of the shares in the company, as confirmed in a confirmatory affidavit.

[11] The First Respondent is L[...] B[...] P[...], an adult female auditor.

[12] The Second Respondent is Absa Bank Ltd, a bank duly registered in terms of the company laws of the Republic of South Africa.

[13] The Third Respondent is First National Bank Ltd, likewise a bank duly registered in terms of the company laws of the Republic of South Africa.

BACKGROUND FACTS

[14] The first Applicant and the First Respondent were married on 30 April 2023 out of community of property, with the express exclusion of the accrual system in terms of the Matrimonial Property Act 88 of 1984. The marriage subsists. The relationship between the parties has, however, broken down irretrievably and he instituted divorce proceedings against the First Respondent in December 2023. The parties resided together for approximately four months and have been separated since August 2023. The First Respondent entered an appearance to defend and filed a plea and counterclaim in February 2024.

[15] In the divorce action, the First Respondent seeks a declaratory order that a verbal or tacit commercial partnership existed between the parties from 2020 to 2023, together with an order for the dissolution of such partnership and the appointment of a liquidator. In the alternative, the First Respondent seeks a redistribution order in terms of section 7(3) of the Divorce Act 70 of 1979.

[16] A careful consideration of the founding papers indicates that the alleged urgency arises from the Second and Third Respondents' obligation to comply with subpoenas issued by the First Respondent requiring the production of the aforementioned bank statements on or before 24 February 2026. During the hearing of the matter, Ms Van der Westhuizen, who appeared on behalf of the First Respondent, confirmed that some of documents had already been accessed by her client at the time the matter was argued, notwithstanding the service of the urgent proceedings.

[17] The Applicants contend that the documents requested are irrelevant to the First Respondent's claim in the divorce action. They further submit that some of the documents relate to entities that have no direct interest in the divorce proceedings,

including the P[...] G[...] Trust. It is also contended that the bank statements contain private and confidential information, including transactions relating to clients and service providers. According to the First Applicant, only First National Bank Ltd has disclosed the documents, while Absa Bank Ltd has not. The Applicants submit that if the documents are disclosed, they will not obtain substantial redress in due course.

They accordingly seek an order directing that such bank statements be returned or destroyed pending judicial determination of the First Respondent's entitlement to them.

[18] The First Respondent disputes that the application is urgent and contends that it constitutes a tactical attempt to avoid proper financial disclosure in the pending divorce proceedings. It is further submitted on behalf of the first respondent that the practice directives of this Division oblige parties to pending divorce proceedings to disclose their financial and business interests. Ms Van der Westhuizen on behalf of the First Respondent relied on the reportable decision of the Supreme Court of Appeal in ***Caxton and CTP Publishers and Printers v Novus Holding Limited***¹ in which it was held that claims of confidentiality do not override a party's duty to discover documents that may be relevant to the issues in dispute.

[19] This submission was strongly contested by the Applicants, who argued that the judgment relied upon is distinct from the facts of the present case and does not support the proposition advanced. According to the Applicants, where confidentiality is claimed, the appropriate mechanism would be to regulate the disclosure of documents through measures such as a non-disclosure agreement.

The First Respondent accordingly submitted that the matter should be struck from the roll for lack of urgency and that a punitive costs order should be granted against the Applicants, alternatively that costs should be awarded on a party-and-party scale. The Applicants, on the other hand, submitted that costs should follow the result.

LEGAL FRAMEWORK

[20] Rule 6(12) of the Uniform Rules of Court permits a court to dispense with the forms and service provided for in the Rules and to dispose of a matter as one of urgency where circumstances justify such intervention. An applicant relying on the rule must explicitly set out the circumstances which render the matter urgent and the

¹ 2022 2 ALL SA 299(SCA)(9 March 2022)

reasons why substantial redress cannot be obtained in due course.

[21] It is well established that urgency must not be self-created and that the procedure provided for in Rule 6(12) is intended for cases where immediate intervention by the court is necessary to prevent irreparable harm or prejudice which cannot be remedied in the ordinary course of litigation.

[22] In the present matter, the Applicants contend that urgency arises from the disclosure of confidential financial information contained in the bank statements sought in terms of the subpoenas issued by the First Respondent.

[23] Of significance, however, is the fact that during the hearing counsel for the First Respondent confirmed that the documents sought in terms of the subpoenas had already been accessed by the First Respondent by the time the matter was argued. The principal relief sought by the Applicants was therefore directed at preventing disclosure of the documents.

[24] Once the documents even though not all had already been accessed, the event sought to be prevented had effectively occurred. The question of the admissibility, relevance, or use of those documents in the divorce proceedings remains a matter capable of determination by the trial court in the ordinary course.

[25] Issues relating to discovery, confidentiality, and the relevance of financial information are ordinarily regulated by the Uniform Rules of Court and may properly be addressed during the pre-trial and trial stages of the divorce proceedings. The Applicants have not demonstrated that those mechanisms would be inadequate to afford them substantial redress in due course.

CONCLUSION

[26] In the circumstances, the Applicants have failed to establish that the matter warrants the extraordinary intervention of this Court on an urgent basis. The requirements for urgency in terms of Rule 6(12) have therefore not been satisfied.

[27] The appropriate order is that the application be struck from the roll for lack of urgency. There is no reason to depart from the ordinary principle that costs should follow the result.

ORDER

[28] The following order is made.

[28.1] The application is struck from the roll for lack of urgency.

[28.2] The Applicants are ordered to pay the costs of the application.

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

APPEARANCES

FOR THE APPLICANT:	ADV. De Lange
FOR THE RESPONDENTS:	ADV Van der Westhuisen
HEARD ON:	24 FEBRUARY 2026
DATE OF JUDGMENT:	06 MARCH 2026