**IN THE HIGH COURT OF SOUTH AFRICA**

**GAUTENG DIVISION, PRETORIA**

**CASE NO: 2025-121790**

| DELETE WHICHEVER IS NOT APPLICABLE | |
|---|---|
| (1) | REPORTABLE: ***NO*** |
| (2) | OF INTEREST TO OTHER JUDGES: ***NO*** |
| (3) | REVISED. |
| (4) | Date: 07 April 2025 |
| Signature: _[redacted] | |

In the matter between:

| | |
|---|---|
| **ASA (PTY) LTD** | First Applicant |
| **ASA SA (PTY) LTD** | Second Applicant |
| And | |
| **SANLAM SPECIALISED ASSET MANAGEMENT (PTY) LTD** | First Respondent |
| **THE SHERIFF OF THE HIGH COURT** | Second Respondent |
| **FEELER AFRICA (PTY) LTD** | Third Respondent |
| **FEELER IMPLEMENTS (PTY) LTD** | Fourth Respondent |

*In re: the matter between:*

**SANLAM SPECIALISED ASSET MANAGEMENT (PTY) LTD** Applicant

And

**FEELER AFRICA (PTY) LTD** First Respondent

**FEELER IMPLEMENTS (PTY) LTD** Second Respondent

---

**JUDGMENT**

---

**NYATHI J**

**A. Introduction**

[1] This is an application brought by ASA (Pty) Ltd and ASA SA (Pty) Ltd ("ASA") in terms of Uniform Rule 6(8) seeking the anticipatory reconsideration of a rule *nisi* ("the Perfection Order") granted *ex parte* in favour of Sanlam Specialised Asset Management (Pty) Ltd ("Sanlam") on 29 July 2025. The order authorised Sanlam to take possession of all movable property of the Feeler companies pursuant to the perfection of a general notarial bond.

[2] When the Sheriff executed the Perfection Order at 38 Rokewood Street, Pomona on 14 August 2025, he seized not only property of the Feeler entities but also 14 pieces of heavy machinery and implements belonging to ASA ("the subject assets"). ASA alleges ownership of these assets and seeks their release from attachment.

[3] Sanlam resists the application on three bases:

(a) ASA lacks standing under Rule 6(8);

(b) the matter is not urgent; and

(c) the dispute regarding ownership cannot be determined on affidavit and must be referred to oral evidence.

[4] Having considered the papers, the authorities and the arguments advanced, I conclude that:

(1) The matter is urgent;

(2) ASA validly invoked Rule 6(8);

(3) ASA has established ownership of the subject assets;

(4) Sanlam has placed no real, genuine or bona fide dispute of fact before this Court; and

(5) The assets must be released, with punitive costs.

**Standing under Rule 6(8)**

[5] Rule 6(8) permits **any person adversely affected** by an order granted *ex parte* to anticipate the return day on shortened notice. The wording is deliberate: it is not limited to “respondents” or “parties” but extends broadly to any person whose rights are affected.

[6] The Perfection Order itself amplifies this. Paragraph 2 expressly calls upon **“the respondents and all interested persons”** to appear on the return day to show cause why the rule should not be confirmed. ASA, being the owner of the seized assets, plainly falls within the category of “interested persons”.

[7] Sanlam’s reliance on paragraph 3.2 of the order, which grants “the respondents” the right to anticipate the return day on 48 hours’ notice, ignores the interpretive principle that provisions must be read contextually, not pedantically (*Endumeni*).[1] The only coherent reading is that all persons who may appear on the return day may also anticipate it.

[8] ASA was not cited in the *ex parte* Perfection Application; yet the order’s execution immediately and materially affected its proprietary rights. ASA therefore falls squarely within the protective purpose of Rule 6(8).

[9] The challenge to ASA’s standing is without merit.

**Urgency**

[10] The matter is intrinsically urgent. An order was granted *ex parte* that resulted in ASA’s property being seized without it being heard. Urgency flows not from ASA’s commercial interests alone, but from the constitutional imperative of audi alteram partem[2] when rights are curtailed without prior notice.

[11] Even if this were not so, ASA has demonstrated substantive commercial urgency. The subject assets had been pre-sold under binding purchase orders, and certain items were required for the imminent NAMPO agricultural exhibition.

[1] Natal Joint Municipal Pension Fund v Endumeni Municipality 2012 (4) SA 593 (SCA)
[2] Section 34 of the Constitution guarantees the right to a fair public hearing before a court or independent tribunal.

ASA faced concrete and irreversible commercial prejudice if the equipment were not immediately released.

[12] Sanlam offers no alternative mechanism to address this prejudice and relies instead on technical challenges to timeliness. These arguments fail. ASA acted promptly: it asserted ownership at the time of execution, issued a demand on 18 August, furnished full documentation on 21 August, and launched this Rule 6(8) application on 22 August.

[13] The matter is accordingly properly enrolled and urgent.

**Ownership and the alleged dispute of fact**

[14] ASA provides documentary proof that it:

a. purchased the machinery directly from a Chinese manufacturer;

b. paid for and imported the goods;

c. holds the bills of lading;

d. cleared the goods through customs; and

e. delivered them to the Pomona premises for assembly.

[15] Sanlam offers no competing facts. It does not allege that the Feeler companies purchased the goods, nor has Feeler itself come forward to dispute ASA's ownership.

[16] Instead, Sanlam argues that the mere presence of Feeler-branded equipment at Feeler's premises suggests a suspicious "arrangement" needing oral evidence. This speculation is insufficient. As *Wevell Trust*[3] and *Room Hire*[4] teach, a referral to oral evidence requires:

i. identification of the **specific** evidence sought;

ii. reasons why such evidence cannot be presented on affidavit; and

iii. reasonable grounds to believe such evidence will establish a defence.

[17] Sanlam satisfies none of these requirements. It does not identify even a single factual issue which, if tested or clarified, could undermine ASA's ownership. Its suggestion of "suspicion" is atmospheric, not evidentiary.

[18] The dispute of fact is therefore not real, genuine or bona fide, and the Court may proceed to determine ownership on affidavit.

[19] ASA has discharged its evidentiary burden. Sanlam, who bore the ultimate onus of justifying the lawfulness of its attachment, has failed to show any link between the subject assets and the Feeler companies.

[20] Ownership of the subject assets vests in ASA.

---

[3] Minister of Land Affairs and Agriculture v D & F Wevell Trust 2008 (2) SA 184 at 205B – C

[4] Room Hire Co (Pty) Ltd v Jeppe Street Mansions (Pty) Ltd 1949 (3) SA 1155 (T).

## Sanlam's conduct and punitive costs

[21] Sanlam persisted in withholding property that did not belong to the Feeler companies, after having been shown documentary proof of ownership on 14 and 21 August 2025.

[22] This refusal was not merely negligent; it constituted an illegitimate use of state power (via attachment) to achieve an ulterior financial advantage in circumstances where Sanlam had no claim to the goods.

[23] Such conduct warrants the Court's censure. A punitive costs order is appropriate to mark the Court's disapproval and to indemnify ASA for being compelled to litigate urgently to protect its property.

## Conclusion

[24] ASA has established:

i. standing under Rule 6(8);

ii. urgency;

iii. clear ownership of the subject assets; and

iv. that Sanlam's continued attachment of its property is unlawful.

[25] Sanlam has failed to present a genuine dispute of fact or grounds for referral to oral evidence, and its opposition to the application was unreasonable.

**Order**

[26] In the premises, the following order is made:

1. The application is heard as one of urgency in terms of Rule 6(12).
2. ASA's invocation of Rule 6(8) is upheld.
3. The subject assets identified in ASA's Rule 6(8) notice are declared to be the property of ASA (Pty) Ltd and ASA SA (Pty) Ltd.
4. The attachment of the subject assets pursuant to the Perfection Order is set aside.
5. The Sheriff and/or Sanlam shall forthwith release the subject assets to ASA.
6. The First Respondent, Sanlam, shall pay the costs of the application on the attorney-and-client scale, including the costs of counsel.

[redacted]

J.S. NYATHI
Judge of the High Court
Gauteng Division, Pretoria

Date of hearing: 03 September 2025
Date of Judgment: 07 April 2026

Appearances: On behalf of the Applicant: Adv. D.J. Vetten
On behalf of the 1st Respondent: Adv. C.J. Quinn

**Delivery**: This judgment was handed down electronically by circulation to the parties' legal representatives by email and uploaded on the CaseLines electronic platform. The date for hand-down is deemed to be 07 April 2026.