



**IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN**

JUDGMENT

Case Number: 2025-016193

2025-072494

2025-071795

In the application for intervention of:

Case Number: 2025 – 156411

ECONOMIC FREEDOM FIGHTERS

Intervening party

And

AFRIFORUM NPC

First Respondent

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Second Respondent

MINISTER OF PUBLIC WORKS & INFRASTRUCTURE

Third Respondent

SPEAKER OF THE NATIONAL ASSEMBLY

Fourth Respondent

CHAIRPERSON OF THE NATIONAL LEGISLATURE

Fifth Respondent

In re matter between:

Case Number: 2025 – 072494

AFRIFORUM NPC

And

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

First Respondent

MINISTER OF PUBLIC WORKS AND INFRASTRUCTURE

Second Respondent

SPEAKER OF THE NATIONAL ASSEMBLY

Third Respondent

CHAIRPERSON OF THE NATIONAL LEGISLATURE

Fourth Respondent

In the application for Intervention of:

Case Number: 2025 – 071795

ECONOMIC FREEDOM FIGHTERS

Intervening Party

and

VADERLAND STIGTING AND 2 OTHERS

Respondent

In re:

Case Number: 2025-071795

VADERLAND STIGTING

Applicant

And

PRESIDENT OF THE REPUBLIC SOUTH AFRICA

First Respondent

MINISTER OF PUBLIC WORKS AND INFRASTRUCTURE

Second Respondent

In the application for Intervention of:

Case Number: 2025-016193

EMPEROR THEMBU 2ND VOTANI MAJOLA

Intervening Applicant

In re:

Case Number: 2025-016193

DEMOCRATIC ALLIANCE

Applicant

And

MINISTER OF PUBLIC WORKS & INFRASTRUCTURE

First Respondent

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Second Respondent

CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES

Third Respondent

SPEAKER OF THE NATIONAL ASSEMBLY

Fourth Respondent

SPEAKER OF THE LIMPOPO PROVINCIAL LEGISLATURE	Fifth Respondent
SPEAKER OF THE MPUMALANGA PROVINCIAL LEGISLATURE	Sixth Respondent
SPEAKER OF THE GAUTENG PROVINCIAL LEGISLATURE	Seventh Respondent
SPEAKER OF THE NORTH-WEST PROVINCIAL LEGISLATURE	Eight Respondent
SPEAKER OF THE KWAZULU-NATAL PROVINCIAL LEGISLATURE	Ninth Respondent
SPEAKER OF THE FREE STATE PROVINCIAL LEGISLATURE	Tenth Respondent
SPEAKER OF THE EASTERN CAPE PROVINCIAL LEGISLATURE	Eleventh Respondent
SPEAKER OF THE WESTERN CAPE PROVINCIAL LEGISLATURE	Twelfth Respondent
SPEAKER OF THE NORTHERN CAPE PROVINCIAL LEGISLATURE	Thirteenth Respondent

Coram: GOLIATH, DJP

Heard: 02 March 2026

Delivered: 12 May 2026

ORDER

1. The applicant, Emperor Thembu 2nd Votani Majola is admitted as *amicus curiae* in terms of Rule 16A of the Uniform Rules of Court in the matter of Democratic Alliance v Minister of Public Works and Others, Case number 2025-016193.
2. Emperor Thembu 2nd Votani Majola is given leave to file written submissions no later than 15 July 2026 and present oral argument at the hearing of the main matter.

3. There shall be no order as to costs in the intervention application of Emperor Thembu 2nd Votani Majola.
4. The EFF is granted leave to intervene in the application under the case number 2025-156411 and is joined as the sixth respondent in the application.
5. The EFF is granted leave to file an answering affidavit within 15 days from the date of this order to the founding affidavit of AfriForum in the main application and to the founding affidavit of IRR LEGAL NPC, which has been joined as the second applicant in AfriForum's main application.
6. AfriForum and IRR LEGAL NPC shall be entitled to file a replying affidavit to the EFF's answering affidavit.
7. EFF is given leave to file written submissions no later than 15 July 2026 and present oral argument at the hearing of the main matter.
8. There shall be no order as to costs in the intervention application of the EFF.
9. The application to strike out is dismissed with no order as to costs.

JUDGMENT

GOLIATH, DJP

[1] This matter has its genesis in various applications by multiple applicants to be admitted as *amicus curiae* in the matter of **AfriForum NPC v the President of South Africa and 3 Others** in which it challenges the constitutionality of the Expropriation Act, 13 of 2024, together with further and ancillary relief. Similar applications were launched by the Democratic Alliance ("DA") under case number:

2025-016193 and the Vaderland Stigting under case number: 2025-071795. At the hearing of the intervention applications, all applications, save for one were settled by agreement between the parties, and orders were granted admitting the applicants as amici.

[2] Consequently, three issues remained outstanding for adjudication. First, an application to intervene by Emperor Thembu 2nd Votani Majola which was opposed by the DA, and second an application to strike out certain matter contained in the founding affidavit of the Economic Freedom Fighters (“EFF”) application to intervene. The DA submitted that it does not oppose the EFF’s application to intervene in principle but merely disagree with the EFF’s contentions regarding the further conduct of the matter. Furthermore, Liberty Fighters Network had withdrawn its application to intervene, which withdrawal was opposed by the DA in the absence of a tender to pay costs. However, following the filing of written submissions on the issue of costs by Liberty Fighters Network, the DA withdrew its application for a costs order against them.

Application to intervene Emperor Majola

[3] Emperor Thembu 2nd Votani Majola launched an application to intervene in the Expropriation Act constitutional challenge. He is a corporate lawyer and legal practitioner for more than 31 years, currently serving as the Executive Chairman of Thembuland Royal Treasury Holdings Ltd. He contended that he brings this application in his personal capacity in his own interests, on behalf of various land claimants, in the public interests, and on behalf of the Nation of AbaThembu.

[4] Emperor Majola is the Senior King of the AbaThembu Nation emanating from the Senior House of Mvelase. He submitted that the Dalindyebo Family from the Junior House assumed the Kingship of the AbaThembu. He alluded to the fact that the Kingship appointment impacted negatively on the protection of land rights and cultural norms of the AbaThembu Nation.

[5] He provided a detailed history and genealogy of the AbaThembu as a Nation consisting of 36 million people scattered in all nine provinces in South Africa. He emphasized that by virtue of his senior position in AbaThembu he is actively involved in the preservation, promotion and protection of the identity, traditions, culture, customs, norms and values of AbaThembu. He submitted that he is duly mandated to protect the social development, economic interests and land rights of AbaThembu, which includes the return of all ancestral land expropriated from AbaThembu.

[6] He is actively involved in land claims, parliamentary discussions, fundraising, petitions, and policy development on land restitution. He contends that land claimants had been waiting for more than 25 years for land restitution, and delays in the finalisation of the Expropriation Act may delay this process further. He alluded to the fact that the interests of AbaThembu were not adequately protected due to political forces and the destruction of traditional AbaThembu institutions and leadership.

[7] He contends that the relief sought by the DA seeks to have the Expropriation Act nullified, which would create undue hardship for South Africans in general, and AbaThembu in particular. He argued that the argument of the DA is fatally and

legally unsound. He stated that there are alternative mechanisms to deal with the challenges to the Expropriation Act, which is cost effective, expedient and will protect the interests of the land rights of AbaThembu. Emperor Majola therefore claims that he has a direct and substantial interest in this matter insofar as he represents and is mandated to act on behalf of the AbaThembu.

[8] The DA submitted that the applicant does not meet the high threshold set to intervene in the matter. It submitted that Emperor Majola has not laid sufficient basis for the contention that the legal right implicated in the DA's application impacts on the rights of the AbaThembu Nation and his land rights. Furthermore, his founding affidavit does not disclose (a) the land over which he and the AbaThembu have a right and (b) why the DA's application will prejudicially impact those rights to land.

[9] The DA argued that its application does not raise wide-ranging, controversial issues relating to land reform and expropriation, hence the submissions sought to be made by the applicant are not relevant to the DA's challenge, nor will it assist the Court to reach a just outcome. The DA emphasised that there are constitutional and statutory mechanisms available to deal with land restitution issues affecting AbaThembu.

[10] Under Rule 12 of the Uniform Rules of Court,¹ it is well-settled that when a court is called upon to exercise its discretion on whether to grant leave to intervene, the primary consideration is whether the applicant for intervention has a direct and

¹ Rule 12 provides:

"Any person entitled to join as a plaintiff or liable to be joined as a defendant in any action may, on notice to all parties, at any stage of the proceedings apply for leave to intervene as a plaintiff or defendant. The court may upon such application make such order, including any order as to costs, and give such directions as to further procedure in the action as to it may seem meet."

substantial interest in the subject matter of the litigation.

[11] It is not disputed that colonialism and apartheid impacted on land rights which triggered constitutional reforms to address historical injustices related to land ownership particularly through land restitution and redistribution.² The papers filed in this matter in the multiple intervention applications provide a broad overview of the efforts and challenges to redistribute land to those who have been dispossessed based on principles of justice and equity. The issue of expropriation with or without compensation is of great significance. Considering the South African history of apartheid, the impact of the policy on land distribution and subsequent constitutional mechanisms to effect redistribution and restitution, the rights of AbaThembu cannot be discounted.

[12] The reintroduction of a new legislative framework for the expropriation of land is of paramount importance and elicit overwhelming public interest. The applicant holds a senior position in the AbaThembu, has considerable institutional knowledge of its land disputes, and is duly mandated to represent the interests of AbaThembu in all aspects related to land reform in traditional and cultural context, which would include issues such as a legal framework for the expropriation of land. Amici already admitted to these proceedings are also involved in advocacy in land rights and hold similar mandates as Emperor Majola.

[13] The applicant also represents a different constituency which is distinguishable from all the amici admitted to these proceedings, namely a specific vulnerable

² Land Access Movement of South Africa and Others v Chairperson of the National Council of Provinces and Others [2016] ZACC 22; 2016 (5) SA 635 (CC); 2016 (10) BCLR 1277 (CC) (LAMOSA) at para 1 and 63.

constituency that suffered because of land dispossession. In my view it would not be just and equitable to allow other amici to intervene and exclude Emperor Majola.

[14] The Constitutional Court has held that whilst a direct and substantial interest is a necessary condition for intervention as a party, it is not always sufficient ground for granting leave to intervene. The ultimate test is whether, in a particular case, it is in the interests of justice to join or be joined as a party to pending litigation.³ I am accordingly satisfied that the applicant had established a direct and substantial interest in the legal challenge, and if I should err in this regard, that it is in the interests of justice that applicant be granted leave to intervene.

Application to Strike

[15] AfriForum filed an application seeking to strike paragraphs 7.2 up to and including paragraph 7.8 of the founding affidavit in the EFF's application for leave to intervene, on the grounds that the said paragraphs contain scandalous, and/or vexatious, and/or irrelevant matter. AfriForum submitted that the matter complained of are baseless, abusive and defamatory, and included in the intervention and main application merely to harass and create atmosphere against AfriForum and its CEO, Mr Kriel. It was contended that the paragraphs are frivolous, improper, and stated with insufficient grounds and mostly based on unfounded hearsay and merely intended to harass or annoy. AfriForum therefore argued that the impugned paragraphs are irrelevant to the merits to be determined in the intervention application and the main application.

[16] EFF submitted that it was not in a position to respond to the striking out since

³Gory v Kolver NO and Others (Starke and Others Intervening) [2006] ZACC 20; 2007 (3) BCLR 249 (CC); 2007 (4) SA 97 (CC).

the application falls within the parameters of Uniform Rule 23(2) as a self-standing application which allows for certain procedures and specific timeframes. EFF argued that there was no founding affidavit in support of the striking out application and AfriForum had failed to comply with the timeframes set out in Rule 23. Consequently, EFF was not given a proper opportunity to respond to the striking out application.

[17] EFF contended that no condonation was sought for the non-compliance with the Rules of Court. EFF submitted that an application to strike should not be conflated with an application to intervene. EFF therefore argued that it was only prepared to answer an application for intervention and noted that it will be prejudiced if it is compelled to respond to a non-compliant application to strike.

[18] EFF argued that the allegations contained in these paragraphs are relevant to the merits of the case and that the court hearing the main application should consider the application to strike, not the court hearing the intervention application. According to EFF the court hearing the intervention application should not tamper with the “fabric” of the main application at this stage. EFF noted that AfriForum responded extensively to the impugned paragraphs which will be allowed to stand if the application to strike is granted.

[19] AfriForum argued that Rule 23 (2) was not applicable in this matter, and that the EFF had an adequate opportunity since December 2025 to respond to paragraph 12 of Mr Kriel’s answering affidavit. Furthermore, AfriForum had notified EFF that the application to strike will be heard simultaneously with the application for intervention.

AfriForum stated that even if EFF mistakenly believed that Rule 23 (2) was applicable, it should have filed opposing papers accordingly, which it had failed to do.

[20] AfriForum submitted that there is no merit in any of the technical objections raised by EFF. It was submitted that Rule 6(15) contains no provisions as to when the application is to be brought or how it is to be set down, and that it can be brought at the hearing of the main application itself. Furthermore, a notice that a striking-out application will be launched may also be given in the affidavit in which response is made to the affidavit containing the objectionable matter, as AfriForum has done in paragraph 9 of its answering affidavit. AfriForum argued that EFF will not suffer any prejudice if the offending paragraphs are struck since the allegations have nothing to do with the merits of the case.

[21] In terms of Rule 6 (15) the court may on application order to strike out from any affidavit any matter which is scandalous, vexatious or irrelevant, with an appropriate order as to costs. This matter clearly involves the striking of matter contained in an affidavit. I am accordingly in agreement with AfriForum that the striking out application invokes the provisions of Rule 6 (15) since Rule 23 (2) generally relates to pleadings, declarations, pleas or replications.

[22] The requirements for a successful striking out application within the meaning of Rule 6 (15) were articulated in **Beinash v Wixley**⁴ It is trite that a court will only grant such an order if: (1) the matter is indeed scandalous, vexatious, or irrelevant;

⁴ 1997 (3) SA 721 (SCA) at 733A-B.

and (2) the applicant for the strike-out will be prejudiced if the matter is not removed. AfriForum submitted that the impugned paragraphs fall within all three categories and falls to be struck. The onus of showing that the allegations must be struck out rests on the Applicant.

[23] What is apparent from a proper reading of the said Rule is that even if all the requirements are met, the court has an overriding discretion to strike out or not⁵. The court has a discretion which should be exercised judiciously. The key consideration as can be seen from the Rule and case law cited, is that of prejudice.⁶

[24] It has been held that the striking out procedure is not intended to be utilised to make technical objections which merely serve to increase costs and are of no advantage to the litigating parties. It is for these reasons that sufficient degree of prejudice should be present and such proof of prejudice is required.⁷

[25] The Expropriation Act 13 of 2024 has triggered a constitutional challenge with multiple interested parties seeking leave to intervene. Some political parties opposed the final version of the Bill during the Parliamentary process and voted against the Bill. It was a highly contested Bill, falling squarely within with the politico-legal sphere.⁸ It is therefore inevitable that interested parties will have competing policy arguments, different ideological perspectives and make statements which are politically driven.

⁵ Rail Commuter's Action Group v Transnet Ltd 2006 (6) SA 68 at 83E.

⁶ Beinash v Wixley 1997 (3) SA 721 (SCA) at 733B-734A; Helen Suzman Foundation v President of the Republic of South Africa and Others 2015 (2) SA 1 (CC) at paras 27-28.

⁷ Anderson and Another v Port Elizabeth Municipality 1954(2) SA 299E; Msunduzi Municipality v Natal Joint Pension Fund and Others 2007 (1) SA 142 N at 150A-B.

⁸ Land Access Movement of South Africa and Others v Chairperson of the National Council of Provinces and Others [2016] ZACC 22; 2016 (5) SA 635 (CC); 2016 (10) BCLR 1277 (CC) (LAMOSA) at para 1.

[26] It is evident that since 18 February 2026 the EFF was aware of the application to strike-out certain paragraphs of its founding affidavit and was therefore not taken by surprise. The alleged offending paragraphs were identifiable *ex facie* the papers on record, and the EFF elected not to respond based on technical grounds, which if upheld, would trigger unnecessary costs in this matter. However, I am satisfied that the application to strike out is adequately formulated and substantially complies with the provisions of Rule 6 (11) and 6 (15) to allow for a speedy resolution of the interlocutory application.

[27] Although the EFF elected not to file opposing papers, AfriForum has an onus to prove prejudice. AfriForum strongly criticized the EFF's averments in the impugned paragraphs, as well its approach and political posture adopted towards AfriForum. Significantly, AfriForum responded fully to the impugned paragraphs in paragraphs 12.5 to 12.17 of AfriForum's answering affidavit. In its Heads of Argument AfriForum contended that the prejudice it suffers are apparent from these paragraphs. However, I am not persuaded that AfriForum had demonstrated prejudice or adequately dealt with the issue of prejudice in its founding papers.

[28] Expropriation is a matter of significant political and constitutional importance in South Africa. The Expropriation Act 13 of 2024 has been the subject of widespread debate and discourse both locally and internationally. A healthy democracy demands robust debate, tolerance, and broadmindedness when dealing with politico-legal matters. Land matters always elicit overwhelming public interest

and political commentary. It was pointed out by the Constitutional Court in **Democratic Alliance v African National**⁹ that:

“Political life in democratic South Africa has seldom been polite, orderly and restrained. It has always been loud, rowdy and fractious. That is not a bad thing. Within the boundaries the Constitution sets, it is good for democracy, good for social life and good for individuals to permit as much open and vigorous discussion of public affairs as possible.”

[29] The Court is satisfied that AfriForum’s challenge to the constitutionality of certain provisions of the Expropriation Act is based on sound legal principles and considerations which it is entitled to ventilate in a court of law. EFF did not file any opposing papers in the striking application. Although the application to strike falls to be dismissed at this stage, there is nothing to preclude AfriForum from launching the application afresh, should it be advised to do so on appropriate papers.

[30] With regard to costs, it is a trite principle of our law that a court considering an order of costs exercises a discretion that must be exercised judicially.¹⁰ I have considered the matters before me, and in the exercise of my discretion, I deem it appropriate that no costs order be made in all the matters before this court.

[31] In the result, the following Order is made:

31.1. The applicant, Emperor Thembu 2nd Votani Majola is admitted as *amicus curiae* in terms of Rule 16A of the Uniform Rules of Court in the matter of Democratic Alliance v Minister of Public Works and Others,

⁹ 2015 (2) SA 232 (CC) at paragraph 133.

¹⁰ Ferreira v Levin NO and Others; Vryenhoek and Others v Powell NO and Others 1996 (2) SA 621 (CC) para 3.

Case number 2025-016193.

- 31.2. Emperor Thembu 2nd Votani Majola is given leave to file written submissions no later than 15 July 2026 and present oral argument at the hearing of the main matter.
- 31.3. There shall be no order as to costs in the intervention application of Emperor Thembu 2nd Votani Majola.
- 31.4. The EFF is granted leave to intervene in the application under the case number 2025-156411 and is joined as the sixth respondent in the application.
- 31.5. The EFF is granted leave to file an answering affidavit within 15 days from the date of this order to the founding affidavit of AfriForum in the main application and to the founding affidavit of IRR LEGAL NPC, which has been joined as the second applicant in AfriForum's main application.
- 31.6. AfriForum and IRR LEGAL NPC shall be entitled to file a replying affidavit to the EFF's answering affidavit.
- 31.7. EFF is given leave to file written submissions no later than 15 July 2026 and present oral argument at the hearing of the main matter.
- 31.8. There shall be no order as to costs in the intervention application of the EFF.
- 31.9. The application to strike out is dismissed with no order as to costs.

DEPUTY JUDGE PRESIDENT GOLIATH

Appearances

LEGAL REPRESENTATIVES

The DA's application

For the DA:

Karrisha Pillay SC

Eshed Cohen

Instructed by: Mr T Valentyn

Minde Schapiro & Smith

For the first respondent:

Anton Katz SC

Monique Davis

Instructed by: Mr A Strauss

For the third to thirteenth respondents:

Tembeka Ngcukaitobi SC

Lerato Zikhalale

Natalie Chesi-Buthulezi

Ntokozo Qwabe

Instructed by: Mr M Mureriwa

Mphokane Attorneys

Intervening parties

For the Economic Freedom Fighters

Mfesane KaSiboto

Jade Naidoo

Instructed by: Ms A Charalambous

England Slabbert Attorneys Inc

For Emperor Thembu 2nd Votani Majola

Self-represented

For the Minister of Rural Development and Land Reform

Mr Ngwenya

Instructed by: State Attorney

Applicants for admission as *amicus*

For “we the people”

Self-represented

For Liberty Fighters Network and MR Reyno de Beer

Self-represented

For Society for the Protection of Our Constitution

T Strydom SC

Instructed by: Ms Yasmin Omar

For National Association against

Managing Agents (NPC)

Self-represented

For Zabalaza Pathways Institute

Thembalihle Sidaki

Akhona Busakwe

Instructed by:

Lubabalo Ntsholo Attorneys