REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

(1) REPORTABLE: NO
(2) OF INTEREST TO THE JUDGES: YES
(3) REVISED:NO

DATE: 30 APRIL 2026…………SIGNATURE…………………

CASE NO: 2024-073988

In the matter between:

UNITED NATIONAL BREWERIES (SA) (PTY) LTD Applicant

and

CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY Respondent

JUDGMENT

MAUNATLALA AJ:

[1] This is an application by the Applicant, United National Breweries (SA) (Pty) Ltd, for an order compelling the Respondent, the City of Johannesburg, to reverse all municipal charges on a specific account, to render a new account limited to the property owned by the Applicant (Erf 1[…]), and for related interdictory relief. The core dispute concerns whether the Applicant can be held liable for rates and municipal charges on the entire

George Goch Township when it owns only one erf (Erf 1[…]), while the Gauteng Provincial Government owns the remaining 17 erven.

[2] When the matter was called, the Respondent raised the issue of non-joinder, specifically regarding the absence of the Gauteng Provincial Government as a party. The Respondent had raised this as a point *in limine* in its answering affidavit [paragraph B, sub-paragraphs 3.1.-3.3] and reiterated it in its Heads of Argument.

[3] As set out in the Respondent's Heads of Argument at paragraph 9, *"[i]t is common cause that the Applicant together with the Gauteng Provincial Government are joined owners of the subject property."* The Respondent correctly notes at paragraph 10 that if the Court grants the order sought by the Applicant, *"the charges reversed on the Applicant's account would still be due and payable"* and *"the Municipality would be obligated to collect from the Gauteng Provincial Government when it was not given an opportunity to participate in these proceedings."*

[4] The Respondent further submits at paragraph 11 that *"[t]he order sought by the Applicant clearly would affect the rights of the Gauteng Provincial Government."* I agree. The relief sought – a reversal of all charges on the joint account and an interdict restraining the City from levying charges on the other 17 erven – would directly impact the legal position and potential liability of the Gauteng Provincial Government.

[5] The Applicant opposes any postponement, contending that the relief sought is limited to reversing charges on its own municipal account and does not directly affect the rights of the Gauteng Provincial Government. The Applicant further argues that further delays are prejudicial given the substantial arrears and the ongoing accumulation of charges.

[6] The Respondent supports a postponement. At paragraph 10 of its Heads of Argument, the Respondent correctly identifies the practical problem: *"The order being final and binding and in the absence of participation by the Gauteng Provincial Government in these proceedings, the Municipality would be obligated to collect from the Gauteng Provincial Government when it was not given an opportunity to participate in these proceedings."*

[7] The law on non-joinder is clear. A party has a direct and substantial interest in the subject matter of litigation if a final order would affect its legal rights or obligations. The court in *Bowring NO v Vrededorp Properties CC 2007 (5) SA 391 (SCA) para 21*) provided that "The substantial test is whether the party that is alleged to be a necessary party for purposes of joinder, has a legal interest in the subject matter of the litigation, which may be affected prejudicially by the judgment of the court in the proceedings concerned". Our courts have consistently held that co-owners of property are necessary parties to proceedings concerning that property, especially where rates and taxes, for which they may be jointly and severally liable, are in dispute. The Respondent invokes the principle of joint and several liability at paragraph 24 of its Heads, citing *Lloyd v Richards and Another (4892/2022) [2025] ZAWCHC 41,* (unreported), *at para 5* for the proposition that *"[i]n the case of joint and several liability … any one of a number of co-debtors is liable for the full performance."*

[8] In this matter, the Deeds Office records confirm that the Applicant and the Gauteng Provincial Government are reflected as co-owners of the Remainder of George Goch Township. The relief sought by the Applicant would, if granted, directly impact the liability of the Gauteng Provincial Government. The City would be compelled to seek those rates exclusively from the Province, a party not before this Court. To determine this matter

without the Province present would risk making an order that is ineffective or that prejudices the rights of an absent party. As the Respondent submits at paragraph 11 of its heads of argument, the order *"would affect the rights of the Gauteng Provincial Government."*

[9] The Applicant's submission that the Province is not a necessary party because the relief is only against the City is misplaced. The test is not against whom the order is sought, but whose legal interests will be affected by the order. In *Snyders and Others v de Jager [2016] ZACC 54, at paragraph 6, the Court confirmed that the test for joinder is that a litigant must have a direct and substantial legal interest that may be affected prejudicially by the judgment of the Court in the proceedings concerned.* Here, the Province's financial interest (potential liability for the full extent of the township) is directly implicated.

[10] The Court is mindful of the Applicant's frustration with the protracted nature of this dispute and the mounting costs. However, the principle of *audi alteram partem* (hear the other side) is fundamental to our constitutional dispensation. It would be procedurally unfair and legally unsustainable to grant final relief that effectively reallocates a rates liability without allowing the Gauteng Provincial Government an opportunity to be heard. The Respondent correctly frames the issue at **paragraph 1** of its Heads: *"[i]s a municipality prohibited from levying rates and taxes on an owner of property simply because that owner owns the property with another party?"* That question cannot be answered justly in the absence of the other owner.

[12] I now turn to discuss the opposed postponement by the Applicant. A postponement is a temporary procedural step, not a final adjudication nor a denial of a hearing. The Applicant will still be afforded a hearing in due course of the law. It is the discretion of the

court to decide whether an application for a postponement should be granted or refused. That discretion is one I exercise judicially, and for substantial reasons, which I deem a Joinder (as a procedural requirement) to be such. (See *R v Zackey 1945 AD 505.)*

[13] For the reasons outlined above, I find that the appropriate course is to postpone the matter so that the Gauteng Provincial Government may be notified and given the opportunity to intervene as a party. This will allow all persons with a direct and substantial interest in the subject matter to be before the Court, ensuring a just and conclusive determination of the real dispute.

[14] As to costs, the postponement arises from a defect in the Applicant's proceedings, namely the failure to join a party with a direct and substantial interest in the matter. The issue was raised by the Respondent in its answering affidavit and persisted with in its Heads of Argument. Notwithstanding this, the Applicant proceeded to enrol the matter for hearing on the merits. The general principle is that a party responsible for a postponement should bear the wasted costs occasioned thereby (see(Burger *v Kotze 1970 (4) SA 302 (W), 305D-G).*). However, the question of costs must ultimately be determined with due regard to considerations of fairness and the overall outcome of the proceedings. In the event that the Applicant succeeds in establishing the substance of its claim, a different costs order may be warranted.

[15] In the exercise of this Court's discretion, it is appropriate that the costs occasioned by the postponement be reserved for determination at the conclusion of the matter.

ORDER

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

1 The matter is postponed *sine die.*

2 A copy of the application papers is to be served, by the applicant on the Gauteng Province to afford the Gauteng Province the opportunity of applying for leave to intervene as a party to this application, within a period of 30 court days after such service.

3 The costs of 4 February 2026 are to be costs in the cause.

MI MAUNATLALA
ACTING JUDGE OF THE HIGH COURT,
JOHANNESBURG, GAUTENG DIVISION

DATE OF HEARING: 4 February 2026

DATE OF ORDER: 4 February 2026

DATE OF REASONS FOR JUDGMENT: 30 April 2026