REPUBLIC OF SOUTH AFRICA

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

Case Number: 2026-095670

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

7/5/2026 [redacted]
DATE SIGNATURE

In the matter between:

AVENTADOR GATE PTY LTD,
MPUMELELO SITHOKOZOLE MKHIZE Applicant

and

SOUTH AFRICAN RESERVE BANK,
ABSA BANK LIMITED Respondent

JUDGMENT

C E THOMPSON AJ

[1] On 19 September 2025, the South African Reserve Bank ("SARB") issued a blocking order in respect of the Applicant's bank account held with the Second Respondent due to suspected contraventions of the Exchange Control Regulations.

[2] This application was launched on 29 April 2026 and served on the SARB after 16:00 on the same day by way of email. A hard copy of the application was physically served on the SARB on 30 April 2026. The following day was a long weekend due to the Friday, 1 May, being Workers' Day. The application was set down for hearing on Tuesday 5 May 2026. The answering affidavit, in terms of the Notice of Motion required the SARB to file its answering affidavit by 30 April 2026. In terms of the Notice of Motion the SARB was afforded one court day to respond to this application.

[3] Needless to state, the SARB's answering affidavit was only delivered on 4 May 2026. The SARB therefore, in effect, had two court days within which to deliver an answering affidavit. On any interpretation of the process launched by the Applicant, the matter was proceeded with by the Applicant on the basis of extreme urgency.

[4] Counsel for the Applicant sought to argue that the matter was not brought on extreme urgent grounds, but rather on ordinary urgency. This submission finds its genesis in the fact that the practice in this Division is that urgent applications are set down Thursday for the following Tuesday. The argument relating to ordinary urgency by the Applicant is misguided and demonstrates a clear misapprehension of urgency in general, degrees of urgency specifically and overall the purpose of the Directives of setting a matter down by Thursday for the following Tuesday.

[5] As far back as ***Luna Meubel Vervaardigers (Edms) Bpk v Makin and Another (t/a Makin's Funiture Manufacturers)*** 1977 (4) SA 135 (W) the court held that there are varying degrees of urgency. Together with the principle of degrees of

urgency one must consider the general principle that urgency is not there for the taking and must be explicitly advanced (see ***East Rock Trading 7 (Pty) Ltd v Eagle Valley Granite (Pty) Ltd*** 2012 JDR 1836 (GSJ). Properly considered together, an Applicant must consider the legal urgency with which a matter should be proceeded with. In other words, is the matter so urgent that the time periods for the delivery of affidavits must be seriously curtailed or is a matter merely urgent to the degree that some relaxation of the ordinary time periods is required.

[6] Once this determination is made, the manner of compliance with the Directives of this Court can be considered. If the matter is of such a degree of urgency that the launching and filing of papers must occur in the same week so as to have all the papers filed by Thursday in order for the matter to be heard the following week Tuesday, then a case for that degree of urgency must be made out in the founding papers. The less time that is afforded to a Respondent to answer to an urgent application, the higher the degree of urgency is with which the matter is proceeded with.

[7] This does not mean that every matter that is launched during a particular week must be heard the following week Tuesday. This is where the assessment of the degree of urgency and diligence by practitioners are required. It is perfectly possible and permissible, depending on the degree of urgency that can be made out, if any, to launch a matter during a particular week and only have that matter heard in two weeks' time. To use this matter as a general example, if the Applicant launched its urgent application on 29 April 2026, the Applicant would have been perfectly within its rights to seek the enrolment of the matter for 12 May 2026. The only requirement would be that the papers in the matter then had to be in order by Thursday 7 May 2026.

[8] For reasons not known to the court, the Applicant did not elect to proceed with the matter in that manner. Instead, the Applicant (wrongly I might add), considered it necessary to launch the application on 29 April 2026 for papers to be filed by 30 April 2026 so that the matter could be heard on 5 May 2026. Having regard to the blocking order having been issued on 19 September 2025 already, there was a greater need for the Applicant to explain why such extremely curtailed time-periods were all of a sudden necessary. Counsel could not, despite being probed thereon, explain why the matter could not wait until next week, 12 May 2026. He remained steadfast in his position that the application is brought on "ordinary" urgency as required by the Directives.

[9] To make matters worse for the Applicant, the Applicant stated in its founding affidavit that at the commencement of the year it decided to await the investigation by the SARB. The problem for the Applicant is that in terms of the Currency Act, this blocking order may remain in force for a period of 36 months, meaning that at a worst-case scenario, the investigation can be conducted over a period of 36 months. The decision to await the investigation is, in my view, a tacit acquiescence that there is no urgency to the lifting of the blocking order. If there was anything that caused the Applicant to decide that it will no longer await the outcome of the investigation, it would have had to explain what that catalyst was. If the Applicant did not know of the 36 month period and sought to avoid the inference of a tacit acquiescence, the Applicant would have had to make out that case. If the Applicant was of the view that it believed the investigation would be conducted over a reasonably short period of time, the

Applicant would have had to make out that case. The Applicant did not seek to avoid its own tacit acquiescence.

[10] After the passing of several months, the Applicant then decides to approach court on seriously curtailed time periods, and which time-periods cannot be said to be commensurate with the any degree of urgency that is borne from the seriously curtailed time periods. The Applicant fails to explain the need to place the SARB to the sword of delivering an answering affidavit in one day where the blocking order has been in place for months. The repeated fallback position of that is what the Directives require is misguided and ill-founded. All it does do is demonstrate a lack of proper understanding of the workings of the urgent processes and procedures in terms of Rule 6(12)(a) and as further required by the Directives. As already stated, the Applicant could have more properly enrolled the matter for 12 May 2026, or possibly even on a later date on the basis of semi-urgency. I add that nothing in the above exposition must be construed that the Applicant should enroll the matter for a later date and that an urgent court will be bound to then hear the matter. The Applicant will still have to make out a case that the matter is urgent or semi-urgent for that urgent court, should the Applicant elect to proceed on such a basis. This judgment is neither permission to do so nor is it an encouragement to do so. Rather, on the facts of the matter, quite the contrary.

[11] As the Applicant's seriously curtailed time-periods is not commensurate with the facts of the matter and the need for such short-notice to the SARB is not explained, I found that the matter lacks urgency and struck the matter of the roll. The unduly curtailed time-periods, considering the facts of the matter, renders the extremely

urgent approach to the urgent court an abuse of the process of court. No heed was paid to ***Luna Meubels*** or to ***East Rock Trading.*** Applicant's should be dissuaded from approaching the urgent court on a basis that is not supported by the facts of the matter.

[12] A punitive costs order, in my view, will send out a strong message to practitioners to properly and carefully consider whether a matter is urgent and, if so, the degree of urgency that exists. Once a practitioner has made that determination, the legal practitioner must then impose time-periods that is commensurate with such degree of urgency. This requires legal practitioners to properly apply their minds and advise clients as to the proper procedural approach in respect of time-periods. In this matter, none of the aforesaid was brought to bear on the matter. As such I was of the view that a punitive costs order was warranted and struck the matter of the roll with costs on the attorney and client scale.

[redacted]

C E THOMPSON AJ
JUDGE OF THE HIGH COURT
JOHANNESBURG