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

CASE NO: 2023-113139

(1) REPORTABLE: **NO**

(2) OF INTEREST TO OTHER JUDGES: **NO**

(3) REVISED.

(4) Date: 28 April 2026

Signature:

In the matter between:

GAVIN BRADLEY

Intervening Applicant

(ID NO: 6[...])

And

FIRST RAND BANK LIMITED

First Respondent

INA VAN ROOYEN N.O.

Second Respondent

(ID NO: 5[...])

[Duly appointed Executrix of Estate Late

Ignatius Wilhelm Van Rooyen, Master's Reference: 17620/2022}

CITY OF EKURHULENI METROPOLITAN MUNICIPALITY

Third Respondent

IN RE:

FIRST RAND BANK LIMITED

Applicant

And

INA VAN ROOYEN N.O.

First Respondent

(ID NO: 5[...])

[Duly appointed Executrix of Estate Late

Ignatius Wilhelm Van Rooyen, Master's Reference: 17620/2022}

JUDGMENT

NYATHI J

A. Introduction

1. This is an application by Mr Gavin Bradley ("Bradley") for leave to intervene in action proceedings instituted by FirstRand Bank Limited ("FRB") against the estate of the late Mr Ignatius Wilhelm van Rooyen ("the deceased"), represented by Ms Ina van Rooyen N.O. ("the executrix"). The action includes a monetary claim for approximately R199 214.51 and a prayer for an order declaring the immovable property situated at Erf 8[...] A[...] Township ("the property") specially executable in terms of Rule 46A.
2. Bradley seeks leave to intervene as a second defendant, to file a plea and counterclaim, and to participate in the determinations regarding executability under Rule 46A. FRB opposes the application.

B. Issues for determination

3. The issues before this Court are:

(a) Whether Bradley has a legal basis to intervene in the monetary claim between FRB and the estate;

(b) Whether Bradley has a direct and substantial interest entitling him to intervene in respect of the executability of the property which he occupies as his primary residence;

(c) What scope of intervention, if any, should appropriately be granted.

C. Applicable legal principles

4. The test for intervention is settled. An applicant must demonstrate a direct and substantial interest in the subject matter of the litigation that may be prejudicially affected by the judgment (*SA Riding for the Disabled Association v RLCC* 2017 ZACC 4; *Nelson Mandela Metropolitan Municipality v Greyvenouw CC* 2004 (2) SA 81 (SE)).
5. A court **has no discretion** to refuse intervention once such a legally cognisable interest is shown.
6. However, it is equally established that a person who has no legal interest in a particular component of proceedings may not intervene purely for academic, strategic, or indirect reasons.
7. Regarding execution against residential property, Rule 46A imposes constitutional oversight obligations on a court to ensure that:
 - i. Occupiers are notified,
 - ii. alternative means of satisfying the debt are considered, and
 - iii. loss of a primary home occurs only where “warranted”.These inquiries may necessitate hearing persons other than the judgment debtor where their rights are at stake.

D. Analysis

(a) The monetary claim

8. FRB's claim for R199 214.51 arises solely from a loan agreement between the bank and the deceased. Bradley is not a party to that agreement, has no contractual nexus with FRB, and enjoys no legal interest in whether a monetary judgment is granted against the estate.
9. His argument that paying the purchase price under the separate deed of sale indirectly relates to the bond debt does not, in law, create standing in the monetary portion. His alleged improvements, municipal payments, and occupation equally do not confer standing in this part.
10. I therefore find that Bradley has no legal basis to intervene in the monetary claim, and intervention must be refused to that extent.

(b) The executability of the property (Rule 46A)

11. The analysis is materially different regarding the executability of the property.
12. The evidence demonstrates that Bradley:
 - i. has occupied the property since 2012;
 - ii. claims to have paid the full purchase price;
 - iii. claims to have had the deed-of-sale endorsed on the title deed;
 - iv. disputes the validity of the cancellation of the agreement; and
 - v. alleges that he made significant financial contributions to municipal arrears and improvements.
13. Whether these claims will withstand scrutiny at trial is **not** the question at this stage. The test is solely whether Bradley shows a *prima facie* right capable of being prejudicially affected by an executability order.

14. If the property is declared specially executable and sold, Bradley risks losing:
- i. his home of more than a decade;
 - ii. any rights he may have acquired under the deed of sale;
 - iii. any remedy of specific performance under *Botha v Rich*¹ (if ultimately applicable); and
 - iv. any prospects of vindicating his claim that cancellation was unlawful.
15. These consequences establish a clear and substantial legal interest in the Rule 46A component of the proceedings.
16. Although FRB argues that Bradley ultimately cannot prevent execution because the bond predates his agreement, that is a defence on the merits—not a reason to shut the door to participation.
17. In my view, this is precisely the type of case for which Rule 46A was designed: the Court must consider whether less invasive options exist. Bradley asserts he offered to purchase FRB's claim outright. If true, that is an "alternative means" within the meaning of Rule 46A(2)(a)(ii). Whether FRB ought to have entertained that offer is an issue requiring evidence.
18. I accordingly find that Bradley does have a direct and substantial interest in the executability question sufficient to justify intervention.

(c) Scope of intervention

19. The intervening applicant's requested relief is broad, encompassing both the monetary and executability portions. In balancing the parties' competing rights, and given the divided nature of the subject matter, the just and equitable approach is to grant limited intervention.

¹ *Botha and Another v Rich N.O. and Others* (CCT 89/13) [2014] ZACC 11; 2014 (4) SA 124 (CC); 2014 (7) BCLR 741 (CC) (17 April 2014)

20. Intervention will be permitted only in respect of prayers 3–6 of the default judgment application, i.e., the portion dealing with the executability of the property and any associated Rule 46A issues.
21. Bradley may not intervene as a defendant in the monetary claim and may not file a plea relating to the loan agreement between the deceased and FRB.
22. It is appropriate to direct that the executability component proceed to trial, where the disputed factual matrix — including the alleged full payment, the validity of cancellation, the alleged cession of rights under clause 15, and the effect of payments labelled as “rent” — may be properly ventilated.

E. Conclusion

23. Bradley does not have standing to intervene in the monetary claim. However, he has demonstrated a clear prima facie legal interest in the question whether the property should be declared specially executable. Rule 46A and the constitutional protection against arbitrary loss of a home demand that he be heard.

F. Order

The following order is granted:

1. The intervening applicant is granted leave to intervene in the action proceedings only in respect of the executability of the property and the relief sought in prayers 3–6 of the Notice of Motion in the default judgment application.
2. The application to intervene in respect of the monetary claim (prayers 1–2 of the Notice of Motion) is refused.

3. The intervening applicant shall be joined as second defendant for the limited purpose described in paragraph 1 above.
4. The intervening applicant is granted **20 days** from the date of this order to deliver a plea and, if so advised, a counterclaim, confined strictly to the executability and Rule 46A issues.
5. The executability portion of the main action is **referred to trial**.
6. The issue of costs shall be costs in the cause of the main proceedings.

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

Date of hearing: 13 October 2025

Date of Judgment: 28 April 2026

On behalf of the Applicant: Adv. H. Marais

Applicant's attorneys: RWL Inc. Pretoria

On behalf of the Intervening Party: Adv. N. Daniels

Attorneys for the intervening party: Beech Veltman Inc.

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 28 April 2026.