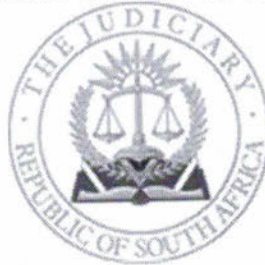


REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

CASE NO.: 2026-099682

In the matter between:

**MR. SOLA INSTALLATIONS (PTY) LTD**

**APPLICANT**

and

**VORSTER & BRANDT ATTORNEYS**

**FIRST RESPONDENT**

**CLEAR CHOICE BUILDERS (PTY) LTD**

**SECOND RESPONDENT**

**TUMISANG REGINALD KGABOESELE N.O.**

**THIRD RESPONDENT**

*Delivered: This judgment is handed down electronically by uploading it to the electronic file of this matter on CaseLines. In the event that there is a discrepancy between the date the judgment is signed and the date it is uploaded to CaseLines, the date the judgment is uploaded to CaseLines is deemed to be the date that the judgment is handed down.*

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**REASONS**

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**VAN DER SCHYFF J**

[1] This application came before me on the urgent roll in the Insolvency Court. The applicant sought, *inter alia*, an order directing the first respondent to release funds held in its trust account and a declarator that such funds did not form part of the insolvent estate of the second respondent.

[2] When the matter was argued, Labuschagne J had already struck the application from the roll the preceding week. Before Labuschagne J, the second respondent had been placed under final liquidation. The first respondent raised several preliminary objections, noting that section 359(1)(a) of the Companies Act 61 of 1973 suspended the proceedings, and that the relief could not be adjudicated without the Master of the High Court and the liquidator. Labuschagne J struck the matter from the roll with costs.

[3] Having considered the papers and submissions, I am satisfied that the second respondent's liquidation and the operation of section 359 bar the continuation of these proceedings. The relief sought directly implicates the rights, obligations, and assets of the liquidated company. Consequently, it is neither necessary nor appropriate to determine the substantive merits of the dispute.

[4] I accordingly struck the application from the roll with a punitive costs order.

[5] A costs award on the attorney and own client scale is reserved for conduct warranting the Court's marked disapproval. This discretion must be exercised judicially upon a consideration of all relevant circumstances.

[6] First, the applicant persisted with the application after becoming aware of the final liquidation. The legal consequences of the liquidation and the first respondent's reliance upon section 359 were expressly brought to its attention. Given the opportunity to reconsider, the applicant elected to proceed.

[7] Secondly, the applicant was warned that the first respondent regarded the application as procedurally incompetent and would seek punitive costs. Despite this, the applicant forced the respondents to incur further opposing costs.


[8] Thirdly, the applicant persisted despite substantial procedural obstacles. The statutory suspension under section 359, and the non-joinder of parties whose interests are directly affected, were fundamental defects going to the competency of the relief.

[9] Fourthly, the litigation history demonstrates a stubborn refusal to heed repeated warnings. The supplementary answering affidavit records that the applicant sought to re-enroll the matter after being informed of these fatal defects. This conduct forms part of a pattern of persistence that justifies the court's intervention.

[10] I emphasise that the punitive costs order was not granted merely because the applicant advanced unsuccessful legal arguments. Litigants may approach the courts to resolve *bona fide* disputes. The order was granted because the applicant forced the matter forward despite clear warnings that the application was incompetent post-liquidation.

[11] The applicant's conduct caused unnecessary trouble and expense for the first respondent. An ordinary costs order cannot adequately reflect the court's disapproval.

[12] For these reasons, I ordered the applicant to pay the first respondent's costs on attorney-and-own-client scale.

  
E VAN DER SCHYFF  
JUDGE OF THE HIGH COURT  
GAUTENG DIVISION, PRETORIA

2 June 2026