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

Case Number: 2026-098553

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

11 June 2026 _____
DATE SIGNATURE

In the matter between:

DOVECOT TRADING (PTY) LTD	First Applicant
DOROTHY IRIS WALL	Second Applicant
and	
LOIS KUTLOANO MMATHOTO MOLINGOANE N.O.	First Respondent
ANA PAULA DE OLIVEIRA N.O.	Second Respondent
CRAFFORD ATTORNEYS	Third Respondent
CAREL CRAFFORD	Fourth Respondent
AFRICOR AUCTIONEERS (PTY) LTD	Fifth Respondent
ANASTASSIS CHRISTOPHOROU	Sixth Respondent
THE SHERIFF OF THE HIGH COURT, PALM RIDGE	Seventh Respondent
BIDVEST BANK LIMITED	Eight Respondent

Delivered: This judgment was prepared and authored by the judge whose name is reflected and is handed down electronically and by circulation to the parties/their legal representatives by email and by uploading it to the electronic file of his matter on Caselines. The date for handing down is deemed to be 11 June 2026.

JUDGMENT

CARELSE AJ

INTRODUCTION

[1] This is an urgent application for a *mandament van spolie*, together with final interdictory relief and an order under section 18(3) of the Superior Courts Act 10 of 2013.

[2] The application arises from events that occurred during approximately twenty-four hours following the delivery of an order by Kuny J in this court on 21 April 2026, under case number 2026/067203 ("the first spoliation application"). It is the second time this court has been required to consider whether the applicants have been unlawfully deprived of possession of the same premises and the same stock.

[3] Both applications concern warehousing premises situated at units B[…] and C[…], 2[…] J[…] Street, F[…] I[…] Park, Alrode, Gauteng ("the J[...] Street premises"). This application additionally concerns a storage facility at X[...] S[…], 4[…] G[...] Road, N[…] M[…], Alberton, Gauteng ("the G[...] premises"), where the second applicant leases several units for warehousing and storage.

[4] The application raises three broad questions: whether a binding preservation arrangement was concluded at the Alberton Police Station on the evening of 21 April 2026; whether the provisional liquidators had legal authority to act as they did; and what order, if any, should run against attorneys said to have participated personally in an act of dispossession.

[5] The first applicant, Dovecot Trading (Pty) Ltd ("Dovecot"), purportedly carries on business as an importer and supplier of branded sports goods distributed through major e-commerce platforms, including Takealot, Makro, and Amazon. Dovecot makes use of the warehousing, storage, and distribution services operated by the second applicant at both sets of premises.

[6] The second applicant, Mrs Dorothy Iris Wall ("Ms Wall"), is an adult businesswoman who, at the material time, was in control of the J[...] Street premises. She operates a business from those premises for the receiving, storage, and distribution of goods for various customers, including Dovecot and unrelated third parties. She also rents several storage units at the G[...] premises for the same purpose.

[7] The first and second respondents, Ms L Molingoane N.O. and Ms APA De Oliveira N.O. ("the liquidators"), are the duly appointed joint provisional liquidators of Sports Brands Direct (Pty) Ltd (in liquidation) ("Sports Brands").

[8] The third respondent, Crafford Attorneys, is a firm of attorneys. The fourth respondent, Mr C Crafford ("Mr Crafford"), is a legal practitioner in the employ of Crafford Attorneys, cited in his personal capacity. At all material times, they acted as the attorneys for the eighth respondent, Bidvest Bank Limited. The significance of this is returned to below.

[9] The fifth respondent, Africor Auctioneers (Pty) Ltd ("Africor"), was appointed by the liquidators to assist in securing what they contend are assets of the insolvent estate. The sixth respondent, Mr A Christophorou ("Mr Christophorou"), is Africor's sole director and is cited in his personal capacity.

[10] The seventh respondent is the Sheriff of the High Court, Palm Ridge. No relief is sought against the Sheriff in this application. The eighth respondent, Bidvest Bank Limited ("Bidvest"), is a registered bank and a creditor of Sports Brands. It holds a general notarial covering bond over Sports Brands' movable assets. Bidvest filed a notice to abide in the first spoliation application and did not participate in these proceedings. No relief is sought against it.

[11] The third to sixth respondents — Crafford Attorneys, Mr Crafford, Africor, and Mr Christophorou — were not parties to the first spoliation application.

[12] The papers are voluminous. They contain allegations and counter-allegations concerning the powers of provisional liquidators, the ownership of contested stock, the corporate affairs of several entities, and the conduct of individuals whose

relationships have plainly deteriorated. Much of that material is peripheral to the question I am required to decide.

[13] The real dispute is narrower. The applicants contend that possession, restored pursuant to the order of Kuny J, was taken from them again almost immediately. The respondents deny that any further act of unlawful dispossession occurred and say that what followed was the product of a consensual preservation arrangement.

[14] Although the ownership of the stock and the authority of the provisional liquidators are not the primary questions in spoliation proceedings, neither can be entirely put aside. The liquidators' claimed justification for their conduct is inseparable from their powers under the Insolvency Act 24 of 1936. I deal with both issues in their proper place.

[15] I deal first with the factual background, then with urgency, the applicable legal principles, the factual findings, and the application of those findings to the relief claimed.

[16] There is a preliminary issue regarding condonation that must be determined before I proceed. The first, second, fifth, and sixth respondents filed their answering affidavit out of time and seek condonation. The application is unopposed, the delay is not substantial, no prejudice is apparent, and the issues raised are material to the determination of the matter. It is in the interests of justice that the affidavit be admitted. Condonation is therefore granted.

FACTUAL BACKGROUND

The first spoliation application and the order of Kuny J

[17] The first spoliation application was launched in late March 2026. It concerned the J[...] Street premises and the stock stored there. The applicants alleged that the liquidators and Africor — without the consent of the applicants, without a court order, and without employing the statutory mechanisms available to them under the Insolvency Act — physically took control of the J[...] Street premises, locked out the applicants, and prevented them from accessing or dealing with the stock.

[18] On 21 April 2026, Kuny J handed down his judgment dated 19 April 2026 and granted the following order:

(a) Bidvest and the liquidators, and/or any party acting on their instructions, were directed to immediately restore to the applicants undisturbed possession of the J[...] Street premises together with the stock identified in a schedule;

(b) the stock was released from judicial attachment;

(c) the applicants were permitted to remove the locks placed on the premises by the respondents; and

(d) Bidvest, the liquidators and any party instructed by or deriving permission from them were interdicted and restrained from interfering with or entering the premises, or dealing with, removing, realising or disposing of any stock located there, without the prior written consent of the first applicant or pursuant to a valid court order.

(e) Bidvest and the liquidators were ordered to pay the costs of the application.

[19] The order not only restored possession but also regulated the circumstances under which Bidvest, the liquidators and those acting through them could thereafter interfere with that possession. These express requirements form an important part of the objective factual matrix against which the alleged oral preservation arrangement must be assessed.

[20] Kuny J made several findings directly relevant to this application. He held that the applicants were in peaceful and undisturbed possession of the premises and stock; that Dovecot's directors, being in KwaZulu-Natal, did not negate possession, which could be exercised through an agent, bailee, or custodian; and that ownership of the goods was not before the court. He specifically rejected the liquidators' reliance on section 19 of the Insolvency Act, holding that section 19 did not justify the dispossession because the property was claimed by a third party, the required

statutory notice had not been given, and the procedures prescribed in section 69(3) had been bypassed entirely.

[21] Kuny J further recorded that the liquidators did not dispute the allegation that Messrs Crafford and Glover, a legal practitioner at Crafford Attorneys, were present when goods were attached and the J[...] Street premises locked during the first spoliation, and that Bidvest's legal representatives were actively involved in a coordinated process of what was found to be unlawful dispossession, despite Bidvest having filed a notice to abide. Those findings were published before the events giving rise to this application.

[22] In this application, the liquidators expressly abandon reliance on section 19 of the Insolvency Act.

Events of 21 April 2026

[23] The Kuny J order was electronically transmitted to the parties at 12h12 on 21 April 2026.

[24] At 13h08, Ms Wall sent a WhatsApp message to a representative of Sentinel Security — the private security company retained by the liquidators and Africor to guard the J[...] Street premises — requesting that the locks be removed in compliance with the order. Receipt was acknowledged. The subsequent exchange between Ms Wall and Sentinel Security led Ms Wall to believe that Mr Christophorou was directing proceedings from behind the scenes and that he was delaying the implementation of the Kuny J order. A Sentinel Security vehicle arrived at approximately 15h00, but without keys to open the locks.

[25] At 15h04, Ms Wall had the lock cut with a bolt cutter and regained access to the J[...] Street premises. The cutting of the lock was the exercise of a right expressly conferred by the Kuny J order, which permitted the applicants to remove the locks placed by the respondents. It was not an act of self-help.

[26] After access was regained, stock was loaded onto a truck to fulfil pending customer orders. At approximately 15h31, Mr Christophorou arrived at the premises. He entered through the open roller shutter door without consent and refused to leave

when asked to do so. He demanded that loading cease, allegedly used abusive language, and threatened Ms Wall. He was unsuccessful in stopping the loading.

[27] At approximately 17h15, the Sheriff arrived at the premises, having been called by the liquidators. Attorney Risiva Khosa, acting for the liquidators, also arrived. He was advised by the applicants' attorney, Mr Grant, that his conduct in trying to prevent stock removal was unlawful and in contempt of the court order. At 17h37, the Sheriff confirmed to Ms Wall that the order permitted the applicants to operate and that there was no lawful basis to prevent dealings with the stock. The loaded truck departed.

[28] The leave to appeal application was emailed to the applicants' attorneys at 17h43 and uploaded on Court Online shortly thereafter. According to the applicants, it came to their attorneys' attention only the following day. When the stock was loaded and the truck dispatched, the Kuny J order was operative and untouched. Whatever effect the service of the leave application may subsequently have had on the order, it could not retrospectively render unlawful the loading and removal of stock already completed before service.

[29] The situation at the premises deteriorated. According to the applicants, Mr Christophorou returned with members of the South African Police Service ("SAPS") at around 17h37 and blockaded the premises with a vehicle, preventing further stock from being removed. Messrs Crafford and Glover arrived at the J[...] Street premises at approximately 20h50. Their presence there at that hour — in circumstances where Bidvest had filed a notice to abide and a court had hours earlier published a judgment noting their prior involvement in unlawful dispossession — is a matter to which I return below.

[30] Shortly after 21h00, the parties proceeded to the Alberton Police Station. Ms Wall did not accompany them. What occurred at the police station is the factual heart of this case.

[31] After the parties returned from the police station, locks were placed on the J[...] Street premises by both sides. The respondents' locks were placed by Mr Christophorou and Sentinel Security at 22h16. Ms Wall placed her own lock at approximately the same time.

[32] The following facts concerning the events of 21 April 2026 are common cause or not seriously challenged:

(a) The Kuny J order was transmitted at 12h12 on 21 April 2026.

(b) Ms Wall obtained access to the J[...] Street premises at 15h04.

(c) Stock was loaded onto a truck and dispatched from the premises.

(d) The Sheriff arrived at approximately 17h15 and at 17h37 confirmed that the order was operative and permitted dealings with the stock.

(e) The leave to appeal application was transmitted to the applicants' attorneys at 17h43.

(f) Mr Christophorou returned with members of the SAPS after the truck departed.

(g) Messrs Crafford and Glover arrived at the J[...] Street premises at approximately 20h50.

(h) The parties proceeded to the Alberton Police Station shortly after 21h00; Ms Wall was not present.

(i) Locks were placed on the J[...] Street premises by both sides at approximately 22h16.

[33] What is not common cause is why those things occurred.

Events of 22 April 2026 and the G[...] premises

[34] On the morning of 22 April 2026, a Toyota Quantum was transporting stock from the G[...] premises when it was stopped by officers of the Ekurhuleni Metropolitan Police Department ("EMPD"). The driver was informed that the vehicle was being seized on suspicion of containing stolen property, and it was ultimately taken to Alberton Police Station. The applicants contend that Mr Christophorou instigated the EMPD’s involvement.

[35] Mr Christophorou arrived at the police station, together with the first respondent (Ms Molingoane), Mr Crafford, and an attorney in the employ of Crafford Attorneys named Thulani Morudu ("Mr Morudu").

[36] The Quantum belongs to M5 Sports Supplies (Pty) Ltd (in liquidation). By arrangement with that entity's liquidator, Mr Eugene Nel, Dovecot had retained possession of the Quantum pending handover to Ian Wyles Auctioneers of Durban. By subsequent agreement with Mr Nel, the Quantum was handed over to Mr Christophorou, acting as agent for Mr Nel. The stock inside the vehicle was contested: the applicants claimed it belonged to Dovecot; the respondents claimed it was stolen stock belonging to Sports Brands.

[37] Ms Wall refused to release the stock and it was offloaded from the Quantum into storage units leased by Ms Wall at the G[...] premises. Mr Morudu placed locks on those storage units on behalf of the respondents. Ms Wall did not place her own lock at G[...].

[38] The applicants further allege that the respondents attempted to attach certain storage units at the G[...] premises over the period 10 to 15 April 2026. Locks that had been placed on those units were ultimately removed and possession of the stock remained with Dovecot under Ms Wall's control. The events of 22 April, so the applicants contend, were a continuation of a course of conduct at the J[...] Street premises. The respondents say the locking on 22 April was the implementation of the preservation arrangement said to have been concluded the previous evening.

URGENCY

[39] The respondents challenge urgency. The third and fourth respondents submit that the applicants' case rests principally on commercial and financial prejudice, which, in itself, does not ordinarily constitute the exceptional circumstances required to justify a departure from the ordinary timeframes.

[40] The urgency of the *mandament van spolie* does not derive from the commercial consequences of the deprivation. It derives from the nature and purpose of the remedy itself. The principle *spoliatus ante omnia restituendus est* — the despoiled person must be restored before all else — commands speed. As the

Constitutional Court affirmed in *Ngqukumba v Minister of Safety and Security and Others* 2014 (5) SA 112 (CC) at para 10, the policy underlying the mandament is the restoration of the status quo ante, before the merits of competing claims are investigated. That is not a discretionary feature of the remedy — it is its defining characteristic and requires promptness. This does not, however, mean that every spoliation application is inherently urgent.

[41] There is, moreover, an independent source of urgency. The applicants allege that they were again deprived of possession within hours of an order of this court that had restored it. An allegation that a court order has been defeated or circumvented in this way implicates not only the interests of the applicants but the authority and dignity of this court and the administration of justice in general, which should be addressed speedily.

[42] The applicants remain excluded from undisturbed possession of both sets of premises. Every day of exclusion means unfulfilled orders, lapsed platform listings, and accumulating reputational harm. There was no unreasonable delay in bringing the application. Substantial redress would not be obtained at a hearing in due course. I am satisfied that the matter is urgent and that it be enrolled and heard as such.

APPLICABLE LEGAL PRINCIPLES

The mandament van spolie[1]

[43] The requirements for the *mandament van spolie* are settled. An applicant must establish two things: first, that the applicant was in peaceful and undisturbed possession of the property immediately prior to the alleged deprivation; and second, that the respondent unlawfully deprived the applicant of that possession. The title to the property is irrelevant. The spoliation remedy is possessory and preliminary in nature. The court does not determine rights — it restores the status quo ante so that the parties may pursue their competing claims through appropriate legal processes.[2]

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1 In general, see the chapter, *Mandament van Spolie,* in *Erasmus: Superior Court Practice*, vol 2, D7-1 to D7-20 and the authorities quoted there.

2 *Nino Bonino v De Lange* 106 TS 120 at 122; *Tswelopele Non-Profit Organisation and*

[44] Possession for the purpose of the mandament means factual control of the property exercised with the intention to hold or use it for the possessor's benefit. It need not be juridical possession, need not be exclusive or continuous, and may be exercised through an agent, bailee, or custodian.[3]

[45] A deprivation of possession is not unlawful if the possessor consented to it. Consent, to operate as a defence to spoliation, must be freely, voluntarily, and informedly given by the possessor or a person duly authorised to bind the possessor. A deprivation that is not consented to, and that is not authorised by law or court order, is unlawful regardless of the depriver's motive or belief in their entitlement.

The Plascon-Evans rule and disputes of fact

[46] The applicants seek final relief. In terms of the rule in *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A) at 634H-635C, where final relief is sought on motion and the parties' versions differ, the court must generally accept the respondents' version together with the admitted facts, unless that version fails to raise a real, genuine and bona fide dispute of fact, or is so far-fetched or clearly untenable that it may be rejected.

[47] A real, genuine and bona fide dispute of fact can only exist where the party purporting to raise the dispute has, in its affidavit, seriously and unambiguously addressed the fact said to be disputed. Where a matter lies peculiarly within the knowledge of the disputing party and that party rests its case on a bare or ambiguous denial, the court will have difficulty finding that a genuine dispute of fact exists. There is a serious duty on a legal adviser settling an answering affidavit to ascertain and engage with the facts in dispute and to reflect them fully and accurately in the affidavit. Where that duty has not been discharged, the court is entitled to adopt a robust approach.[4]

The final interdict

Others v City of Tshwane Metropolitan Municipality and Others 2007 (6) SA 511 (SCA) at para 21; *Ngqukumba v Minister of Safety and Security and Others* 2014 (5) SA 112 (CC) at para 10.

3 *Blendrite (Pty) Ltd and Another v Moonisami and Another* 2021 (5) SA 61 (SCA) at para 5; *Yeko v Qana* 1973 (4) SA 735 (A) p739 D-F.

4 *Wightman t/a JW Construction v Headfour (Pty) Ltd and Another* 2008 (3) SA 371 (SCA) at paras 11-13.

[48] To obtain a final interdict, an applicant must establish: (a) a clear right; (b) an injury actually committed or reasonably apprehended; and (c) the absence of any other adequate remedy.[5]

FACTUAL FINDINGS

[49] Before I apply the law to the facts, I make the following findings on the material disputed issues. In doing so, I am guided by the *Plascon-Evans* rule and the approach in *Wightman*. These findings govern the analysis that follows.

First disputed issue: was peaceful and undisturbed possession restored to the applicants?

[50] The respondents contend that the applicants never regained peaceful and undisturbed possession after the Kuny J order. They say Sentinel Security was at all times in physical control of the premises and that Mr Christophorou's arrival confirmed the continuation of the respondents' possession.

[51] I reject that argument. The Kuny J order was premised on a finding that possession had been unlawfully taken from the applicants. It directed immediate restoration and expressly authorised the removal of the locks. When Ms Wall had the lock cut at 15h04 and entered the premises, she was exercising a right specifically conferred by the order.

[52] The applicants then held active, practical possession: they were physically present at the premises; stock was loaded and dispatched; and the Sheriff confirmed the order's validity and the absence of any lawful basis to prevent dealings with the stock. These are the acts of persons in factual control. Mr Christophorou's uninvited entry at 15h31 and refusal to leave — which were themselves potential violations of the interdict in the Kuny J order — could not negate possession that the order had restored. A spoliator cannot assert continued possession by persisting in the very conduct that a court has found unlawful.

[53] Sentinel's continued physical presence at the premises under the instructions of those found to have unlawfully dispossessed the applicants does not constitute

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5 *Setlogelo v Setlogelo* 1914 AD 221.

possession adverse to rights established by the Kuny J order. Possession is a factual concept to be assessed against the full background, including the court order that had just restored it.

[54] I therefore find that the applicants were in peaceful and undisturbed possession of the J[...] Street premises and the stock stored there from at least 15h04 on 21 April 2026.

Second disputed issue: was a binding preservation arrangement concluded at the Alberton Police Station?

[55] The respondents' version is that a consensual dual-lock preservation arrangement was proposed by the SAPS and agreed to by all parties at the Alberton Police Station on the evening of 21 April 2026. They rely on affidavits from four attorneys — Mr Crafford, Mr Glover, Mr Morudu, and Mr Risiva Khosa — all of whom say they witnessed the arrangement being proposed and accepted. The arrangement was, they say, confirmed and extended to the G[...] premises on 22 April 2026.

[56] The applicants deny that any binding agreement was reached. Ms Wall was not present at the police station (an issue on which the respondents' deponents contradict themselves). She says that her daughter, Ms Jade Wall ("Jade", used for convenience and without disrespect), who was present, had no authority to bind the applicants to any arrangement that would qualify the possession established by the Kuny J order.

[57] I am of the view that the Kuny J order prohibited interference with the applicants' possession without two things: prior written consent or a valid court order. Those requirements were expressly incorporated into the order granted by Kuny J and formed part of the legal framework governing subsequent conduct by the parties. Any arrangement which had the effect of authorising conduct otherwise prohibited by the Kuny J order had to be assessed against the order's requirement of prior written consent.

[58] The alleged preservation arrangement was oral. No written agreement was produced, signed, or exhibited. No email, WhatsApp message, or note recording its

terms was generated. No written consent from Dovecot was obtained. The absence of any written consent substantially weakens the respondents' contention that a binding arrangement was concluded.

[59] The respondents further rely on the evidence of four legally qualified persons. The presence of four attorneys makes the complete absence of any contemporaneous written record more, not less, significant.

[60] This was not an informal discussion between laypersons. It occurred hours after a High Court order. It purported to alter the legal *status quo* established by that order. It involved attorneys, provisional liquidators, auctioneers, SAPS members, and contested stock worth several million rand. Any attorney present who genuinely believed an agreement had been reached would have sent an email, a WhatsApp message, or even prepared a brief note. None was produced. Nor was any communication sent the following morning before the G[...] events unfolded. That omission, in circumstances that plainly demanded documentation, cannot be explained away as a mere oversight.

[61] Ms Wall specifically states that Jade was not authorised to bind the applicants to any arrangement qualifying, limiting, or surrendering the possession established by the Kuny J order. This is confirmed under oath by Jade.[6] There is no written power of attorney. There is no representation by Dovecot or Ms Wall that Jade had such authority. A respondent who relies on consent given through an intermediary must prove not only the fact of consent but the authority of the intermediary to give it. An unauthorised surrender of possession by an employee or third party does not defeat the mandament. Nor can ostensible authority be founded merely on the conduct or say-so of the alleged agent; the representation must emanate from the principal.[7] That burden has not been discharged.

[62] The respondents attribute a central role to the SAPS in proposing the dual-lock arrangement. On their version, it was the SAPS who suggested the arrangement and created the environment in which it was agreed. Yet no affidavit

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6 *Erasmus v Dorsyd Farms (Pty) Ltd* 1982 (2) SA 107 (T) at 111.

7 *Potchefstroom se Stadsraad v Kotze* 1960 (3) SA 616 (A) at p629; *Monteiro and Another v Diedricks* 2021 (3) SA 482 (SCA) at para 17.

from any SAPS officer was filed. The court has no direct, first-hand evidence from the party said to have been the architect of the arrangement.

[63] The absence of SAPS evidence is not, by itself, decisive. But where the respondents bear the burden of proving a preservation arrangement and rely on SAPS as its architect, the failure to adduce evidence from any SAPS officer leaves a material evidential gap.

[64] Even accepting that discussions took place at the police station, the respondents do not establish a defence. On their own version, the arrangement was oral. It therefore did not satisfy the express requirement in the Kuny J order of prior written consent or a court order. Further, the respondents have not established that Jade had authority to waive or qualify the applicants' court-ordered possession. The consent defence accordingly fails even before it becomes necessary to resolve every factual dispute about the police-station discussions.

[65] I accept that discussions took place at the Alberton Police Station and that the SAPS was involved in managing a volatile situation and trying to defuse the immediate tension between the parties. What I do not accept is that those discussions crystallised into a binding, voluntary, and informed preservation arrangement capable of qualifying rights established by a court order. On the objective facts and probabilities, and having regard to the approach in Wightman, the respondents' version does not raise a real, genuine, and bona fide dispute of fact. I am satisfied that no binding preservation arrangement was concluded.

Third disputed issue: the G[...] premises on 22 April 2026

[66] Mr Morudu placed locks on Ms Wall's leased storage units at the G[...] premises on 22 April 2026. This is not seriously disputed. Ms Wall did not consent to this. The locks were not placed pursuant to any court order, any lawful authority, or any binding preservation arrangement — for the reasons stated above. This is a separate and independent act of dispossession at the G[...] premises.

Summary of factual findings

[67] I find:

(a) The applicants were in peaceful and undisturbed possession of the J[...] Street premises from at least 15h04 on 21 April 2026.

(b) No binding preservation arrangement was concluded at the Alberton Police Station on the evening of 21 April 2026.

(c) Jade Wall did not have authority to bind the applicants to any arrangement qualifying the possession established by the Kuny J order.

(d) The placement of locks on the J[...] Street premises at 22h16 on 21 April 2026 reduced the applicants from sole, unilateral access to dependent access requiring the cooperation of persons aligned with the respondents.

(e) Mr Morudu's placement of locks on the G[...] storage units on 22 April 2026 deprived Ms Wall of possession of those units and the stock stored therein without her consent or any lawful authority.

APPLICATION: SPOLIATION

The leave to appeal argument

[68] The respondents argue that the Kuny J order was suspended upon service of the leave to appeal application, and that the applicants cannot rely on that order as the foundation for their possession in this application. This argument fails for two reasons. First, this application does not seek to enforce the Kuny J order. It asserts an independent cause of action arising from a fresh act of spoliation. Second, even if the order were suspended as from the time of service — at 17h43 on 21 April 2026 — the restoration of possession, the loading of stock, and the Sheriff's endorsement had all occurred before that service. Suspension cannot retrospectively invalidate acts completed before it took effect.

Possession

[69] On the factual findings above, the first requirement for the mandament — peaceful and undisturbed possession — is established in respect of both sets of premises. The applicants held possession of the J[...] Street premises and the stock

there from at least 15h04 on 21 April 2026, confirmed by the implementation of the Kuny J order and the Sheriff's endorsement at 17h37. In respect of the G[...] premises, Ms Wall held leasehold possession of the storage units through her lease with X[...] and factual control of the stock within them immediately before the events of 22 April 2026.

Dispossession

[70] At 22h16 on 21 April 2026, the respondents' locks were placed on the J[...] Street premises. This reduced the applicants from a state of sole, unilateral access — the state established by the Kuny J order — to one in which their access required the participation or cooperation of persons aligned with the respondents. That is a material diminution in the quality of possession and constitutes dispossession. At the G[...] premises, Mr Morudu's placement of locks on 22 April 2026 similarly dispossessed Ms Wall of her leased storage units and the stock within them.

The preservation agreement defence

[71] The respondents' primary defence to the dispossession is consent in the form of the alleged preservation arrangement. On the factual findings above, that defence fails for three independent reasons.

[72] First, the liquidators had no authority to conclude such an arrangement. The Master's authorisation was limited to engaging attorneys for legal work. It did not extend to concluding preservation arrangements over third-party property in the possession of a person claiming independent ownership. I deal with this in the section that follows.

[73] Second, Jade Wall did not have authority to bind the applicants to any arrangement qualifying the possession restored by the Kuny J order. As found above, there is no written authority, no representation by the applicants that Jade was so authorised, and no affidavit from Jade herself confirming the respondents' version.

[74] Third, the Kuny J order required that any arrangement that purported to authorise conduct otherwise prohibited by the Kuny J order had to be considered

against the order's requirement of prior written consent. The alleged oral arrangement does not satisfy this requirement.

[75] Each of these grounds is independently sufficient to reject the consent defence.

[76] I find that the deprivation of possession at J[...] Street at 22h16 on 21 April 2026 and the deprivation at G[...] on 22 April 2026 were unlawful. The requirements for the *mandament van spolie* are established in respect of both sets of premises.

THE LIQUIDATORS' ASSERTED AUTHORITY

[77] The applicants pressed in argument the question of the liquidators' authority to act as they did. Having considered it, I find that this issue is not merely procedural in character — it goes to the lawfulness of the liquidators' entire course of conduct, from the first spoliation through to the events of 21 and 22 April 2026. The finding here provides an additional and independent basis for rejecting the preservation arrangement defence: even if the arrangement had been concluded, the liquidators had no authority to conclude it.

The Master's authorisation

[78] The Master's authorisation in respect of Sports Brands, as reflected in the documents annexed to the replying affidavit, was limited. It authorised the liquidators to engage the services of attorneys and, if required, counsel to perform legal work on behalf of the insolvent estate. No document before me demonstrates authority extending to appointing auctioneers, retaining private security companies, attending third-party premises in person, securing or seizing goods in the possession of a third party whose ownership is disputed, or concluding preservation arrangements over such goods. Those are not acts of legal work. They required separate, express authority from the Master, which was not obtained.

Powers under the Insolvency Act

[79] The winding-up of companies under the Companies Act 61 of 1973 is subject, by virtue of section 339 of that Act, to the provisions of the laws relating to insolvency, including the Insolvency, with such changes as context may require.

[80] Section 69(1) of the Insolvency Act provides that a liquidator shall, as soon as possible after appointment, take possession of all movable property, books, and documents belonging to the estate. The duty to take custody extends, however, only to assets that in truth form part of the insolvent estate. It does not extend to assets in the possession of a third party who claims independent ownership. A provisional liquidator cannot, by asserting that goods in a third-party's possession belong to the insolvent estate, convert that assertion into authority to seize those goods. The question of ownership is one for a court to determine, not for the liquidator to decide unilaterally and in its own favour.

The section 69 mechanism and why it was not used

[81] The Insolvency Act does not leave a liquidator without remedy when estate property is believed to be in the hands of a third party. Section 69(2) provides that a liquidator who has reason to believe that any property belonging to the insolvent estate is concealed or withheld may apply under oath to a magistrate for a search warrant. Section 69(3) empowers the magistrate, if satisfied, to issue a warrant authorising the search for and seizure of the property. This mechanism was bypassed entirely in both the first and the present application. Kuny J specifically so found in the first application. It remained true here.

[82] Section 19 of the Insolvency Act, which the respondents expressly disavow in this application, imposes a mandatory duty upon the Sheriff to attach and make an inventory of the movable property of the insolvent estate. But, as Kuny J held, section 19 does not entitle the liquidator to seize goods claimed by a third party without establishing that those goods belong to the estate. The liquidator's remedy in that situation is section 69 — not self-help.

[83] The questions which remain unanswered: why did the liquidators not use the mechanisms that the Insolvency Act specifically provides? Why, if they genuinely and reasonably believed that the Dovecot stock formed part of the Sports Brands estate, did they not approach a magistrate for a section 69 warrant? Why did they not seek the Master's authorisation for expanded powers? Why did they not apply to a court for a preservation order?

[84] Every step taken by the liquidators to secure, lock, or restrict access to the J[...] Street premises and the G[...] storage units was taken without legal authority. The failure to invoke section 69 is difficult to reconcile with the respondents' assertion that the stock clearly belonged to the estate. Section 69 requires satisfaction of a magistrate, on oath, that there is proper basis to believe the property forms part of the insolvent estate and is being withheld. This is not an onerous threshold for a genuinely meritorious claim.

[85] The conduct of the liquidators in this application is not an isolated event. It is the continuation of a pattern of conduct already found unlawful by Kuny J. It was conducted, again, without the authority of the Master, without the sanction of a court, and without the use of the mechanisms that the Insolvency Act expressly provides. The fact that the liquidators genuinely believe the stock belongs to the estate — if indeed they do — does not justify self-help. Our law demands resort to due process even where the substantive claim may be meritorious. The law gave the liquidators a route to the stock if the stock truly belongs to the insolvent estate. They chose not to follow the statutory mechanisms.

THE POSITION OF CRAFFORD ATTORNEYS AND MR CRAFFORD

[86] The third and fourth respondents resist any order against them on the basis that they acted at all times as legal advisors and did not personally seize, possess, lock, or deal with any stock.

The evidence

[87] First, Kuny J found in the first spoliation application that Mr Crafford and Mr Glover were present when goods were attached, and the J[...] Street premises were locked, and that Bidvest's legal representatives — being Crafford Attorneys — were actively involved in a coordinated process of what was found to be unlawful dispossession, despite Bidvest having filed a notice to abide. Those findings were published and known to all parties.

[88] Second, in this application, Mr Crafford arrived at the J[...] Street premises at approximately 20h50 on 21 April 2026. His presence there is explained by the liquidators themselves: Ms Molingoane states that she requested his attendance

because of his intimate knowledge of the matter. He was at the premises at the liquidators' direct request. This creates a notable tension: Crafford Attorneys are Bidvest's attorneys; Bidvest had filed a notice to abide in the first spoliation application, which relates to substantially the same premises and stock; yet Mr Crafford was engaged at the liquidators' request to assist in the very events that give rise to this second spoliation. He then accompanied the parties to the Alberton Police Station.

[89] Third, and most significantly, Mr Morudu — a legal practitioner in the employ of Crafford Attorneys — at the instruction of Mr Crafford who controlled and directed the firm's involvement, physically placed locks on Ms Wall's leased storage units at the G[...] premises. This is not seriously disputed. This was not legal advice, correspondence, or a court appearance. It was a physical act of dispossession performed at premises leased by Ms Wall in relation to property she claims to own, by a legal practitioner employed by the fourth respondent's firm. A legal practitioner is not immune from the legal consequences of an unlawful act merely because that act was performed in the course of professional instruction.[8]

The mandament and interdict against the third and fourth respondents

[90] The mandament and interdict run against the person who committed the unlawful deprivation or who is reasonably apprehended to continue to interfere. In my view, Crafford Attorneys and Mr Crafford participated directly in the acts that resulted in the dispossession at the G[...] premises. Mr Morudu's physical placement of locks on Ms Wall's storage units was a direct act of dispossession performed by a person in the employ of the third respondent's firm.

[91] In respect of the J[...] Street premises, the position of the third and fourth respondents is less clear. Mr Crafford was present at the premises and attended the police station discussions. But the physical re-locking of J[...] Street was performed by Sentinel Security and Mr Christophorou, not by Mr Crafford or his employees. Whether Mr Crafford's presence directed or organised that act is a matter of

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8 *See Bitter NO obo De Pontes v Ronald Bobroff & Partners Inc and Another* 2014 (6) SA 384 (GJ) and *General Council of the Bar of South Africa v Jiba and Others* 2017 (2) SA 122 (GP).

inference, and I am not satisfied that the inference can safely be drawn on the papers alone. The restoration and interdict orders for J[...] Street will accordingly not name the third and fourth respondents individually.

[92] In respect of the G[...] premises, the third and fourth respondents will be directed to deliver all keys, locks, and access devices placed by or on their behalf on Ms Wall's storage units.

NON-JOINDER

[93] The respondents raise three non-joinder objections. Joinder is required only where the party sought to be joined has a direct and substantial legal interest in the subject matter of the proceedings or in the order to be made, such that the order may prejudicially affect that party.[9]

Non-joinder of X[...]

[94] Quantipro (Pty) Ltd trading as X[...] S[…] S[…] ("X[...]") is not a party to these proceedings. It owns and operates the G[...] facility. Ms Wall is a lessee of a number of storage units within it.

[95] An examination of the prayers confirms that the relief runs exclusively against the first to sixth respondents. Prayer 2 directs those respondents to restore the applicants' possession. The restoration contemplated is the undoing of what the respondents themselves did: Mr Morudu placed locks on Ms Wall's storage units. Directing the respondents to remove those locks, or to deliver them to the applicants, is an order that runs entirely against the respondents and requires nothing of X[...]. Prayer 3 permits the applicants to remove the respondents' locks from their own leased units — a self-help authorisation under their existing lease with X[...]. Prayer 4 restrains the first to sixth respondents from interfering with the premises and stock. None of these prayers requires X[...] to take any step whatsoever. X[...] has no direct and substantial interest in the relief sought. The objection is dismissed.

Non-joinder of Take Ease Fulfilment (Pty) Ltd

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9 *Amalgamated Engineering Union v Minister of Labour* 1949 (3) SA 637 (A), *Gordon v Department of Health: KwaZulu-Natal* 2008 (6) SA 522 (SCA), and *Judicial Service Commission v Cape Bar Council* 2013 (1) SA 170 (SCA).

[96] It was also argued that Take Ease Fulfilment (Pty) Ltd — described as a warehousing and fulfilment entity whose sole director is Jade Wall — should have been joined as a party. The second applicant is the lessee at J[...] Street and the holder of leased storage units at G[...]. She holds the possessory rights at issue in her own name. Whether Take Ease operated from those premises is immaterial to the possessory remedy. Take Ease has no direct and substantial interest in the relief sought: it is not the entity deprived of possession, nor will any order granted directly and adversely affect any right or interest that it holds in its own name. The objection is dismissed.

Non-joinder of the SAPS

[97] The respondents argue that if the dual-lock arrangement was effected under the direction of the SAPS, the SAPS has a direct and substantial interest and should have been joined. No relief is sought against the SAPS in this application. On the applicants' version, the SAPS was present to manage a volatile situation, not to direct dispossession. On the respondents' own version, the SAPS proposed the arrangement. But the relief sought is directed at the respondents. The SAPS has no right or interest that this order could directly and adversely affect. The objection is dismissed.

FINAL INTERDICTORY RELIEF

[98] The applicants seek a final interdict against further interference with their possession of both sets of premises and the stock stored therein. I apply the *Setlogelo* requirements.

[99] **Clear right.** The applicants have a clear possessory right to the J[...] Street and G[...] premises, confirmed by the Kuny J order and established on the factual findings in this application. They have been twice unlawfully deprived of that possession within a matter of weeks.

[100] **Injury actually committed or reasonably apprehended.** A second spoliation has been committed by substantially the same actors using the same methods. The track record of the respondents — two unlawful dispossessions in

quick succession despite a court order — establishes that it is reasonable to apprehend they will act in the same fashion in future.

[101] **No adequate alternative remedy.** The mandament alone restores the status quo. It does not restrain future interference. Damages are not an adequate substitute where ongoing exclusion from tradeable stock causes the reputational and commercial harm described in the papers. Kuny J reached the same conclusion in the first application. I respectfully agree.

[102] All three requirements are established. A final interdict restraining the first to sixth respondents from interfering with the applicants' possession of both the J[...] Street and G[...] premises and the stock stored therein is appropriate.

SECTION 18(3)

[103] The applicants additionally seek an order under section 18(3) of the Superior Courts Act 10 of 2013, directing that the Kuny J order operate with immediate effect, notwithstanding the pending application for leave to appeal.

[104] I decline to determine this relief in this judgment, for two reasons. First, relief under section 18(3) should ordinarily be sought from the judge who made the order and before whom the application for leave to appeal is pending. That judge would be steeped in the relevant facts and law, and the risk of inconsistency between judicial pronouncements is real, especially as far as it may relate to a finding on the prospects of success of the appeal. Second, the possessory relief I grant in this judgment flows from the second and independent act of spoliation, not from the enforcement of the Kuny J order. It is unnecessary to determine the section 18(3) relief in order to grant the applicants their primary remedy.

[105] I note, without deciding, that the requirements for section 18(3) relief are cumulative and demanding: the applicant must demonstrate exceptional circumstances (of which poor prospects of success might be a factor), irreparable harm if execution is not immediately permitted, and an absence of irreparable harm to the other party.[10] Those are matters for the appropriate judge.

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[10] *Incubeta Holdings and Another v Ellis and Another* 2014 (3) SA 189 (GSJ).

[106] In the circumstances, the determination of the relief sought under section 18(3) will be postponed *sine die*.

OWNERSHIP

[107] Both sides have placed material before me concerning the ownership of the Dovecot stock. I make no finding on ownership. That question is not before me and is to be determined in appropriate proceedings where both sides have a full opportunity to adduce their evidence. The ownership material has been relevant only as contextual background — to the liquidators' claimed justification for their conduct, to the probabilities concerning the alleged preservation arrangement, and to the inference arising from the liquidators' failure to use the section 69 mechanism.

[108] The respondents also raise a point concerning Dovecot's deregistration, presumably to dispute its claims relating to ownership. Dovecot was deregistered on 21 January 2024 and re-registered on 2 February 2026, with a new director appointed on 19 February 2026. This does not assist the respondents. The *mandament van spolie* is a possessory remedy available to any person in factual possession. The events giving rise to this application occurred on 21 and 22 April 2026 — after Dovecot's re-registration and the appointment of its new director. The deregistration history is irrelevant to Dovecot’s spoliation claim.

COSTS

[109] The applicants seek costs on a punitive scale. I decline to order attorney and client costs against any respondent. The respondents contended throughout — however unsuccessfully — that they acted to preserve contested estate assets pending determination of ownership. In the absence of a contempt application properly before me and with the ownership dispute still unresolved, a party-and-party order adequately marks the result and leaves any further sanction to appropriate proceedings.

[110] *The first and second respondents (the liquidators).* The liquidators were the primary actors throughout. They retained private security, instructed Africor, orchestrated the occupation of the premises, and assert a preservation arrangement I find was never validly concluded and which they had no authority to conclude. They

did so in the face of a court order in the applicants' favour and a prior judicial finding that their conduct was unlawful. The statutory mechanisms in the Insolvency Act — designed specifically for recovering estate assets from third parties — were available and unused. A party-and-party costs order is made against the first and second respondents.

[111] *The third and fourth respondents (Crafford Attorneys and Mr Crafford).* Their involvement went beyond legal advice. Mr Crafford personally attended the J[...] Street premises on the night of 21 April 2026. The following day, an attorney employed by his firm physically placed locks at the G[...] premises. A party-and-party costs order is warranted.

[112] *The fifth and sixth respondents (Africor and Mr Christophorou).* Mr Christophorou was present throughout — at J[...] Street, at the Alberton Police Station and at G[...] — and Africor acted in relation to stock a court had already held should not be interfered with. A party-and-party costs order is appropriate.

[113] No costs order is made against the seventh respondent (the Sheriff) or the eighth respondent (Bidvest). No relief was sought against either.

[114] Although the respondents' involvement differed, their conduct formed part of a single and continuous course of events which necessitated the institution of these proceedings. In the circumstances, no useful purpose would be served by attempting to attribute separate portions of the costs to individual respondents, and a single costs order is appropriate.

[115] Given the nature and complexity of the issues, the costs of senior counsel are appropriate where so employed by the applicants.

ORDER

[116] I accordingly make the following order:

(a) The application is enrolled and heard as one of urgency in terms of Rule 6(12) of the Uniform Rules of Court.

(b) Condonation is granted to the first, second, fifth and sixth respondents for the late filing of their answering affidavit.

(c) The first, second, fifth and sixth respondents, and any person acting on their instructions or under their direction or control, are directed to immediately restore to the applicants peaceful and undisturbed possession of the premises situated at units B[…] and C[…], 2[…] J[…] Street, F[…] I[…] P[…], Alrode, Gauteng ("the J[...] Street premises"), and all stock situated there as at 21 April 2026, as identified and itemised in the schedule annexed to the applicants' founding affidavit, marked "FA14".

(d) The first, second, third, fourth, fifth and sixth respondents, and any person acting on their instructions or under their direction or control, are directed to immediately restore to the applicants peaceful and undisturbed possession of the units leased by the second applicant at X[...] S[…], 4[…] G[...] Road, N[…] M[…], Alberton ("the G[...] premises"), and all stock situated there as at 22 April 2026, as identified and itemised in the schedule annexed to the applicants' founding affidavit, marked "FA24".

(e) The first, second, third, fourth, fifth and sixth respondents, and any person acting on their instructions or under their direction or control, are directed to remove any locks, access devices, or other means of restriction ("access devices") placed by or on behalf of them at the J[...] Street and the G[...] premises within 24 hours of the handing down of this order, failing which the applicants are permitted to remove such access devices at the cost of the respondent(s) responsible for the relevant access devices.

(f) The Sheriff is authorised and directed, upon request by the applicants, to take such steps as may be reasonably necessary to give effect to paragraphs (c), (d) and (e) of this order.

(g) The first, second, fifth and sixth respondents and any person acting on their instructions or under their direction or control, are interdicted and restrained, from:

i. interfering with or entering the J[...] Street premises; or

ii. dealing with, removing, realising, or disposing of any stock located at or stored at the J[...] Street premises; without the prior written consent of the first or second applicants or pursuant to a valid court order.

(h) The first, second, third, fourth, fifth and sixth respondents and any person acting on their instructions or under their direction or control, are interdicted and restrained, from:

i. interfering with or entering the units leased by the second applicant at the G[...] premises; or

ii. dealing with, removing, realising, or disposing of any stock located at or stored at the second applicant's units at the G[...] premises; without the prior written consent of the first or second applicants or pursuant to a valid court order.

(i) The determination of the relief sought under section 18(3) of the Superior Courts Act is postponed *sine die*.

(j) The first, second, third, fourth, fifth and sixth respondents shall pay the applicants' costs of this application, jointly and severally, on the party-and-party scale, Scale C, including the costs of senior counsel where so employed.

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CARELSE AJ
ACTING JUDGE OF THE HIGH COURT
JOHANNESBURG

Date of hearing:	21 May 2026 and 4 June 2026
Judgment delivered:	11 June 2026

Appearances:

For the Applicant:	P Strathern SC instructed by Grant and Swanepoel Attorneys Inc.
For the First, Second, Fifth and Sixth Respondents:	AJ Venter instructed by Stoop & Associates
For the Third and Fourth Respondents:	FJ Labuschagne (Heads of Argument and 21 May 2026) and JH Lerm (4 June 2026) instructed by Crafford Attorneys