IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: ~~YES~~/NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO
(3) REVISED
DATE: **2 July 2026**
SIGNATURE: [redacted]

Case No. 2026-068596

In the application for joinder by:

SEBOGODI, THATAYAONE N.O **APPLICANT**

In re:

In the matter between:

BAHURUTSE BOO MANYANA TRADITIONAL COMMUNITY **APPLICANT**

And

MARICO CHROME CORPORATION (PTY) LTD **FIRST RESPONDENT**

THEODORE WILHELM VAN DEN HEEVER N.O. (IN HIS PURPORTED CAPACITY AS A RECEIVER OF MARICO CHROME) **SECOND RESPONDENT**

KGASHANE CHRISTOPHER MONYELA N.O. (IN HIS PURPORTED CAPACITY AS A RECEIVER OF MARICO CHROME)	**THIRD RESPONDENT**
OLCKERS CHOPOLOGE KOIKANYANG N.O. (IN HIS PURPORTED CAPACITY AS A RECEIVER OF MARICO CHROME)	**FOURTH RESPONDENT**
SAMANCOR CHROME LIMITED	**FIFTH RESPONDENT**
VEREENIGING REFRACTORIES (PTY) LTD	**SIXTH RESPONDENT**
COMPANIES AND INTELLECTUAL PROPERTY OFFICE	**SEVENTH RESPONDENT**
MASTER OF THE HIGH COURT	**EIGHTH RESPONDENT**
DIRECTOR-GENERAL: DEPARTMENT OF MINERAL RESOURCES	**NINTH RESPONDENT**

Coram:	Millar J
Heard on:	29 June 2026
Delivered:	2 July 2026 - This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded to the *CaseLines* system of the GD and by release to SAFLII. The date and time for hand-down is deemed to be 09H00 on 2 July 2026.

JUDGMENT – APPLICATION FOR INTERVENTION

MILLAR J

[1] On 28 May 2026, I delivered judgment in an application brought by the Bahurutse Boo Manyana Traditional Community (the Community) against the first (Marico Chrome) and second to fourth respondents (the Receivers).

[2] Marico Chrome and the Receivers brought an application for leave to appeal against that judgment. The application was set down for hearing together with an application in terms of s 18(3) of the Superior Courts Act[1] brought by the Community on 15 June 2026. When application was called, counsel for the applicant (in the present application for intervention), Mr. Sebogodi, informed the Court that his client wished to bring an application to intervene in the proceedings, albeit at this late stage. Counsel had in hand, an application for intervention which had apparently only shortly before the Court convened, been furnished to the other parties. It had not yet made its way onto CaseLines and so the Court did not have sight of it.

[3] The situation that was created, was one in which it was impossible for any of the applications to proceed. The parties reached an agreement with regards to the time periods for the filing of papers. The parties also agreed that the wasted costs occasioned by the late intervention would be reserved for determination when the application was heard. It was agreed that all 3 applications would be heard on 29 June 2026.

[4] When this application for intervention was heard, it was opposed by the Community. Marico Chrome and the Receivers adopted a "agnostic" approach. They did not file any papers or make any substantive submissions regarding the intervention other than to associate themselves with the submissions made on behalf of Mr. Sebogodi regarding the alleged lack of *locus standi* of Mr. Mangope to represent the Community.

[5] The order granted on 12 May 2026 was as follows:

---

1 10 of 2013.

"[34.1] *The forms and service provided for in the Uniform Rules of Court (Rules) are dispensed with and the matter is permitted to be heard as one of urgency in terms of Rule 6(12). The Applicant's non-compliance with the rules is condoned.*

[34.2] *The authority of the Second, Third and Fourth Respondents to act as receivers of the First Respondent has been terminated.*

[34.3] *The order of this Court dated 9 June 2020, under case number 23881/2020 has been terminated by virtue of the discharge of the provisional liquidation order of the First Respondent.*

[34.4] *The control and management of the First Respondent has reverted to its lawful corporate organs subject to and in accordance with the provisions of the Companies Act 71 of 2008.*

[34.5] *The Applicant and the Fifth and Sixth Respondents, as the shareholders of the First Respondent, forthwith and in accordance with the shareholders agreement of July 2011, in the First Respondent, duly nominate and procure the appointment of their respective directors of the First Respondent and undertake to take all reasonably necessary steps to restore lawful corporate governance in respect of the First Respondent.*

[34.6] *The Second, Third and Fourth Respondents, within 7 (seven) days of this order, are to deliver to the shareholders and directors of the First Respondent all books, records, accounting documents, contracts, operational information, bank records, keys, access credentials, statutory records, and assets of the First Respondent in their possession or under their control.*

[34.7] *The Second, Third and Fourth Respondents are interdicted and restrained from holding themselves out as authorised to act on*

behalf of the First Respondent, save insofar as may be strictly necessary to give effect to this order.

[34.8] *The Second, Third and Fourth Respondents will render a full written account, within 14 (fourteen) days of this order, of all actions taken by them in relation to the business, assets, affairs and finances of the First Respondent from 22 September 2023 to date.*

[34.9] *It is declared that any person acting through or under the authority of the Second, Third and Fourth Respondents in purported continuation of the receivership of the First Respondent after 22 September 2023 being the discharge of the winding up of the First Respondent, has acted without lawful authority.*

[34.10] *The Seventh Respondent, only to the extent necessary, gives effect to this order, to correct and/or update the public records relating to the First Respondent to reflect the legal consequences of the relief granted by this Court.*

[34.11] *The Second, Third and Fourth Respondents will pay the costs of this application, jointly and severally, one paying the others to be absolved on the scale as between attorney and client which costs are to include the costs consequent upon the engagement of two counsel, one of whom is senior counsel (where so engaged) on scale C".*

[6] The case brought by the Community and the order granted, was in broad terms, to restore proper corporate governance in terms of the Companies Act[2] to Marico Chrome. The Community, through its Tribal Council, of which both Mr. Mangope and Mr. Sebogodi are members, are shareholders of Marico Chrome and have, in terms of a shareholders agreement entered in 2011, the right to nominate directors to the board of directors. The circumstances under

---

2 71 of 2008.

which the application was brought are set out in the main judgment. What is noteworthy in this regard, is that it was never placed in issue that after the Receivers had sought their discharge as provisional liquidators, they had not informed the Traditional Council of this fact.

[7] Mr. Mangope, who deposed to the founding papers on behalf of the Community, relied for his authority to do so, upon a resolution of the Traditional Council granted on 24 May 2022. The resolution *inter alia* specifically provided that:

> "*Kgosi Kwena Mangope be and is hereby authorised to sign the mandate and fee agreement for the appointment of Thompson Wilkes Incorporated (Registration Number: 2004/000428/21) to render professional legal services to me, which shall include the right to prosecute or defend proceedings in any competent court and on my behalf to take all necessary steps in connection with enforcement of title over the property off* (sic) *and recovery of monies owned (*sic*) to* Bahurutshe Boo Manyana Tribal Authority by Marico Chrome Corporation Proprietary Limited (Reg no. 1978/005144/07) (in Liquidation)."

[8] The resolution is clear and unequivocal in its terms. Mr. Mangope was authorised to conduct the litigation in terms of the resolution. In its terms, it is limited only to being in respect of the enforcement *"of title over the property"* of the Tribal Authority. It is not in issue that the Tribal Authority represents the Community which is the beneficial owner of any property registered in the name of the Tribal Authority. It also cannot be disputed that the shareholding in Marico Chrome is part of that property.

[9] The basis for the intervention by Mr. Sebogodi, is litany of complaints about the way Mr. Mangope conducts his affairs and acts on behalf of the Tribal Authority. It is not necessary to deal with any of these complaints. If there are indeed meritorious complaints, then these can legitimately be pursued in separate proceedings. The satisfaction or otherwise with Mr. Mangope's conduct was not and cannot be an issue in the main case. The main case

dealt with a discreet legal issue arising out of common cause facts. The application for intervention is silent on this issue.

[10] While Mr. Sebogodi admits the resolution of 24 May 2022, he seeks an interpretation of it which would require a reading in of limitations on the authority of Mr. Mangope in terms of that resolution, which are simply not there. For example, he asserts:

> "*What the resolution did not do was grant Rre Mangope to institute litigation on behalf of the traditional council without involving it. It is not a blanket resolution that entitled him to decide when and for what case to involve the traditional council lawyers.*"

[11] Mr. Sebogodi also goes on to assert that:

> "*The administration of the mineral resources is concentrated in Rre Mangope, which is an anomaly that has to be addressed. Counsel is present and should lead the administration of the resources and other affairs of the traditional community. It is not surprising that he instituted the urgent application, purporting to represent the interests of the traditional community, but without involving the council.*"

[12] The plain wording of the resolution is at odds with these assertions. The resolution in its terms was for a specific purpose and that is the purpose for which the litigation was instituted and judgment granted. Perhaps tellingly, regarding the second of the assertions, that Mr. Mangope is somehow acting in his own interest, Mr. Sebogodi makes no submission regarding the order granted as set out in paragraph [5] above. The order confers no right upon Mr. Mangope – it in fact does the opposite. It directs compliance with the shareholders agreement of July 2011 – since the Tribal Council is the shareholder, the order is entirely in its favour.

[13] Does Mr. Sebogodi, whether acting personally or on behalf of the Tribal Council have a direct and substantial interest in the order? The law in this regard is clear as set out in *Lebea v Menye and Another,*[3] in which the Constitutional Court held that:

> "*The word "interest" in rule 28(1) has been interpreted to mean a direct and substantial interest which a person is required to have in the subject matter before he or she can be said to have locus standi in such a matter or before such a person may be jointed or be allowed to be joined in proceedings. Direct and substantial interest is a direct and substantial interest in the order that a court is asked to make in a matter. It is not enough if a person has an interest in a finding or in certain reasons for an order. The interest must be in the order or the outcome of the litigation.*"

[14] In *Gordon v Department of Health, Kwa Zulu Natal,*[4] it was held that:

> "*The test is whether a party that is alleged to be a necessary party, has a legal interest in the subject matter, which may be affected prejudicially by the judgment of the court in the proceedings concerned.*"

[15] An interest in the Court's reasoning or findings, as opposed to the order itself, is insufficient for intervention. The only interest that Mr. Sebogodi has, is in the restoration of lawful corporate governance in respect of Marico Chrome. His concerns regarding Mr. Mangope have no place in the present litigation and would add nothing to the determination of the legal question. Put simply, the order of the Court is not prejudicial to any member of the Community or Mr. Sebogodi or the Tribal Council. For this reason, the application for intervention is to be refused.

---

3 2023 (3) BCLR 257 (CC) (CC) at para [30].
4 2008 (6) SA 522 (SCA) at para [9] referring to *Bowring v Vrededorp Property CC* 2007 (5) SA 391 (SCA) at para [21].

[16] It is somewhat surprising, given the fact that the Community and Tribal Council, have been excluded from the management of Marico Chrome in circumstances where they are entitled to be included, that an application to intervene in support of the parties who have subverted the Community's and Tribal Council's rights is brought by Mr. Sebogodi. It is inexplicable that Mr. Sebogodi, acting either as a member of the Tribal Council or in his own capacity, would take any steps to subvert the Community's interests and the assertion of its legal rights in Marico Chrome.

[17] Turning now to the question of costs. The application for intervention was stillborn. Mr. Sebogodi, while asserting that he acts on behalf of the Tribal Council, placed nothing before the Court establishing this. No resolution or even a single confirmatory affidavit. Simply asserting that you act on behalf of a party does not make it so and it cannot be that a party such as the Community or the Tribal Council for that matter, can be mulcted with costs simply because a third party alleges to be acting on their behalf.

[18] I intend to order Mr. Sebogodi to pay the costs of the intervention application. The timing of the bringing of the application was the direct cause for the postponement on 15 June 2026. The wasted costs for that day could easily have been avoided had the other parties been given timeous notice of the application. Mr. Sebogodi must pay those costs also.

[19] It bears mentioning that the Receivers indicated that they were not seeking a costs order against Mr. Sebogodi for the wasted costs of 15 June 2026. Since they took no part in the intervention application, no costs order is made in respect of them for this application either.

[20] Accordingly, the costs to be paid by Mr. Sebogodi are to be paid in respect of the applicants for both the wasted costs of 15 June 2026 as well as for the opposed intervention application. The Community sought an order for costs

on the scale as between attorney and client. Considering the matter as a whole, I am of the view that Mr. Sebogodi, should pay costs on the attorney and client scale. All parties were represented by more than one counsel. Given the nature and importance of the matter, scale C is the scale upon which counsels costs are awarded.

[21] In the circumstances, it is ordered:

[21.1] The application for intervention is dismissed.

[21.2] The applicant for intervention, Mr. Sebogodi, is ordered to pay the costs of the appli*cation on the scale as between attorney and client which* costs are to include the costs consequent upon the engagement of two counsel, one of whom is senior counsel (where so engaged) on scale C. Such costs are to include the wasted costs of the first respondent, the Bahurutse Boo Manyana Traditional Community of 15 June 2026.

A MILLAR

JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

HEARD ON:	29 JUNE 2026
JUDGMENT DELIVERED ON:	02 JULY 2026

APPLICANT FOR INTERVENTION

COUNSEL:	ADV. M MAKOTI
	ADV. J MABUZA

INSTRUCTED BY:	TCM ATTORNEYS INC
REFERENCE:	MR. CT MAREDI

PARTIES IN THE MAIN APPLICATION

FOR THE APPLICANT:

COUNSEL:	ADV. G ROME SC
	ADV. R MAKOANYANA
INSTRUCTED BY:	THOMSON WILKS INC
REFERENCE:	MR. T KGAOBOESELE

FOR THE FIRST TO FOURTH RESPONDENTS:

COUNSEL:	
RESPONDENTS:	ADV. E THERON SC
INSTRUCTED BY:	DE VRIES INCORPORATED
REFERENCE:	MR. A BONNET