

IN THE HIGH COURT OF SOUTH AFRICAGAUTENG LOCAL DIVISION, JOHANNESBURGCASE NO: A066931/2025DATE: 23.04.2026

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED 

In the matter between
10 STORM CROSSINGHAM Appellant
and
PAUL HIGGINS Respondent

J U D G M E N T

CRUTCHFIELD J with whom MOTHA J concurs

This is a Full Bench appeal that comes before us for hearing on 23 April 2026.

The appellant received notification from the office of
20 the registrar as long ago as 19 March 2026, advising that the matter would be heard in this court on 23 April 2026. Counsel was duly briefed by the appellant and at some stage counsel advised of his or her unavailability to proceed with the matter on 23 April 2026.

Discussions ensued between the appellant's legal

representatives and those of the respondent in respect of the appeal being heard by this court during the week of 20 April 2023, but on a date other than 23 April 2026. Correspondence was sent to my office making the request, but the roll this week is full and it was not possible and it remains not possible to accommodate these parties on a date other than 23 April 2026.

I mention in this regard that the alternate dates proposed by the appellant were not suitable to the
10 respondent's legal representatives and accordingly the matter remained on the roll for 23 April 2026.

Notwithstanding the appellant's legal representatives being well aware that their counsel was unavailable to proceed on 23 April 2026, no efforts were made by them to procure alternate counsel available on the relevant date and to deal with the matter.

I mention in this regard that there is a plethora of counsel at the Johannesburg Bar and also the Pretoria Bar who are more than well experienced and properly equipped
20 to deal with a matter of this nature. Notwithstanding, the appellant's legal representatives, without discussion with the respondent's legal representatives, saw fit on 21 April 2026, two days before the date on which the matter was set down to be heard on 23 April 2026, to upload on CaseLines a unilateral notice of removal. As already stated, this was

done without discussion with the respondent's legal representatives and furthermore, without a tender for the wasted costs by the appellant to the respondent.

Not only is such conduct grossly disrespectful of the respondent, it also amounts to an abuse of this court's process and procedure, in that the practice manual specifically states that matters may not be removed from the roll unilaterally by the parties, but only by permission of the office of the Deputy Judge President, or on request to
10 this court.

No such request was made to the office of the Deputy Judge President. On 20 April 2026, when it came to my attention that the notice had been uploaded, the parties were informed that the matter remained on the roll pending permission for the removal been granted by the office of the Acting Deputy Judge President of this Division. No such permission was forthcoming and a request for the removal was made to this Court at the hearing 23 April 2026.

The respondent is clear that it is ready to proceed
20 with the appeal. The necessary preparation has been done and the respondent is amenable to proceeding with the appeal on 23 April 2026. The appellant essentially puts up a plea *ad misericordiam* that their counsel is available and that the attorney tasked with dealing with the appeal this morning is not in a position to do so and that the appellant

will be prejudiced if we insist that the parties proceed.

My concern with that argument is that the prejudice is not caused by the court forcing the matter to proceed, but by the appellant's legal representatives' stance in this matter and the manner in which they have conducted the proceedings.

The only prejudice to the respondent if we order that the matter be removed from the roll is that the respondent is deprived of an opportunity to finalise the litigation and costs. The costs obviously can be dealt with by way of a tailored costs order. The order that was granted in the Magistrate's Court remains in place notwithstanding that it would be placed on hold in the light of the appeal. However, I am informed from the Bar that currently peace prevails between the parties. Hopefully that peace will continue.

In the circumstances, and in an attempt not to prejudice the appellant notwithstanding the conduct of his attorneys' conduct in this matter, we are of the view that a removal of the matter from the roll can be accommodated at this stage, but it must come with an appropriate and suitably punitive costs order against the appellant.

In circumstances, the following order will issue;

- (1) The matter is removed from the roll.
- (2) The appellant is ordered to pay the wasted costs

occasioned by the removal, including the costs of counsel on scale C.

I hand down the judgment.

[REDACTED]

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CRUTCHFIELD, J

10 JUDGE OF THE HIGH COURT

DATE: 23 April 2026.