

REPUBLIC OF SOUTH AFRICA



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

CASE NO: 2026-147620

- (1) REPORTABLE: ~~YES~~ / NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO
(3) REVISED: NO

DATE : 2 SEPTEMBER 2026

SIGNATURE: [REDACTED]

In the matter between:

VENUS MUTWANAMBA

Appellant

and

AFHARE ELISA MOLEYA

First Respondent

FREEDOM MUYAMBO

Second Respondent

TSHEPISO MATABANE

Third Respondent

THE MASTER OF THE HIGH COURT

Fourth Respondent

TRANSNET SOC LIMITED

Fifth Respondent

Delivered: This judgment was prepared and authored by the Judge whose name is reflected and is electronically circulated to the parties/their legal representatives by e-mail and by uploading it to the electronic file of this matter on Caselines. The date for hand-down is deemed to be **2 September 2026**

JUDGMENT

MBOWENI AJ

INTRODUCTION

[1] This is an application for leave to appeal against the order granted by this Court on 2 July 2026 in urgent proceedings instituted by the First Respondent. The Appellant was the First Respondent in the urgent application.

[2] The application for leave to appeal raises five principal grounds. Some of those grounds incorporate more than one procedural or substantive objection. I deal with the grounds in the order in which they are raised and against the chronology which culminated in the order of 2 July 2026.

FACTUAL BACKGROUND

[3] Moambo Jabulani Moleya (“the deceased”) died on 28 May 2026 and was buried on 6 June 2026. The First Respondent alleges that she was married to the deceased by customary law and that the marriage was registered on 19 March 1990.

[4] The deceased left a Last Will and Testament. The will refers to the Appellant as his second wife. The First Respondent alleges that she became aware of the alleged second customary marriage through the will and disputes its validity principally on the basis that she neither knew of nor consented to such marriage.

[5] Importantly, the validity of the deceased’s will is not challenged. The First Respondent’s own founding case acknowledges the deceased’s right as testator to

nominate beneficiaries. The distinction between the Appellant's disputed marital status and her separate testamentary interest under an unchallenged will is therefore material.

[6] Following the deceased's death, a dispute arose concerning vehicles, shops and other property alleged to form part of the deceased estate. The First Respondent alleged that the Appellant remained in possession and control of certain of these assets and continued to utilise them.

[7] The First Respondent consequently approached this Court seeking urgent interdictory relief. Her papers described the cars and shops in the Appellant's possession as assets constituting the deceased estate.

THE URGENT PROCEEDINGS

[8] The notice of motion was electronically filed on 25 June 2026. The application came before this Court during the urgent-court week commencing on 29 June 2026.

[9] The directive applicable to that urgent-court week stipulated that matters which were not trial-ready by 12h00 on Thursday, 25 June 2026 would not be enrolled unless good cause or exceptional circumstances existed. It expressly provided that allocation did not mean that a matter was regarded as sufficiently urgent and that the parties remained required to address the Court on urgency.

[10] The directive further provided that parties were not at liberty to select the date upon which their matter would be heard and prescribed the filing arrangements applicable to opposed urgent matters.

[11] A further procedural feature assumes importance in this application. The First Respondent's notice of motion afforded 15 days for a response notwithstanding that the application was thereafter pursued and determined upon a substantially shorter urgent timetable.

[12] The Appellant opposed the application and raised preliminary objections relating, amongst others, to urgency, the procedure adopted, the periods afforded for

opposition, citation and representative capacity, non-joinder, alternative remedies and jurisdiction.

THE ORDER OF 2 JULY 2026 AND THE REASONS FOR PRESERVING THE ESTATE

[13] On 2 July 2026 this Court granted interim relief restraining the Appellant from disposing of or utilising property said to constitute the deceased estate, restrained certain enquiries and dealings concerning benefits due to the deceased, directed the closure of shops and the handing over of shop and vehicle keys, and restrained steps concerning implementation of the will pending further order.

[14] It is appropriate to record briefly why the Court considered interim intervention necessary at the time.

[15] The First Respondent alleged that the Appellant remained in possession and continued to utilise vehicles and shops belonging to the deceased estate. She further alleged that the Appellant had made enquiries concerning pension benefits and other monies following the deceased's death.

[16] The papers therefore presented the Court with a deceased estate whose administration had not been finalised, a dispute concerning the status and rights of persons asserting interests in that estate, and allegations that estate assets continued to be utilised while those disputes remained unresolved.

[17] The First Respondent expressly alleged that continued possession and utilisation of the assets created a risk of their depletion to the detriment of the estate and its lawful beneficiaries.

[18] The immediate concern of the Court was accordingly preservation rather than final determination. The Court was not called upon at that stage finally to determine whether the Appellant was lawfully married to the deceased, nor finally to determine the parties' respective succession rights.

[19] The purpose of the interim order was to preserve the res. If the assets were alienated, dissipated or materially depleted before the substantive disputes were

determined, subsequent relief could become ineffective and the interests of all persons ultimately entitled under the estate could be prejudiced.

[20] There was accordingly a proper basis for interim intervention directed at preservation of the estate.

[21] That conclusion must, however, be distinguished from the separate question arising in the application for leave to appeal as to whether every component of the order was competent and whether the procedure by which that relief was obtained was sufficiently justified.

[22] In particular, there is a material distinction between restraining the dissipation of estate assets and directing that possession or control of those assets be transferred from one interested person to another interested person rather than being preserved under the control of the person lawfully authorised to administer the estate.

TEST FOR LEAVE TO APPEAL

[23] Section 17(1)(a)¹ provides that leave to appeal may be granted where the Court is of the opinion that the appeal would have a reasonable prospect of success or where there is some other compelling reason why the appeal should be heard.

[24] In ***Ramakatsa and Others v African National Congress and Another***², the Supreme Court of Appeal held that the enquiry requires a dispassionate assessment of the facts and law to determine whether an appellate court could reasonably arrive at a different conclusion. The prospects must not be remote and there must be a sound and rational basis for concluding that there are reasonable prospects of success.

[25] In ***Caratco (Pty) Ltd v Independent Advisory (Pty) Ltd***³, the Supreme Court of Appeal confirmed the distinction in s 17(1)(a) between reasonable prospects of success and the existence of some other compelling reason why an appeal should be heard.

¹ Superior Courts Act 10 of 2013.

² (724/2019) [2021] ZASCA 31.

³ (982/18) [2020] ZASCA 17; 2020 (5) SA 35 (SCA).

[26] More recently, in *Firststrand Bank Limited v Frame and Another*⁴ (Application for Leave to Appeal), the Gauteng Division reaffirmed that s 17(1)(a) imposes a stringent threshold and that something more than an arguable case or a mere possibility of success is required.

[27] The enquiry in the present matter is accordingly whether there is a realistic and rational prospect that another court, applying the law to the facts and issues raised, may arrive at a different conclusion.

GROUND 2.1: THE NATURE AND FINALITY OF THE INTERDICT

[28] The Appellant's first ground is that the Court erred in finding that the First Respondent was entitled to interdictory relief when the orders granted were final in nature notwithstanding that Part B remained pending.

[29] The order did not finally determine whether the Appellant was validly married to the deceased. It did not finally determine the respective succession rights of the parties and did not finally determine the validity or interpretation of the will.

[30] The prohibitions against disposal and utilisation of estate assets and against implementation of aspects of the will were predominantly preservatory.

[31] I accept, however, that the provision directing the handing over of shop and vehicle keys had an immediate mandatory effect and altered possession or control of property. That aspect is more appropriately considered under ground 2.4, which expressly challenges the return of property in the context of the Appellant's interest under the will.

[32] I am not persuaded that another court would reasonably conclude that the order in its entirety was final.

[33] Ground 2.1 is accordingly dismissed.

⁴ (2024/100304) [2026] ZAGPJHC 463 (7 May 2026).

GROUND 2.2: NOTICE OF MOTION, DIES INDUCIAE AND PROCEDURAL FAIRNESS

[34] The Appellant contends that the Court erred in entertaining the application upon a defective notice of motion which did not properly afford time for notice of opposition, points of law and an answering affidavit.

[35] Rule 6(12) permits a court in urgent proceedings to dispense with the ordinary forms and periods prescribed by the Uniform Rules. It follows that the ordinary dies induciae applicable to non-urgent motion proceedings do not automatically apply.

[36] That power is not unbounded. The foundational authority remains ***Luna Meubel Vervaardigers (Edms) Bpk v Makin and Another (t/a Makin's Furniture Manufacturers)*** 1977 (4) SA 135 (W), where the Court explained that the degree of relaxation of the Rules must be commensurate with the exigencies of the particular case.

[37] That principle remains consistently applied. In ***Matjee and Others v M.O.K.M and Others***⁵, this Division reaffirmed that an applicant invoking Rule 6(12) must establish in the founding papers the circumstances rendering the matter urgent and why substantial redress cannot be obtained in due course. The departure sought from ordinary procedure must therefore be justified by the urgency established on the papers.

[38] Similarly, in ***Visagie and Others v Office Manager, Department of Economic Development, Environment, Conservation and Tourism, Vryburg Office, North West and Others***⁶ the Court reiterated that urgency is a matter of degree and that the extent to which ordinary procedural requirements may properly be relaxed depends upon the exigencies demonstrated in the particular case.

[39] Rule 6(12) therefore does not dispense with procedural fairness. A respondent must be informed with reasonable certainty of the timetable upon which opposition is required, and the extent of any truncation must be justified by the degree of urgency demonstrated.

⁵ (2024-045858) [2026] ZAGPPHC 162 (20 February 2026).

⁶ (2026/179771) [2026] ZANWHC 219 (24 August 2026).

[40] This is consistent with *Mogalakwena Local Municipality v Provincial Executive Council, Limpopo and Others*⁷, where this Division emphasised that the respondent's ability adequately to present its case within the time afforded remains a relevant consideration in determining urgency.

[41] In this case, the notice of motion afforded the Appellant 15 days within which to respond.

[42] That period is difficult to reconcile with the subsequent pursuit and determination of the application upon a materially shorter timetable.

[43] If the First Respondent intended to afford the Appellant 15 days to respond, the application could not consistently be determined before expiration of that period without an appropriate and adequately justified alteration of the timetable.

[44] Conversely, if the First Respondent's case was that circumstances required judicial intervention within a matter of days, the notice of motion ought clearly to have stipulated the truncated periods upon which the Appellant was expected to act.

[45] The fact that the Appellant ultimately succeeded in delivering opposition does not necessarily cure the procedural difficulty. Actual participation does not invariably establish that the procedure adopted was fair.

[46] There is consequently a reasonable prospect that another court may conclude that the procedure adopted was internally inconsistent and that the truncation of the Appellant's procedural rights had not adequately been justified.

[47] Ground 2.2 is accordingly upheld.

GROUND 2.3: THE POINTS IN LIMINE

Urgency

[48] The Appellant contends that the matter should not have been entertained with the degree of urgency accorded to it.

⁷ (35248/14) [2014] ZAGPPHC 400; [2014] 4 All SA 67 (GP).

[49] The allegations concerning continued utilisation and possible depletion of estate assets were sufficient, in my view, to establish urgency in the broad sense. The First Respondent alleged that continued possession and utilisation threatened prejudice to the estate and its beneficiaries.

[50] The question raised by the application for leave to appeal is narrower: whether the matter possessed the degree of urgency necessary to justify the particular timetable upon which it was heard.

[51] The distinction is significant. As recently reaffirmed in **Visagie**, urgency is a matter of degree. The question is therefore not simply whether the matter was urgent, but whether the demonstrated urgency justified the particular departure from ordinary procedure.

[52] The same principle emerges from **Matjee**. Rule 6(12) requires the applicant to establish the circumstances rendering the matter urgent and why substantial redress cannot be obtained through proceedings in the ordinary course.

[53] The applicable urgent-court directive expressly provided that allocation did not constitute a finding that the matter was sufficiently urgent and required the parties to address urgency.

[54] A distinction must therefore be drawn between a matter which cannot await determination in the ordinary motion court and a matter which is so urgent that it cannot even await the ordinary urgent-court timetable.

[55] The matter was heard on Thursday. The ordinary Tuesday urgent roll was only a few court days away.

[56] The First Respondent was therefore required to demonstrate why the estate faced such an immediate threat that the application could not wait until the following Tuesday.

[57] The allegations demonstrated a need for reasonably prompt preservation. Another court may nevertheless conclude that they did not establish a threatened event or imminent dissipation during those few intervening days sufficient to justify the exceptional timetable adopted.

[58] The 15-day response period contained in the First Respondent's own notice of motion reinforces the difficulty. It is difficult to reconcile an express indication that the opposing party has 15 days to respond with the proposition that the matter could not wait a few days for the ordinary urgent roll.

[59] I am therefore satisfied that another court may reasonably conclude that, although urgency existed, the degree of urgency necessary to justify the particular enrolment was not established.

[60] The urgency component of ground 2.3 is accordingly upheld.

Citation and Representative Capacity — *Nomino Officio*

[61] The Appellant further contends that the proceedings were defective in relation to the citation of persons concerned with the administration of the deceased estate, in that they were not properly cited in their representative capacities *nomino officio*.

[62] This complaint requires a distinction between personal and representative capacity.

[63] An executor who institutes or defends proceedings concerning rights or obligations of a deceased estate ordinarily acts in a representative capacity. The designation "N.O." reflects that the person is cited *nomino officio*, by virtue of the office held, rather than personally.

[64] The mere omission of the letters "N.O." does not necessarily invalidate proceedings. Substance remains important. If the pleadings as a whole make the representative capacity unmistakably clear, an error in nomenclature may not be fatal.

[65] The significance of capacity in deceased-estate litigation has recently been considered in ***L.D.K NO v M.J.S and Others***⁸. The judgment distinguishes between a person cited personally and that person cited *nomino officio* in a representative capacity as executrix. The distinction is substantive where the relief concerns rights or obligations attaching to the office of executor.

⁸ (018360/2025) [2026] ZAWCHC 397 (6 August 2026).

[66] ***L.D.K NO*** also reaffirms the general position recognised in ***Gross and Others v Pentz***⁹ that an executor ordinarily represents a deceased estate in litigation, subject to limited circumstances in which a beneficiary may have standing to act in protection of the estate.

[67] The difficulty in the present matter is that representative capacity bears directly upon the substantive relief. The property concerned was alleged to belong to the deceased estate and the order directly affected both possession of estate assets and implementation of the will.

[68] If persons responsible for administration of the estate were cited merely in their personal capacities, while relief was sought against them in relation to functions exercisable only in their representative capacities, another court may reasonably conclude that the defect was material rather than merely descriptive.

[69] The point also intersects with the question whether assets belonging to the estate could properly be ordered into the personal possession of the First Respondent.

[70] I do not find that omission of the suffix “N.O.” automatically rendered the proceedings a nullity. I find that, in the circumstances of this particular dispute, the capacity in which the relevant parties were cited and against which estate-related relief was granted presents an arguable issue warranting appellate consideration.

[71] The representative-capacity or N.O. argument advanced under ground 2.3 is accordingly upheld.

Non-joinder

[72] The Appellant further complains of the non-joinder of the deceased estate.

[73] This issue must be distinguished from the representative-capacity objection.

[74] The general test for compulsory joinder is whether the person concerned has a direct and substantial legal interest in the order which the Court may make. That

⁹ 1996 (4) SA 617 (A).

principle was reaffirmed by the Constitutional Court in *National Union of Metalworkers of South Africa v Intervolve (Pty) Ltd and Others*¹⁰.

[75] A deceased estate is not an independent juristic person which must invariably be cited in its own name. It is ordinarily represented in litigation by the duly authorised executor acting *nomino officio*.

[76] The more substantial question is therefore whether the appropriate person responsible for the estate was properly before Court in a representative capacity, rather than whether the estate itself ought to have been cited as though it were a separate legal persona.

[77] The non-joinder component of ground 2.3 is accordingly dismissed.

Alternative remedy

[78] The Appellant further contends that the First Respondent had an adequate alternative remedy.

[79] I am not persuaded that this objection independently carries reasonable prospects of success.

[80] Where the apprehended harm is the possible depletion, alienation or dissipation of property forming part of a deceased estate, relief obtained only after the assets have disappeared may not provide substantial redress.

[81] The existence of ordinary mechanisms of estate administration therefore did not necessarily preclude appropriate interim preservation.

[82] The alternative-remedy component of ground 2.3 is dismissed.

GROUND 2.4: THE UNCHALLENGED WILL, LOCUS STANDI AND CONTROL OF ESTATE ASSETS

¹⁰ [2014] ZACC 35; 2015 (2) BCLR 182 (CC).

[83] Ground 2.4 is material. The Appellant contends that the Court erred in directing the return of property notwithstanding that she is a beneficiary under the deceased's will and the will itself has not been challenged in either Part A or Part B.

[84] The issue requires a distinction between marital status, testamentary interest, personal standing and authority to administer estate property.

[85] The First Respondent has a direct and substantial interest in determining whether the Appellant was lawfully married to the deceased. Her standing to protect her own matrimonial and succession rights cannot seriously be disputed.

[86] That personal standing does not necessarily confer upon the First Respondent representative authority to recover, receive or administer property belonging to the deceased estate.

[87] The distinction between personal interest and representative authority is reinforced by the recent decision in ***Sihele Properties (Pty) Ltd and Another v LP Properties (Pty) Ltd and Another***¹¹. The Court recognised that, following appointment, the executor assumes control and custody of property forming part of the deceased estate and ordinarily represents the estate in litigation affecting such property.

[88] That principle accords with the established position in ***Gross v Pentz*** that the executor ordinarily acts on behalf of the estate and with ***Gory v Kolver NO and Others***¹² in which the Constitutional Court recognised the executor's responsibility in relation to the administration of estate property.

[89] The First Respondent's own papers characterised the cars and shops in question as estate assets.

[90] The order nevertheless required control of certain of those assets to be transferred to the First Respondent personally.

[91] The Appellant's position requires a corresponding distinction.

¹¹ (1442/2025) [2025] ZAECMKHC 93 (14 August 2025).

¹² [2006] ZACC 20; 2007 (4) SA 97 (CC).

[92] The validity of her alleged customary marriage to the deceased is disputed. The validity of the deceased's will is not.

[93] It does not necessarily follow that a finding that the Appellant was not lawfully married to the deceased would extinguish a testamentary disposition in her favour.

[94] Whether the deceased's description of the Appellant as his "second wife" merely identifies the intended beneficiary or whether valid marital status constitutes a condition of the particular testamentary disposition is a matter of interpretation of the will.

[95] That issue was not finally determined in the urgent application.

[96] The Appellant therefore possesses a direct testamentary interest independent of the ultimate determination of her marital status.

[97] Her position as beneficiary does not, however, entitle her to administer, alienate or utilise property belonging to the estate. A beneficiary's interest and the executor's authority to administer an estate are distinct.

[98] The same applies to the First Respondent. Her asserted status as surviving spouse and her standing to protect her personal rights do not necessarily confer upon her the powers of the executor.

[99] The recent decisions in ***Sihele Properties*** and ***L.D.K NO*** reinforce that distinction. The legal interest which a spouse or beneficiary may have in the outcome of estate administration is not synonymous with the representative authority of an executor over the property of the estate.

[100] The question arising on appeal is therefore not whether preservation of the estate was justified. For the reasons already given, the Court had a legitimate basis to intervene to preserve the estate.

[101] The question is whether the estate should have been preserved by transferring possession or control of its property from the Appellant to the First Respondent personally, rather than by preserving it under the control of the person lawfully authorised to administer the estate.

[102] That question is strengthened by the representative-capacity issue. Where litigation concerns the possession and administration of estate property, the capacity in which the executor or persons responsible for administration are before Court is material.

[103] There is consequently a reasonable prospect that another court may conclude that preservation was justified but that the mandatory component of the order directing delivery to the First Respondent personally was not the appropriate form of preservatory relief.

[104] Ground 2.4 is accordingly upheld.

GROUND 2.5: JURISDICTION

[105] The Appellant's fifth ground is that this Division lacked jurisdiction because the material parties reside outside its territorial jurisdiction, the deceased estate was reported in Thohoyandou, Limpopo Province, and the cause of action did not arise within this Division.

[106] The fact that the estate was reported in Limpopo is not, standing alone, dispositive. Nor is residence the only jurisdictional connecting factor.

[107] Section 21(1)¹³, provides the statutory starting point for determining the territorial jurisdiction of a Division. The enquiry nevertheless remains whether there exists a legally recognised jurisdictional connection between the dispute and the Court.

[108] The Supreme Court of Appeal recently considered these principles in ***Organi Mark (Pty) Ltd v Goolam Nabi Ebrahim Akoodie and Another***¹⁴. The Court held that the presence or residence of a party within the territorial area does not necessarily resolve the jurisdictional enquiry where the substantive dispute lacks the required jurisdictional connection with that Court.

[109] ***Organi Mark*** confirms that some legally recognised ratio jurisdictionis must exist connecting the cause to the Court. The Supreme Court of Appeal found in that

¹³ Superior Courts Act.

¹⁴ (240/2023) [2024] ZASCA 44 (8 April 2024).

matter that, notwithstanding the respondents' residence within the area of jurisdiction of the Gauteng Division, there was nothing linking that Court to the substantive statutory claim sought to be enforced.

[110] That approach is consistent with the earlier decision in **Gallo Africa Ltd and Others v Sting Music (Pty) Ltd and Others**¹⁵, in which the Supreme Court of Appeal explained that effectiveness lies at the root of jurisdiction but does not, without an appropriate *ratio jurisdictionis*, necessarily establish jurisdiction.

[111] The enquiry in the present matter is accordingly not resolved merely by identifying one respondent with some connection to Gauteng. The Court must examine the substantive dispute, the cause of action, the parties against whom substantive relief is sought and the territorial connection between those matters and this Division.

[112] The citation of the Master of the High Court, Pretoria or Transnet SOC Limited cannot by itself create jurisdiction over the substantive dispute if the necessary jurisdictional connecting factors are otherwise absent.

[113] Having regard to the jurisdictional challenge raised by the Appellant, the reporting and administration of the estate in Thohoyandou and the alleged absence of a material cause of action within Gauteng, I am satisfied that another court may reasonably reach a different conclusion concerning jurisdiction.

[114] I emphasise that this is not a final finding that this Division lacked jurisdiction. The question at this stage is whether there is a reasonable prospect that an appellate court may reach a different conclusion. In my view, applying the principles reaffirmed by the Supreme Court of Appeal in **Organi Mark**, that threshold is met.

[115] Ground 2.5 is accordingly upheld.

CONCLUSION

[116] The application for leave to appeal succeeds in part.

¹⁵ [2010] ZASCA 96; 2010 (6) SA 329 (SCA).

[117] It remains important to distinguish the justification for preservation of the estate from the particular means by which preservation was achieved. The allegations before the Court concerning continued utilisation and possible depletion of estate assets justified interim protective intervention.

[118] The grant of leave to appeal therefore does not amount to a conclusion that the estate ought to have been left without protection. It reflects the existence of reasonable prospects that another court may differ concerning the procedure followed and aspects of the form and reach of the order.

[119] Ground 2.1 is dismissed. The order did not finally determine the substantive disputes in their entirety.

[120] Ground 2.2 is upheld because another court may reasonably conclude that the 15-day response period contained in the notice of motion was inconsistent with the substantially truncated timetable actually followed and that the resulting procedural position was insufficiently justified. The recent decision of this Division in **Matjee**, read with **Luna Meubel** and the recent application of those principles in **Visagie**, reinforces the requirement that the particular degree of procedural truncation must be justified by the urgency established.

[121] Ground 2.3 succeeds insofar as it concerns the degree of urgency and the representative capacity or N.O. issue. It fails insofar as it concerns the separate contention that the deceased estate itself ought to have been joined and the contention that the First Respondent possessed an adequate alternative remedy.

[122] Ground 2.4 is upheld because another court may reasonably conclude that, although preservation of the estate was warranted, delivery of estate assets to the First Respondent personally was not the appropriate mechanism. The distinction between personal interest in a deceased estate and the executor's representative authority over estate property is reinforced by Sihele Properties, **L.D.K NO, Gross v Pentz and Gory**.

[123] Ground 2.5 is upheld because the jurisdictional challenge is reasonably capable of producing a different conclusion on appeal. The recent SCA judgment in **Organi Mark** confirms that the jurisdictional enquiry requires an appropriate *ratio*

jurisdictionis and cannot be resolved merely by the presence within the territorial area of a person who has been cited as a party.

[124] These issues are material and sufficiently interconnected to warrant consideration by an appellate court.

[125] I am accordingly satisfied that the requirements of s 17(1)(a) of the Superior Courts Act have been established in respect of the identified grounds.

ORDER

In the result, I make the following order:

1. The application for leave to appeal is granted in part.
2. The Appellant is granted leave to appeal to the Full Court of the Gauteng Division of the High Court, Pretoria, in respect of:
 - 2.1 Ground 2.2 concerning the notice of motion, *dies induciae* and procedural truncation;
 - 2.2 Ground 2.3 insofar as it concerns:
 - 2.2.1 the degree of urgency and the justification for departure from the applicable urgent-court procedure; and
 - 2.2.2 the citation and representative capacity *nomino officio* of the persons responsible for administration of the deceased estate;
 - 2.3 Ground 2.4 concerning the unchallenged Last Will and Testament, the respective *locus standi* of the parties, and the order transferring possession or control of estate assets to the First Respondent; and
 - 2.4 Ground 2.5 concerning the jurisdiction of this Division.
3. Leave to appeal is refused in respect of:
 - 3.1 Ground 2.1 insofar as it contends that the order was final in its entirety;
 - 3.2 Ground 2.3 insofar as it concerns the alleged non-joinder of the deceased estate; and
 - 3.3 Ground 2.3 insofar as it concerns the existence of an adequate alternative remedy.

4. The costs of the application for leave to appeal shall be costs in the appeal.



LJ MBOWENI AJ

ACTING JUDGE OF THE HIGH COURT,
GAUTENG DIVISION, PRETORIA

Heard on: 31 August 2026
Delivered: 2 September 2026

Appearances:

Counsel for the Appellant: Adv Musetha
Instructed by H.J Mbonzhe Attorneys

Counsel for the First Respondent: Adv R Maruma
Instructed by Motimele Masete Attorneys