IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, MAKHANDA)

Not reportable

CASE NO. 3021/2025

In the matter between:

ZINGA PHAKAMISA MEI	First applicant
LINGELIHLE ASEMAHLE MEI	Second applicant
ZINTLE BUTHANANI MEI	Third applicant
NONYAMEKO MEI	Fourth applicant

and

PHUMELELE MEI	First respondent
VUYOKAZI MATIKA (born MEI)	Second respondent
NOMTHUNZI MEI	Third respondent
CANDICE JANINE MULLINS	Fourth respondent
MASTER OF THE HIGH COURT, BHISHO	Fifth respondent

JUDGMENT

LAING J

[1] This is an application for interim relief. The applicants seek to protect and preserve the value of the estate of the late Mr Aubrey Mei, pending the appointment of an executor.

[2] More specifically, the applicants seek a rule nisi to the effect that, pending the above appointment: the first, second, and third respondents be interdicted from dissipating the assets of the deceased, including any rental income; the respondents in question be ordered to transfer all rental income for the Aubrey Mei Trust into the account held by Aubrey Mei (Pty) Ltd; the status quo of the deceased's estate be preserved; only assets required for day-to-day operations be permitted for use; and the first respondent be ordered to collect all rental income owed to the deceased, pay it into the account held by Aubrey Mei (Pty) Ltd, produce all records in relation thereto, and account for and maintain all movable and immovable property owned by the deceased.

[3] The application was brought on an urgent basis. It was opposed by the first, second, and third respondents.

Applicants' case

[4] In the founding affidavit, the first applicant explained that he, the second applicant, and the third applicant are all siblings. The fourth applicant is their mother. She is also the executrix for the estate of their late father, Mr Phakamisumzi Mei ('Phaki'), who had been the predeceased son of the late Mr Aubrey Mei. The first, second, and third applicants are the late Mr Aubrey Mei's grandchildren.

[5] The first applicant explained further that the first respondent is his uncle, and the son of the late Mr Aubrey Mei. The second and third respondents are his aunts, and the daughters of the deceased.

[6] During his lifetime, the deceased acquired several commercial, agricultural, and residential properties. The Aubrey Mei Family Trust is the registered owner of 17 such

properties. The deceased was a founder and a trustee. The first applicant and the first respondent are beneficiaries of the trust; so, too, is a private company, AG Mei (Pty) Ltd, in relation to which the deceased was the sole shareholder and director. The company is also the registered owner of several properties. Its main purpose, however, is the operation of a rental property business, which involves the management of a considerable portfolio, including the properties owned by the trust, the company itself, and the properties regarding which the first applicant's late father (Phaki), the first respondent, or the deceased were joint owners. The rental derived therefrom constitutes an important income stream for the company and is reflected as such in its financial records.

[7] The first applicant stated that the deceased passed away on 21 May 2025. The second respondent reported the death, which resulted in the fifth respondent's appointing her as executrix on 2 June 2025. The second respondent indicated that the deceased left no will. This was incorrect. The deceased left a will, leaving it in the care of the fourth applicant and bequeathing his entire estate to the trustees of a testamentary trust to be created in terms thereof. The second respondent failed to disclose the names of all the deceased's children, as well as any predeceased children and their surviving heirs. She was, moreover, never properly nominated as executrix.

[8] It was the first applicant's contention that the first, second, and third respondents had taken possession or control of the deceased's immovable properties. They had, he said, collected rental income in the amount of R 100 000 without accounting to the fifth respondent or the trust beneficiaries and without paying it into the account of the estate, the trust, or the company. They had, moreover, taken possession and use of the motor vehicles that formed part of the estate, and possibly dissipated or disposed of other movable property. The first applicant's attorneys requested undertakings from the respondents on 30 June 2025 and 2 July 2025. These were ignored.

[9] The matter was urgent because estate property was being used and dissipated or disposed of to the prejudice of the applicants. The first respondent was a single trustee and could not collect rental income for his own benefit. The trust stipulated, moreover, that no distributions could be made until three trustees were in place. The

applicants would not be afforded substantial redress in due course because the respondents had no liquid assets. Pending the proper appointment of an executor, the applicants had a right, as Phaki's surviving children, to the preservation of the value of the estate.

[10] The applicants also filed the affidavit of their attorneys, setting out the history of their interaction with the applicants and the steps taken to secure undertakings from the respondents. These were to no avail.

Respondents' case

[11] In an answering affidavit, the first respondent asserted that the applicants had incorrectly conflated three classes of assets. There was, moreover, no proof that they fell into the deceased's estate. To that effect, some of the properties were owned by the trust; other properties were owned by the company; and yet other properties were jointly owned by the first respondent and Phaki. The first respondent denied that the deceased had been the sole shareholder and director of the company, alleging that he was a co-shareholder and that he had been fraudulently removed as a director.

[12] The properties owned by the trust, stated the first respondent, did not fall into the company's portfolio. The deceased merely deposited the rental income derived therefrom into the company account for the sake of convenience after the closure of the trust account. The same arrangement existed in relation to the remaining properties, including those where there was joint ownership.

[13] The first respondent admitted that the second respondent had reported the estate and that he, the third respondent, and their brother (Mr Mziwamadoda Mei) had nominated her as executrix. He denied, however, that she had in fact been appointed. He expressed surprise that the deceased had left a will, saying that the respondents had been unaware of it. Furthermore, said the first respondent, it was strange that the will stipulated only the fourth applicant's children as beneficiaries, to the exclusion of

the deceased's remaining children and those of Phaki. The validity of the will would be challenged.

[14] Regarding the alleged dissipation of assets, the first respondent denied that this was so. He averred that, as the sole remaining trustee, he had a responsibility to administer the trust assets and collect all rental income accruing in relation thereto. The fourth applicant, said the first respondent, collected rental income for properties owned by the company. Neither the second nor the third respondent collected rental income; they had no authority to that effect. The latter, moreover, had the deceased's permission to use his motor vehicle prior to his passing; it was currently kept at the family homestead in Hamburg.

[15] The first respondent said that he was not legally represented when he received the papers on 7 July 2025. He had been unaware of the applicants' request for undertakings or their intentions overall. The applicants' concerns about the possible dissipation of estate assets were groundless and based on pure speculation. He reiterated his responsibility as a trustee, saying that he was obliged to continue to administer the trust assets and to collect rental income. It was never alleged that either the second or third respondent was doing so. The applicants, moreover, never invoked the relevant provisions of the deed of trust if they had been unsatisfied with the first respondent's conduct. Furthermore, the applicants failed to explain the delay of more than three weeks in launching the application, consequent to their having become aware that the second respondent had reported the estate.

In reply

[16] The first applicant averred that, while preparing replying papers, his attorneys received the company's 2018 – 2020 annual financial statements from the fourth respondent. She also provided them with an extract from the company's share register. In that regard, it was apparent that the trust, not the deceased, was the sole shareholder. Furthermore, the most recent set of annual financial statements, for the year ended 29 February 2020, indicated a loan from the deceased to the company in

the amount of R 3 470 081. The first applicant was unaware if the loan was subsequently repaid.

[17] Regarding the first respondent's conduct as a trustee, the first applicant stated that the deed of trust obliged him to have opened an account for the trust into which funds were to have been paid. This was also a statutory requirement in terms of section 10 (1) of the Trust Property Control Act 57 of 1988 (TPCA). The first respondent's failure to have done so amounted to a breach of the deed of trust as well as a contravention of the TPCA.

[18] The first applicant pointed out that the first respondent had not supplied details about the amount of rental income collected. He had also not furnished proof to substantiate his allegations either in relation to the validity of the will or his removal as a director. The first applicant admitted that the fourth applicant had agreed to the deceased's request that she collect rental income for certain properties; he had, however, never clarified the ownership thereof.

Issues to be decided

[19] The applicants seek urgent interim relief. The court must decide whether the applicants have established a basis for urgency; if so, then the court must decide whether the applicants have satisfied the usual requirements for an interlocutory interdict. Costs, too, must be determined. A brief overview of the relevant principles follows.

Legal framework

[20] The requirements for interim relief are trite. An applicant must demonstrate: (a) a prima facie right; (b) a well-grounded apprehension of irreparable harm if the interim relief is not granted and the ultimate relief is eventually granted; (c) a balance of

convenience in favour of the granting of the interim relief; and (d) the absence of any other satisfactory remedy.[1]

[21] Regarding the question of urgency, rule 6 (12) (b) of the Uniform Rules of Court stipulates that an applicant must set out explicitly the circumstances which render the matter urgent. The applicant must also indicate the reasons why he or she could not obtain substantial redress at a hearing in due course. In *East Rock Trading 7 (Pty) Ltd v Eagle Valley Granite (Pty) Ltd*,[2] Notshe AJ explained that:

'. . . the procedure set out in rule 6 (12) is not there for the taking. An applicant has to set forth explicitly the circumstances which he avers render the matter urgent. More importantly, the applicant must state the reasons why he claims that he cannot be afforded substantial redress at a hearing in due course. The question of whether a matter is sufficiently urgent to be enrolled and heard as an urgent application is underpinned by the issue of absence of substantial redress in an application in due course. The rules allow the court to come to the assistance of a litigant because if the latter were to wait for the normal course laid down by the rules it would not obtain substantial redress.'[3]

The above principles constitute a rudimentary framework for the determination of the matter. Such additional principles as may arise will be discussed in greater detail according to the context in which they appear.

Urgency

[22] Dealing, firstly, with the question of urgency, the applicants alleged that estate assets were being used unlawfully. There was a likelihood that, in the event of delay, they would be dissipated. The applicants' concerns were based on the first respondent's failure to have accounted for the collection of rental income, the third respondent's private use of the deceased's motor vehicle, and the respondents' overall

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[1] *Setlogelo v Setlogelo* 1914 AD 221, 227. The principles have remained largely unchanged for more than 100 years of South African jurisprudence. See, most recently *Tshwane City v Afriforum* 2016 (6) SA 279 (CC), 298F – 306B.

[2] 2011 JDR 1832 (GSJ).

[3] At para 6.

failure to have given any undertaking. They had, moreover, no personal assets that could be realised to offset the possible dissipation of estate assets.

[23] The respondents argued that the urgency was self-created. It had taken the applicants more than three weeks to launch the proceedings, calculated from the date when the estate was reported.

[24] There was, viewed objectively, insufficient evidence to indicate that estate assets were being dissipated. The applicants presented no proof of any financial undertakings, transactions, or otherwise, to suggest that the assets would have been reduced so significantly that, if the matter was enrolled in accordance with the usual timeframes contained in rule 6 (5), then no substantial redress would have been possible. The procedural remedy available in terms of rule 6 (12) is notoriously susceptible to abuse. It must be approached with extreme care. At a minimum, an applicant must ensure that he or she clearly sets out the facts, accompanied by an explanation, for why he or she would not secure meaningful and adequate relief later.

[25] The court is, nevertheless, persuaded that the applicants have satisfied the necessary requirements overall, notwithstanding any delay. As will be discussed in the paragraphs that follow, it is evident that the conduct of the first respondent has given rise to the concerns expressed by the applicants. He occupies a position of exceptional power regarding the value and yield of a significant property portfolio in relation to which the applicants have an interest. The lack of transparency that characterises the first respondent's conduct, as well as his attitude to their claims, convinces the court that, left unchecked, he could well dissipate the assets, leaving the applicants high and dry, so to speak, in the absence of immediate relief.

[26] Notwithstanding the principles clearly enunciated by Kroon J in *Caledon Street Restaurants CC v D'Aviera*,[4] this is not a matter where the applicants should be non-suited for lack of urgency. The dispute has been fully ventilated. Comprehensive heads of argument, supplemented at the invitation of the court, have been filed and the matter argued. It would serve no purpose, at this late stage, to strike the matter from the roll.

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[4] 1998 JDR 0116 (SE), 9 – 11.

Prima facie right

[27] The proper approach for the determination of whether an applicant has established a prima facie right was set out in *Webster v Mitchell*,[5] and subsequently qualified in *Gool v Minister of Justice and Another*.[6] The approach remains unchanged and was conveniently summarised in *Spur Steak Ranches Ltd and Others v Saddles Steak Ranch, Claremont, and Others*,[7] where Selokowitz J stated:

'In determining whether or not the applicants crossed the threshold, the right relied upon for a temporary interdict need not be shown by a balance of probabilities, it is enough if it is prima facie established though open to some doubt.

The proper approach is to take the facts set out by the applicants together with any facts set out by the respondents, which the applicants cannot dispute, and to consider whether having regard to the inherent probabilities the applicants should, not could, on those facts obtain final relief at the trial.'[8]

[28] The applicants' alleged right to the preservation of assets rests on two key assertions. The first is that, in terms of the deceased's last known will, he bequeathed his entire estate to the trustees of a testamentary trust to be created in terms thereof. To that effect, he appointed the first, second, and third applicants as beneficiaries and nominated the first applicant, the fourth respondent, and a third party (Mr Xolani Mgudlandlu) as the trustees. Whereas the respondents expressed scepticism about the contents of the will and indicated their intention to challenge its validity, they advanced no evidence to undermine the applicants' claim to its existence. They have not, moreover, brought any counter-application in that regard. Absent anything to the contrary, the probabilities are that the document attached to the founding papers is indeed the deceased's will and must be interpreted and implemented in accordance with the provisions thereof.

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[5] 1948 (1) SA 1186 (W), 1189.
[6] 1955 (2) SA 682 (C), 688D – E.
[7] 1996 (3) SA 706 (C).
[8] 714D – F.

[29] The second assertion is that the deed of trust provided that the capital and income beneficiaries of the trust included the deceased, the first applicant, the first respondent, and the company. The respondents admitted the allegation. An examination of the deed of trust supports this. From the definitions clause, the beneficiaries of the trust are the following:

'1.6 BENEFICIARY or BENEFICIARIES

refers to income or capital beneficiaries in so far as the reference to beneficiary or beneficiaries relates to the capital of the trust and shall include the following persons and trusts, namely:

1.6.1 CAPITAL BENEFICIARIES:

refers to the persons or institutions (including trusts) who, upon vesting of the trust capital in terms of the discretionary powers of the trustees, shall become entitled to the trust capital and who may be elected within the discretion of the trustees from the following:

1.6.1.1 Gcinumzi Aubrey Mei [the deceased]; and/or

1.6.1.2 Phumelele Gcinumzi Mei [the first respondent] and his lawful issue in perpetuity; and/or

1.6.1.3 Zinga Phakamisa Mei [the first applicant] and his lawful issue in perpetuity; and/or

1.6.1.4 the lawful issue of Zinga Phakamisa Mei;[9] and/or

1.6.1.5 any company, the shares of which (in whole or in part) are held by any of the beneficiaries, as referred to above; and/or

1.6.1.6 any company, the shares of which (in whole or in part) are held by this trust; and/or

1.6.1.7 any company, the shares of which (in whole or in part) are held by any company, whose ultimate shareholding (in whole or in part) are held by any of the beneficiaries, as referred to above, including this trust . . .'

[9] This provisions of clause 1.6.1.4 seem to be tautologous when compared with the preceding clause.

[30] The definitions clause proceeds, thereafter, to describe the income beneficiaries who are entitled to benefit from the income of the trust, subject to the discretionary powers of the trustees. They are identical to the listed capital beneficiaries. From the definition, the company is clearly a beneficiary of the trust, irrespective of whether the deceased or the trust was its sole shareholder. The implications of this are that the deceased's estate, the first applicant, the first respondent, and the company each have an interest as a beneficiary in the rental income derived from properties owned by the trust.

[31] The same can be said regarding the rental income derived from properties owned by the company. There is no real difference, for immediate purposes, between a situation where either the deceased or the trust was the sole shareholder. In the case of the former, as pleaded in the founding papers, the first, second, and third applicants have an interest based on the provisions of the deceased's will. In the case of the latter, as became evident from the replying papers (which remain undisputed), the first applicant has a direct interest based on the deed of trust while the second and third applicants have an indirect interest based on the deceased's having been a listed beneficiary. The possibility of an outstanding loan owed by the company to the deceased, as reflected in the replying papers, serves merely to underscore the applicants' interest in the preservation of the company's properties and the protection of the corresponding rental income.

[32] Regarding the rental income derived from properties where there is joint ownership, the applicants have, admittedly, failed to clarify the nature of their interest. They have not pleaded whether Phaki left a will, appointing them as heirs to the properties in question; they have not pleaded whether their late father died intestate, leaving his share in the properties to his surviving spouse, i.e. the fourth applicant. At best, the first applicant alleged on their behalf that:

'After my father passed away, the deceased demanded the use and possession of these properties. He took possession of Phaki's properties from my mother [the fourth applicant]. I was very young at the time. In the past 20 years since my father's passing, my mother, my siblings, and I have been deprived of ay income which had been generated by these properties, which we were entitled to.'

[33] In response, the first respondent asserted that:

'The contents of this paragraph are denied. The applicants were never deprived of maintenance. The first to third applicants attended top private schools in Grahamstown and vehicles were purchased for the fourth applicant, *all from rental proceeds*.'[10]

[34] The applicants did not refute this in reply and merely protested that theirs was not a maintenance claim. Whereas they failed to establish the nature of any interest in the properties described, it is common cause that the deceased enjoyed possession and control of the properties and that the applicants benefited from the rental income generated. In the circumstances, it cannot be said that they have no right to the continued administration and management of the properties.

[35] The respondents argued that the applicants incorrectly conflated three classes of assets. That is not entirely so. The applicants recognised three distinct sets of assets: properties owned by the trust; properties owned by the company, and properties in relation to which there is joint ownership. They are not, for purposes of an interlocutory interdict, required to demonstrate a clear right to the relief sought. All that is required is that they prove a prima facie right to the preservation of the properties as well as the rental income derived therefrom. This they have done.

[36] Regarding the motor vehicle, the respondents acknowledged that this belonged to the deceased. They said that the third respondent had used it with the deceased's permission prior to his passing; it was currently at 'the deceased's and our homestead' in Hamburg. The applicants, as the appointed beneficiaries to the testamentary trust described in the deceased's will, have a prima facie right to the preservation of the motor vehicle.

Apprehension of irreparable harm

[10] Emphasis added.

[37] The test for the satisfaction of the above requirement was set out in *Nestor and Others v Minister of Police and Others*,[11] where Berker JP held:

'A reasonable apprehension of injury has been held to be one which a reasonable man might entertain on being faced with certain facts . . . . The applicant for an interdict is not required to establish that, on a balance of probabilities flowing from the undisputed facts, injury will follow: he has only to show that it is reasonable to apprehend that injury will result . . . . However, the test for apprehension is an objective one . . . . This means that, on the basis of the facts presented to him, the judge must decide whether there is any basis for the entertainment of a reasonable apprehension by the applicant.'[12]

[38] The erstwhile Appellate Division, per Hefer JA, cited the test with approval in *Minister of Law and Order v Nordien*.[13] The principle survives.[14]

[39] The applicants contended that the respondents' unsupervised possession of and control over estate assets presents a threat to the value of the estate. To that effect, they alleged that the first respondent collects rental income without the necessary authority, there is no record of such income having been deposited into an estate account or the company account or that it is otherwise preserved, and the third respondent has possession of the deceased's motor vehicle. Interestingly, the respondents merely denied the allegations and reiterated that the first respondent has a responsibility to administer the assets of the trust. The first applicant, they pointed out, had never requested the first respondent to account for rental income collected and had never invoked the relevant provisions of the deed of trust to check the exercise of the first respondent's powers as trustee or even terminate his appointment.

[40] The respondents' argument can only be described as cynical. Upon the passing of the deceased, the first respondent, as sole trustee, assumed control over the properties owned by both the trust and the company. From copies of the deed searches attached to the founding papers, admitted by the respondents, this

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[11] 1984 (4) SA 230 (SWA).
[12] 244.
[13] 1987 (2) 894 (AD) 896G – I.
[14] See, for example, *National Council of Societies for the Prevention of Cruelty to Animals v Openshaw* 2008 (5) SA 339 (SCA), 347D – E.

amounted to a total of 22 different properties scattered across the central region of the Eastern Cape. The first respondent offered a bald denial to the allegation that rental income was never deposited into either the trust account or the company account, without stipulating where it was held, how much was held, from where it originated, or how it had been or was intended to be used. As sole trustee, the first respondent enjoys extensive powers, as set out in the deed of trust. He cannot be held personally liable for any loss suffered by the trust except in the case of fraud, illegal conduct, or gross negligence. It is common cause that neither he nor the remaining trustees opened a trust account, as required in terms of both the deed of trust and section 10 (1) of the TPCA. Whereas the fourth applicant admitted that she collected rental income from some of the properties, it was considerably less than that collected by the first respondent.

[41] The cumulative impact of the above factors is to place the first respondent in a position of unbridled control over trust and company properties alike, as well as the rental income derived therefrom. This, as well as the absolute lack of transparency about the exercise of his powers as trustee, his failure to have disclosed the actual ownership of the company (as revealed in the extract from the share register), and his stance regarding the deceased's last will, demonstrate that the applicants' apprehension of irreparable harm to the value of the estate is, when viewed objectively, entirely reasonable. It is of little consolation, moreover, for the first respondent to suggest that any loss would be recoverable because he enjoys joint ownership, with the late Phaki, of five immovable properties. These can hardly be construed as liquid assets.

[42] In relation to the motor vehicle, the applicants have presented little, if any, evidence that its continued possession by the third respondent will result in damage or a decrease in value. They never refuted her allegation that the deceased had permitted her the use thereof before his passing. There is nothing to suggest that it cannot remain at the family homestead in Hamburg.

Balance of convenience

[43] In *Eriksen Motors (Welkom) Ltd v Protea Motors, Warrenton*,[15] Holmes JA addressed the determination of the balance of convenience. He stated that it required a court to weigh the prejudice to the applicant, if the interdict was withheld, against the prejudice to the respondent to the respondent if it was granted.[16] Van Loggerenberg observes that:

'Usually this will resolve itself into a consideration of the prospects of success in the main action and the balance of convenience — the stronger the prospects of success, the less need for the balance of convenience to favour the applicant; the weaker the prospects of success, the greater the need for the balance of convenience to favour him.'[17]

[44] The respondents have rejected the applicants' claim to an interest in the estate assets based on the deceased's last will. They have not, however, presented any evidence to undermine such claim or brought any counter-application to have the will declared invalid. It is common cause, moreover, that the applicants have an interest in the trust assets because of the provisions of the deed of trust. As demonstrated earlier, they must, by implication, also have an interest in the company assets. Applying the principles set out in *Webster* and *Gool*, and summarised in *Spur Steak Ranches*,[18] it cannot be said that the respondents have set up any facts in contradiction to the above such that serious doubt has been thrown on the applicants' case. Their prospects of success regarding final relief are, if not overwhelmingly strong, then certainly far from weak.

[45] The relief sought by the applicants, moreover, creates little inconvenience for the respondents. They seek merely the protection and preservation of estate assets, pending the appointment of an executor. This does not prevent the first respondent from continuing to exercise his powers and perform his functions as trustee. The assets can still be used on a day-to-day basis; the collection of rental income can continue. Whereas payment is to be made into the company account, this was, on a

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[15] 1973 (3) SA 685 (A).
[16] 691F – G.
[17] D E van Loggerenberg *Erasmus: Superior Court Practice* (Jutastat e-publications, RS 26, 2025) D6 – 30A – 31.
[18] *Spur Steak Ranches*, n 7 above.

balance of probabilities, the account into which rental income was previously paid before the deceased's passing. The keeping of a proper record of the condition and whereabouts of assets, as well as a record of the rental income collected, cannot, in any way, be construed as an inconvenience. As a trustee, the first respondent has an elementary duty to do so.

No other satisfactory remedy

[46] The above requirement, as Van Loggerenberg notes, is closely linked to that of irreparable harm. If the envisaged injury will be irreparable if allowed to continue, then an interdict will be the only remedy.[19] During argument, the respondents contended that several alternatives presented themselves. The applicants could, inter alia, report the alleged maladministration to the fifth respondent, seek the removal of the first respondent in terms of section 20 of the TPCA, invoke the relevant provisions of the Companies Act 71 of 2008, or institute action proceedings.

[47] This ignores, however, the imminent risk posed by allowing the first respondent to continue, unchecked. A formidable set of powers is available to him as the sole trustee in possession or control of 22 different properties, with little to no personal exposure, and in circumstances where he has refused to act transparently, failed to disclose the true ownership of the company, and rejected the validity of the deceased's last will. To expect the applicants to embark upon the costly and time-consuming alternatives suggested is unreasonable at best, derisive at worst.

Relief and order

[48] The respondents argued that the applicants impermissibly shifted their attack to the first respondent's mismanagement of trust assets and infringement of the TPCA, resulting in the abandonment of their initial focus on their right to the protection and

[19] Van Loggerenberg, n 16 above, D6 – 31 – 2.

preservation of the assets. This is not, however, supported by the papers. The applicants have consistently framed their approach as an application for an interlocutory interdict that was directed primarily at the first respondent's conduct in relation to the assets, especially the rental income derived from the properties already mentioned. They have satisfied the requirements for urgency and interim relief.

[49] From the evidence presented, the relief sought in terms of paragraph 2.1 of the notice of motion must be extended to the rental income derived from properties owned or controlled by the trust, the company, and the deceased himself at the time of his passing. Regarding where the funds must be deposited, as envisaged under paragraph 2.2, there may well be a basis upon which to insist that the first respondent pays the income derived from properties belonging to the trust into a trust account, as required by the legislation in question. That is not, however, what the applicants sought. For the purposes of interim relief, it suffices that the funds be paid into the company account, as was the situation previously. No information was supplied about the motor vehicles indicated in terms of paragraph 2.3, other than the vehicle kept in Hamburg. The order must be tailored accordingly.

[50] In terms of paragraph 2.4 of the notice of motion, the applicants sought an order to the effect that the respondents only be permitted to use those assets that were reasonably required for the day-to-day operation of the deceased's business. They did not indicate which business, notwithstanding the first applicant's allegation in the founding papers that the company, not the deceased, operated the rental property business. Similarly, the applicants failed to specify what assets were intended, whether immovable or movable property or both. There is insufficient detail to grant the relief in question.

[51] Regarding the contents of paragraph 2.5, the applicants stipulated payment of the income into a company account held at Standard Bank, rather than ABSA Bank. The discrepancy was not explained. There seems to be no reason why the account should not be the same as that indicated under paragraph 2.2. The remainder of the relief sought in terms of paragraph 2.5 pertains to responsibilities more appropriately carried out by the executor, rather than the first respondent. It is not unreasonable, however, to require the first respondent to maintain records and make these available

to the applicants in relation to the rental income collected, as contemplated under paragraph 2.6.

[52] No evidence has been presented to justify the granting of an order against the second or third respondents. Their conduct, as described in the papers, does not give rise to a reasonable apprehension of irreparable harm in relation to the assets.

[53] The applicants did not seek costs at this stage of the proceedings. The general rule applies, however, regarding the second and third respondents. They are entitled to the recovery of their expenses incurred to date.

[54] Consequently, the following order is made:

1. The forms and service provided for in the rules are dispensed with and the matter is disposed of as one of urgency.

2. A rule nisi is hereby issued, calling upon the first respondent to show cause, if any, on Tuesday, 21 October 2025, at 09h30 or as soon thereafter as counsel may be heard, why an order in the following terms should not be made final:

    (a) that, pending the appointment of an executor for the estate of the late Mr Aubrey Gcinumzi Mei (the deceased):

        (i) the first respondent and any agent or person instructed on his behalf, be interdicted and restrained from destroying, dissipating, or diminishing, in any manner, the assets of the deceased, including (but not limited to) the rental income derived from the properties under the ownership (either in whole or in part) or control of the Aubrey Mei Family Trust (registration number IT 1005/2000 (E)), AG Mei (Pty) Ltd (registration number 1982/090070/07), and the deceased himself, at the time of the latter’s passing;

(ii) the first respondent be ordered to collect the rental income described in sub-paragraph (i) and to deposit the funds into account number 9063123907, held by the above company at ABSA Bank, branch number 63200500;

(iii) the status quo regarding both the immovable and movable property of the deceased, including (but not limited to) the rental income described in sub-paragraph (i) and the motor vehicle kept at the family homestead in Hamburg, be protected and preserved;

(iv) the first respondent be ordered to maintain proper records of the rental income described in sub-paragraph (i) and to make these available to the applicants upon reasonable request; and

(b) that the first respondent be ordered to pay the costs of the application.

3. It is hereby ordered that paragraph 2 (a) shall have immediate effect, pending the return date indicated.

4. The applicants are directed to pay the costs of the second and third respondents, as incurred to date, on a party - and - party scale.

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JUDGE OF THE HIGH COURT

APPEARANCE

For the applicants:	Adv Mafu
Instructed by:	Mihlali Labase Inc. 14 Steward Road Berea EAST LONDON Tel no. 043 001 6126 c/o Kawondera Alex Attorneys 1 Glanville Street MAKHANDA 6139 Email: attorney@kaatorneys.co.za Tel: 046 307 0046
For the 1st, 2nd and 3rd respondents:	Adv Mvinjelwa
Instructed by:	Boqwana Burns Inc 84 – 6th Avenue Newton Park GQEBERHA Ref: Ms M Masipa/aa Emal: mmbale@boqwanaburns.com Aneesa@boqwanaburns.com c/o NN Dullabh & Co. 5 Bertram Street MAKHANDA Ref: Mr Dullabh
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