

JUDGMENT SUMMARY

Neutral Citation	[2022] ADGMCFI 0007
Case Number	ADGMCFI-2022-111
Name of Case	Abu Dhabi Commercial Bank PJSC v Prasanth Manghat
Judge	Justice Sir Andrew Smith
Date Issued	3 October 2022
Catchwords	Worldwide Freezing Injunction. Good arguable case. Risk of dissipation of assets. Delay. Whether freezing order just and convenient. Oppression.
Cases Cited	<p>Abu Dhabi Commercial Bank PJSC v Shetty [2021] ADGMCFI 0004</p> <p>Lakatamia Shipping Co Ltd v Moritomo [2019] EWCA Civ 2033</p> <p>Thane Investments Ltd v Tomlinson (No 1) [2003] EWCA Civ 1272</p> <p>Ninemia Corp v Trave Schiffahrtsgesellschaft GmbH (The Niedersachsen) [1983] 2 Lloyd's Rep 600</p> <p>Sabbagh v Khouri [2014] EWHC 3233</p> <p>Madoff Securities International Ltd v Raven [2011] EWHC 3102</p> <p>JSC Mezhdunarodnniy Promyshlenniy Bank v Pugachev [2015] EWCA Civ 906</p>
Legislation and Authorities Cited	ADGM Court Procedure Rules 2016 – Rule 141
Executive Summary	<p>This judgment considers an application for a worldwide freezing injunction. Abu Dhabi Commercial Bank PJSC (“ADCB”) alleges that Mr Manghat was a senior executive involved in a large-scale fraud within the NMC Group of companies, which ADCB had provided significant credit facilities to. The judgment grants the worldwide freezing injunction against Mr Manghat, concluding that ADCB has a good arguable case of dishonesty and that there is a real risk of asset dissipation, making the order just and convenient despite arguments concerning alleged delay in bringing the worldwide freezing injunction application by ADCB.</p>

Overall Summary	<p>Background</p> <p>This Abu Dhabi Global Market (“ADGM”) Court of First Instance (Commercial & Civil Division) judgment concerns an application by Abu Dhabi Commercial Bank PJSC (“ADCB”) against Mr Prasanth Manghat for a worldwide freezing injunction.</p> <p>The case relates to credit facilities ADCB granted to the NMC Group of companies. The NMC Group, founded by Dr B R Shetty, grew significantly and became the largest provider of private healthcare in the UAE. Its holding company, NMC Health plc, was listed on the London Stock Exchange in 2012.</p> <p>ADCB claims it was the victim of a fraud carried out by senior executives of the NMC Group, including Dr Shetty, Mr Khaleefa Butti, Mr Saeed Butti and Mr Manghat. Mr Manghat held several senior financial roles within the NMC Group, including CFO and CEO of NMC Health plc. ADCB alleges that the fraud involved extracting money through methods like generous transactions with related parties, secret debt, and maintaining two sets of accounting records. They plead that the basis on which ADCB lent money to the NMC Group was false, and the audited financial statements were fictitious. ADCB's alleged losses relate to amounts outstanding on six ‘Core Facilities’, totalling US\$1,003,550,058 as at 19 November 2020.</p> <p>Previously, ADCB brought proceedings in the English High Court against Mr Manghat and others, obtaining a worldwide freezing order for up to US\$1 billion. Mr Manghat successfully challenged the English Court's jurisdiction, leading to the proceedings being stayed in favour of the Abu Dhabi Courts (including the ADGM Courts), with Mr Manghat undertaking not to challenge the jurisdiction of the Abu Dhabi courts. ADCB then brought these proceedings in the ADGM court.</p> <p>Analysis</p> <p>As stated in <i>Thane Investments Ltd v Tomlinson (No 1)</i> [2003] EWCA Civ 1272, the legal principles for granting a worldwide freezing order require the applicant to satisfy the Court that:</p> <ol style="list-style-type: none">1. they have a good arguable case;2. there is a real risk of dissipation of assets, meaning a risk that a future judgment would not be met due to unjustified disposal of assets; and3. it would be just and convenient to grant the order. <p>On the good arguable case, the Court found that ADCB had presented a case against Mr Manghat based on inference, supported by his senior financial roles, his involvement with NMC Health plc's audit committee, his conduct concerning the Muddy Waters report and the subsequent investigation, and his departure to India after dismissal. While acknowledging points that might suggest otherwise, the Court concluded that these cumulative arguments established a good arguable case.</p>
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	<p>Regarding the risk of dissipation, the Court accepted that ADCB did not rely solely on the allegation of dishonesty. The Court found powerful support for a risk of dissipation in the complexity and subtlety of the alleged fraudulent scheme and Mr Manghat's potential skill and knowledge to deal secretively with assets, aggravated by his conduct during the investigation following the Muddy Waters report and his departure from the UAE. Arguments about ADCB's delay in seeking the order did not persuade the Court that the risk was negated.</p> <p>Concerning whether the order was just and convenient, the Court rejected Mr Manghat's arguments that the application was oppressive because he alone was being sued or because his UAE assets were already frozen. The Court also did not find that ADCB's delay in seeking the order was a sufficient reason to refuse it.</p> <p>ADCB acknowledged it expected some recoveries from administration procedures but stated the amount was uncertain. ADCB's pleaded loss was around US\$1 billion. The Court refused to admit a late report presented by Mr Manghat regarding the value of 'Exit Instruments' from the administration process for procedural reasons, concluding that ADCB had presented a sufficient case about its loss to justify a US\$1 billion limit on the worldwide freezing order for the purpose of the application.</p> <p>Conclusion</p> <p>The Court therefore granted the application for a worldwide freezing order with a limit of US\$1 billion.</p>
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This statement is not intended to be a substitute for the reasons of the Court or to be used in any later consideration of the Court's reasons.