

JUDGMENT SUMMARY

Neutral Citation	[2023] ADGMCFI 0025
Case Number	ADGMCFI-2022-111; ADGMCFI-2022-299; and ADGMCFI-2020-020
Name of Case	Abu Dhabi Commercial Bank PJSC v Prasanth Manghat NMC Healthcare Ltd (In Administration) (Subject to a Deed of Company Arrangement) and Others v Bavaguthu Raghuram Shetty and Others NMC Healthcare LTD and associated companies
Judge	Justice Sir Andrew Smith
Date Issued	29 December 2023
Catchwords	Co-ordinated management of proceedings, and order for joint trial. Defendant facing like allegations in separate proceedings. Risk of inconsistent decisions. Vacating trial date, prejudice to claimant. Disclosure, CPR r.89(1).
Cases Cited	Karam Salah Al Din Awni Al Sadeq v Dechert LLP and ors [2021] EWHC 1149 (QB) Lungowe and ors v Vedanta Resources plc and anor [2019] UKSC 20 Aratra Potato Co Ltd v Egyptian Navigation Co (The El Amria), [1981] 2 Lloyd's Rep 119 J Bollinger SA and anor v Goldwell Ltd [1971] FSR 405 Athena Fund SICAV-FIS SCA and ors v Secretariat of State for the Holy See [2022] EWCA Civ 1051 Abraham and anor v Thompson and ors [1997] All ER 362 Marex Financial Ltd v Sevilleja [2020] UKSC 31 Mulholland and anor v Mitchell [1971] AC 666 Deeny and ors v Gooda Walker Ltd (in liquidation) and ors [1995] 1 WLR 1206
Legislation and Authorities Cited	Federal Law No. 5 of 1985 on the Civil Transactions Law of the United Arab Emirates - Articles 282, 285, 287 and 291 Federal Law No. 2 of 2015 on Commercial Companies ADGM Insolvency Regulations 2022 ADGM Court Procedure Rules 2016 - Rules 2(2), 2(3), 8(1), 88, 89(1) and 102

	Federal Decree Law No. 14 of 2018 on the Central Bank and the Organisation of Financial Institutions and Activities – Article 120
Executive Summary	<p>This judgment considered and granted Prasanth Manghat’s application for co-ordinated case management and a joint trial for two major fraud claims against him. The Court found that separate trials would be oppressive to Mr. Manghat and posed a significant risk of inconsistent judgments due to substantial factual overlap concerning the alleged NMC Group fraud. The scheduled August 2024 trial for the Abu Dhabi Commercial Bank claim was vacated to facilitate this unified approach.</p>
Overall Summary	<p>Background</p> <p>This Abu Dhabi Global Market (“ADGM”) Court of First Instance (Commercial & Civil Division) judgment concerned the application, made by Mr. Prasanth Manghat, a former senior executive of the NMC Group, seeking orders for the co-ordinated case management and a concurrent trial of two separate claims against him before the ADGM Courts: (i) ADGMCFI-2022-111, brought by Abu Dhabi Commercial Bank PJSC (“ADCB”) (the “ADCB claim”); and ADGMCFI-2022-299 and ADGMCFI-2020-020, brought by NMC Healthcare Limited and NMC Holding Limited (both in administration) and their joint administrators (the “JAs”) against Mr. Manghat, Dr. Bavaguthu Raghuram Shetty, and the Bank of Baroda (the “JA claim”).</p> <p>Mr. Manghat faced claims in these two proceedings, which are among numerous actions worldwide resulting from the NMC Group’s affairs and insolvency. The ADCB claim was scheduled for trial in August 2024.</p> <p>Analysis</p> <p>Mr. Manghat argued that facing two separate trials, both concerning similar allegations of wrongdoing related to an alleged fraud within the NMC Group, was unfairly oppressive. He contended there was a significant overlap in the factual issues at the heart of both cases, particularly regarding the existence and extent of the alleged fraud and his responsibility for it. Mr. Manghat also highlighted a real risk of inconsistent judgments if the same core issues were determined in separate trials, a risk the Court also acknowledged as acute. The power to make such a direction for coordinated management and a joint trial exists under ADGM Court Procedure Rules 2016 (“CPR”) rule 8(1), guided by the overriding objective to secure an accessible, fair, and efficient civil justice system.</p> <p>ADCB and other parties, including Dr. Shetty and the Bank of Baroda, opposed the application. Their arguments included the potential for delay to the ADCB claim’s fixed trial date, concerns about increased costs if involved in a longer, joint trial covering broader issues, and potential practical difficulties in managing disclosure and trial conduct. Dr. Shetty also raised concerns about potential “<i>confusion</i>” or prejudice.</p> <p>The Court accepted Mr. Manghat’s argument that facing two trials with substantial factual overlap was oppressive and that there was a real and important risk of inconsistent judgments. While recognizing ADCB’s entitlement to a reasonably prompt trial, the Court found that this concern was mitigated by difficulties in assessing the quantum of ADCB’s loss in a</p>

	<p>separate trial before recoveries from the administration were clear. The Court concluded that justice would require deferring the assessment of compensation, and thus the trial, until after the JA claim was decided. The Court also found that while costs would likely increase for other parties, and interlocutory management would be demanding, these difficulties were manageable. Concerns about "<i>confusion</i>" were not found to be weighty.</p> <p>Conclusion</p> <p>The Court determined that the interests of efficiency and overall fairness weighed in favour of granting Mr. Manghat's application. The Court acknowledged the additional costs and the impact on ADCB's fixed trial date but found these were outweighed by the oppression on Mr. Manghat, the significant overlap in issues, and the risk of inconsistent judgments. The difficulties foreseen in assessing quantum at the currently scheduled ADCB trial further supported delaying it. Accordingly, the Court ordered that the trial date and pre-trial review for the ADCB claim be vacated. A case management conference will be held in the second half of February or early March 2024 to set directions for the future coordinated conduct of the two actions and to fix a date for a joint trial.</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.