

## JUDGMENT SUMMARY

<b>Neutral Citation</b>	[2024] ADGMCFI 0010
<b>Case Number</b>	ADGMCFI-2022-111
<b>Name of Case</b>	Abu Dhabi Commercial Bank PJSC v Prasanth Manghat
<b>Judge</b>	Justice Sir Andrew Smith
<b>Date Issued</b>	30 July 2024
<b>Catchwords</b>	Joinder of additional defendant. Jurisdiction under Founding Law, Article 13.7(a). Jurisdiction over a “necessary or proper” party.
<b>Cases Cited</b>	<p>Nest Investment Holding Lebanon SAL and ors v Deloitte &amp; Touche (ME) [2018] DIFC CA 011</p> <p>Union Properties PJSC v Trinkler &amp; Partners Ltd [2023] ADGMCFI 0009</p> <p>Al Ayar v Klinkhamer [2024] ADGMCFI 002</p> <p>A4 v B4 [2019] ADGMCFI 0007</p> <p>Abu Dhabi Commercial Bank v Shetty &amp; Others [2021] 0004</p> <p>In re NMC Healthcare Ltd and Associated Companies [2021] ADGMCFI 0006</p> <p>Enka Insaat Ve Sanayi AS v OOO Insurance Co Chubb [2020] UKSC 38</p> <p>Good Challenger Navigante SA v Metalexportimport SA [2003] EWCA Civ 1668</p> <p>Sandra Holdings v Al Saleh [2023] DIFC CA 003</p> <p>John Russell and Co Ltd v Cayzer, Irvine and Co Ltd [1916] 2 AC 298</p> <p>ID v LU [2021] EWHC 1851 (Comm)</p> <p>Massey v Heynes &amp; Co (1882) 21 QBD 330</p> <p>Marex Financial Ltd v Sevilleja [2020] UKSC 31</p>
<b>Legislation and Authorities Cited</b>	<p>Federal Law No. 5 of 1985 on the Civil Transactions Law of the United Arab Emirates (the “Civil Code”) – Articles 282 and 285</p> <p>Federal Law No. 2 of 2015 on Commercial Companies – Article 84</p> <p>Abu Dhabi Law No 4 of 2013 – Articles 3 and 13</p>

	<p>ADGM Courts Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015 – Sections 16, 41 and 227(1)</p> <p>Dubai Law 12 of 2004 in respect of The Judicial Authority at Dubai International Financial Centre - Article 5(A)</p> <p>Arbitration Regulations 2015 – Section 56</p> <p>Civil Procedure Rules Practice Direction 6B</p>
Executive Summary	<p>This judgment considered an application by Abu Dhabi Commercial Bank PJSC to join Dr B R Shetty as a second defendant in the proceedings. The judgment considered whether the Court had jurisdiction to add Dr Shetty as a second defendant and, if so, whether it should exercise its discretion to permit the joinder. The Court concluded that it did have jurisdiction but exercised its discretion to refuse to grant the joinder based on the Claimant's delay in making the application, the burden on Dr Shetty, given his existing commitments in the related claim and the demanding trial timetable, and the serious risk that granting the application would pose to the scheduled trial date.</p>
Overall Summary	<p>This Abu Dhabi Global Market ("<b>ADGM</b>") Court of First Instance (Commercial &amp; Civil Division) judgment concerned an application brought by Abu Dhabi Commercial Bank PJSC ("<b>ADCB</b>") to join Dr B R Shetty as a second defendant in ADCB's claim against Mr Prasanth Manghat.</p> <p>The underlying proceedings relate to a "massive fraud" alleged to have been perpetrated against the NMC Group, where Dr Shetty was the founder and held senior positions, and Mr Manghat was also a senior executive. ADCB claims Mr Manghat participated in the fraud and a "loan recycling scheme". ADCB seeks to bring similar claims against Dr Shetty, alleging he knew of and participated in the scheme and received benefits. The claims against Mr Manghat are valued at "at least" US\$1.1 billion and are based on UAE law.</p> <p>A separate, larger claim (the "<b>JA claim</b>") brought by the administrators of NMC Group companies registered in the ADGM is already underway against Dr Shetty, Mr Manghat, and others. Both Mr Manghat and Dr Shetty largely attribute responsibility for the fraud to the other. Previously, English proceedings brought by ADCB against Dr Shetty and Mr Manghat were stayed, with an English court finding "Abu Dhabi" (specifically the ADJD) the clearly more appropriate forum. ADCB subsequently filed these proceedings against Mr Manghat in the ADGM Courts, based on his undertaking not to challenge ADGM jurisdiction. These proceedings have since been ordered to be case managed and tried concurrently with the JA claim, with a trial date set for March 2026. ADCB's application to join Dr Shetty was made significantly later in the process, in May 2024.</p> <p><b>Analysis</b></p> <p>The primary issues before the Court were whether it had jurisdiction to add Dr Shetty as a defendant and, if so, whether it should exercise its discretion to permit the joinder.</p>

	<p>Regarding jurisdiction, the Court considered arguments based on Article 13.7(a) of the Founding Law (claims "involving" ADGM entities) and Article 13.7(d) combined with CPR r.24(2) (service of a "necessary or proper party" out of jurisdiction). The Court found the question under Article 13.7(a) regarding the translation and interpretation of "involving" was complex and could not be decided without further evidence. However, the Court concluded it does have jurisdiction to add Dr Shetty under CPR r.56, which allows adding a party with the court's permission, reasoning that this power, especially when combined with CPR r.24(2) allowing service on a necessary or proper party outside the jurisdiction, implies a conferral of jurisdiction. The Court was persuaded by the reasoning of the DIFC Court of Appeal in the <i>Nest Investment</i> case, which held a similar rule on adding parties conferred jurisdiction, finding that interpreting such rules otherwise would significantly limit their purpose and hinder the court's ability to achieve "complete justice" and efficient dispute resolution. The Court found Dr Shetty to be a "proper party" to ADCB's claim against Mr Manghat, as the liability of both depends on the investigation into the same fraud.</p> <p>Despite having jurisdiction, the Court refused to exercise its discretion to permit the joinder. The Court weighed the benefits of having all related claims heard together (efficiency, avoiding inconsistent decisions) against the potential prejudice to Dr Shetty and disruption to the established timetable. The Court found the application was made late, after the conjoined trial date in March 2026 had been fixed. It accepted evidence from Dr Shetty's lawyers that the additional burden of preparing for ADCB's complex claim alongside the already demanding JA claim would likely make it impossible for Dr Shetty to meet the current timetable. This, the Court concluded, would seriously jeopardise the March 2026 trial date, which would be unfair. The significant additional costs Dr Shetty would face was also a supplementary reason for refusal. The Court rejected arguments that ADCB was estopped from bringing the claim in ADGM or that ADCB's interests were sufficiently protected as a creditor in the insolvency.</p> <p><b>Conclusion</b></p> <p>The Court determined it possessed the jurisdiction to grant ADCB's application to join Dr B R Shetty as a defendant, primarily through the interplay of CPR rules concerning adding parties and service of necessary or proper parties outside the jurisdiction. However, in exercising its discretion, the Court refused the joinder. This refusal was based on the unfair burden it would place on Dr Shetty, given his existing commitments in the related JA claim and the demanding trial timetable, and the serious risk that granting the application would pose to the scheduled March 2026 trial date. The Court noted that ADCB's delay in making the application contributed to this outcome. Costs were reserved for future determination.</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.***