

JUDGMENT SUMMARY

Neutral Citation	[2024] ADGMCFI 0018
Case Number	ADGMCFI-2022-111
Name of Case	Abu Dhabi Commercial Bank PJSC v Prasanth Manghat
Judge	Justice Sir Nicholas Patten
Date Issued	22 November 2024
Catchwords	Application to vary financial limit and territorial application of worldwide freezing order. Whether credit to be given for value of security. Evidence on UAE law and valuation.
Cases Cited	Lakatamia Shipping Company Ltd v Morimoto [2019] EWCA Civ 2203 Orji v Nagra [2023] EWCA Civ 1289 Koza & Ipek Ltd and another v Koza Altin Isletmeri AS [2020] EWCA Civ 1018
Legislation and Authorities Cited	UAE Federal Decree Law No. (5) of 1985 Concerning the Issuance of the Civil Transactions Law (as amended) (the “UAE Civil Code”) – Articles 106, 252, 282, 285, 292, 722 and 730 UAE Federal Decree Law No. (2) of 2015 on Commercial Companies – Article 84 ADGM Court Procedure Rules 2016 – Rule 117(2)
Executive Summary	This judgment details a refusal of Mr. Manghat's application to vary a Worldwide Freezing Order (the “WFO”) obtained by Abu Dhabi Commercial Bank (“ADCB”). The WFO relates to ADCB's claim for damages against Mr. Manghat for losses stemming from lending to the NMC Group, alleging he facilitated fraudulent activities. Mr. Manghat sought to reduce the financial limit of the WFO significantly and limit its territorial scope to the UAE, arguing ADCB should account for the value of ‘Exit Instruments’ received during NMC's restructuring and that UAE law extinguished most of ADCB's claim. The Court rejected these arguments, finding insufficient evidence and noting that prior Court decisions had not definitively ruled on the issues of UAE law or valuation of the Exit Instruments.

Overall Summary	<p>Background</p> <p>This Abu Dhabi Global Market Court of First Instance (Commercial & Civil Division) judgment concerns an application by Mr. Prasanth Manghat to vary a Worldwide Freezing Order (“WFO”) granted against him on 30 September 2022. The WFO was obtained by Abu Dhabi Commercial Bank PJSC (“ADCB”) in relation to their claim for damages in tort against Mr. Manghat for losses suffered as a result of lending to the NMC Group based on materially false financial statements. ADCB alleges that Mr. Manghat facilitated payments to Dr. Shetty and others and benefited financially from related transactions, facing allegations of deceit and knowing participation in a fraudulent scheme. ADCB's claim is governed by UAE law.</p> <p>The original WFO had a financial limit of US\$1 billion and applied to assets worldwide. It allowed Mr. Manghat a weekly living expense and reasonable legal costs. In the WFO, ADCB had undertaken to notify the Court of substantial recoveries, including from the exit instruments issued by NMC HoldCo SPV Ltd, which might affect the US\$1 billion limit.</p> <p>Mr. Manghat's Variation Application sought two main changes:</p> <ul style="list-style-type: none"> • Reduction of the financial limit: Initially seeking an amount determined by the Court, he later specified a reduction from US\$1 billion to US\$16,774,549.70. This was primarily based on the argument that ADCB must give credit for the value of ‘Exit Instruments’ (a 37.5% interest ADCB received in a US\$2.25 billion debt facility issued by NMC HoldCo SPV Ltd (the “Holdco”) as part of a debt restructuring) and the argument that the assignment of NMC debts to Holdco extinguished ADCB's claim under UAE law. • Restriction of the territorial application: Limiting the WFO to assets within the UAE due to hardship, including the imminent threat of repossession of his Dubai home and his wife's health issues. <p>Arguments regarding the financial limit:</p> <ul style="list-style-type: none"> • Mr. Manghat's argument on Exit Instruments: He argued that ADCB should set off the value of the Exit Instruments against its pleaded losses, thus reducing the WFO limit. He contended that ADCB cannot achieve double recovery. • Mr. Manghat's new argument on extinguishment of claim: He submitted, based on the opinion of a UAE law advocate, Mr. Mohammed Al Dahbashi, that the Deeds of Company Arrangement (the “DOCAs”) constituted a settlement of claims under Article 722 of the UAE Federal Decree Law No. (5) of 1985 Concerning the Issuance of the Civil Transactions Law (as amended) (the “UAE Civil Code”); and the assignment of debts extinguished ADCB's claim against the NMC Group, and consequently against him under Articles 730 and 106 of the UAE Civil Code. He also claimed entitlement to the benefit of the settlement under Article 252 of the UAE Civil Code. • ADCB's counterarguments: ADCB argued that re-litigating the issue of credit for the Exit Instruments would be an abuse of process. They maintained that they were not obliged to give credit for the accounting
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	<p>value of the Exit Instruments (US\$845m). ADCB criticised the evidence on UAE law as unconvincing.</p> <p>Arguments regarding the territorial restriction:</p> <ul style="list-style-type: none"> • Mr. Manghat's argument on hardship: He stated that the combination of the WFO and a criminal attachment order in the UAE made it impossible to access funds to pay his mortgage in Dubai and his wife's potential medical expenses. He claimed that the Indian banks were overly cautious due to the WFO, preventing him from dealing with his assets there. • ADCB's counterarguments: ADCB argued that the original WFO already provided for living expenses. They noted the lack of specific evidence of Indian banks refusing to allow permitted transactions under the WFO. They contended that restricting the WFO would remove substantial protection granted by the original order. <p>Analysis and Conclusion</p> <p>The Court refused the Variation Application, noting the following key reasons:</p> <ul style="list-style-type: none"> • Abuse of process argument not upheld: The Judge did not consider the revisiting of the Exit Instruments issue to be an abuse of process, as Justice Sir Andrew Smith had contemplated it being raised in a subsequent application. • Inability to decide UAE law on this application: The Judge found that he was unable to decide the complex issues of UAE law, regarding whether credit must now be given for the value of the Exit Instruments and whether the DOCAs have had the effect of extinguishing ADCB's claim in tort against Mr. Manghat, without proper expert evidence and cross-examination. • Lack of valuation evidence: Mr. Manghat had not provided sufficient valuation evidence for the Exit Instruments. • Arguments for reduced financial limit not convincing: Even if credit was given for the accounting value of the Exit Instruments, the remaining claim would still be significantly higher than the proposed US\$16.7m limit. Therefore, the argument for extinguishing the claim could not be decided on this Application. • Hardship argument not persuasive for blanket territorial restriction: The original WFO already allowed for living expenses, and Mr. Manghat could apply to vary those terms or release specific assets if needed. There was insufficient evidence that the Indian banks were misinterpreting the WFO's terms or that a territorial restriction would necessarily improve Mr. Manghat's situation. The Judge concluded that restricting the WFO would unjustifiably deprive ADCB of a significant part of the protection it was intended to provide, especially given the good arguable case for a US\$1 billion claim and the risk of dissipation found by Justice Sir Andrew Smith.
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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.