

## JUDGMENT SUMMARY

<b>Neutral Citation</b>	[2025] ADGMCFI 0017
<b>Case Number</b>	ADGMCFI-2022-299 and ADGMCFI-2020-020
<b>Name of Case</b>	NMC Healthcare LTD (in administration) (subject to a deed of company arrangement) & Others v. Shetty & Others
<b>Judge</b>	Justice Sir Andrew Smith
<b>Date Issued</b>	5 August 2025
<b>Catchwords</b>	Power under CPR r.11(2) where Order not complied with. Order for information about funding. Non-Party Costs Order.
<b>Cases Cited</b>	<p>Michael Wilson &amp; Partners Ltd v Sinclair [2017] EWHC 2424 (Comm)</p> <p>In Re RBS Rights Issue Litigation [2017] EWHC 463 (Ch)</p> <p>Dymocks Franchise Systems (NSW) Pty Ltd v Todd [2004] UKPC 39</p> <p>Kazakhstan Kagazy Plc v Zhunus [2019] EWHC 2630 (Comm)</p> <p>AJ Bekhor &amp; Co Ltd v Bilton [1981] QB 923</p> <p>Deutsche Bank AG v Sebastian Holdings Inc [2016] EWCA Civ 23</p> <p>Wall v Royal Bank of Scotland Plc [2016] EWHC 2460 (Comm)</p>
<b>Legislation and Authorities Cited</b>	<p>ADGM Court Procedure Rules 2016 – Rules 2, 11(2), 195(1) and 253</p> <p>ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015 – Sections 49(3) and 225(6)</p> <p>The Civil Procedure Rules 1998 (UK) – Rule 25.14</p> <p>Senior Courts Act 1981(UK) – Section 51(3)</p>
<b>Executive Summary</b>	<p>This judgment addresses a dispute concerning Dr Bavaguthu Raghuram Shetty’s (“<b>Dr Shetty</b>”) non-compliance with an earlier Court Order to pay costs and the Claimants' subsequent application for information regarding the funding of his legal representation (the “<b>Costs and Information Application</b>”). The Court ultimately granted the Claimants' Costs and Information Application, reasoning that Dr Shetty's non-compliance was serious and that the information was necessary to explore the possibility of a Non-Party Costs Order against any third-party funding Dr Shetty in these proceedings. The judgment acknowledged the potential for such funding to exist given Dr Shetty's financial difficulties and the scale of the litigation, emphasising that the Court's general case management powers allow for such disclosure.</p>

<p>Overall Summary</p>	<p><b>Background</b></p> <p>This Abu Dhabi Global Market (“<b>ADGM</b>”) Court of First Instance (Commercial &amp; Civil Division) judgment addresses an application made by the Claimants against Dr Bavaguthu Raghuram Shetty (the “<b>Dr Shetty</b>”), concerning non-compliance by Dr Shetty with a previous Court Order and the disclosure of Dr Shetty’s funding information (the “<b>Costs and Information Application</b>”).</p> <p>This judgment follows from an earlier determination of preliminary issues (the “<b>PI Application</b>”) in the Claimants' favour, upheld on appeal. An Order dated 6 August 2024 required Dr Shetty to pay the Claimants' costs of the PI Application. Subsequently, an Order dated 11 April 2025 (the “<b>April Order</b>”) directed Dr Shetty to pay the Claimants an additional US\$115,840 for their costs of the appeals. Dr Shetty had not paid this sum by 28 May 2025, leading to the Costs and Information Application.</p> <p>On 30 June 2025, the Claimants filed the Costs and Information Application, in which they sought orders for summary assessment and payment of their PI Application costs, and for Dr Shetty to provide specific information in a witness statement (the “<b>Information</b>”). This Information included:</p> <ul style="list-style-type: none"> <li>• reasons for Dr Shetty’s non-compliance with the April Order and a timeline for compliance; and</li> <li>• the source of funds used to pay Dr Shetty’s legal representatives in 2025, including the identity of any person or entity paying or assuming responsibility for his legal costs, and details of any conditional fee agreements, litigation funding agreements, or other funding arrangements.</li> </ul> <p>At the hearing on 29 July 2025, the Court summarily assessed the PI Application costs and ordered Dr Shetty to pay the Claimants US\$154,000. Judgment was reserved on the part of the Costs and Information Application which sought an order directing Dr Shetty to provide a witness statement. The central issue for the reserved judgment was whether to compel Dr Shetty to provide the requested funding information.</p> <p>The Claimants argued that Dr Shetty's failure to comply with the April Order and offer any explanation or apology was serious. They contended that the Information was a proportionate initial step towards resolving non-compliance and might lead to an application for a Non-Party Costs Order (“<b>NPCO</b>”) against funders pursuant to Rule 195(1) of the ADGM Court Procedure Rules 2016 (the “<b>ADGM CPR</b>”). They asserted that there was a “<i>genuine prospect</i>” that the Information could lead to a realistic NPCO application.</p> <p>Dr Shetty argued that his non-compliance was “<i>at the lower end of the scale</i>” and did not impact the proceedings. He claimed that the Claimants were seeking to exploit his non-compliance with the April Order to obtain information to which they would not ordinarily be entitled and were attempting to exert improper pressure on him. He also raised concerns about litigation privilege and confidentiality. He criticised as “<i>speculative</i>” the argument that the Claimants were taking an initial step with the</p>
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	<p>prospect of using the Information to seek an NPCO. He argued that the Court does not usually make a costs Order against a ‘pure funder’, such as a family member or a friend: the Courts do not discourage such funding, considering it to provide access to justice (the “<b>Pure Funder Rule</b>”).</p> <p><b>Analysis</b></p> <p>The Court rejected Dr Shetty’s arguments and granted the part of the Costs and Information Application which sought an order directing Dr Shetty to provide a witness statement setting out the Information sought.</p> <p>The Court found Dr Shetty’s failure to explain or excuse his non-compliance with the April Order serious.</p> <p>The Court affirmed its jurisdiction under Rule 11(2) of the ADGM CPR to order the disclosure, relying on <i>Re RBS Rights Issue Litigation</i> [2017] EWHC 463 (Ch) in which Hildyard J held that: “the court should not be quick to cut down the general power of case management by reference to other provisions directed to other matters”.</p> <p>The Court accepted the Claimants had shown a “<i>genuine prospect</i>” that the Information might lead them to bring an application for an NPCO.</p> <p>The Court found realistic grounds to believe that Dr Shetty’s legal costs were being paid by a non-party, citing multiple unsatisfied judgments and recent changes in his legal representation, potentially due to exhausting the cover for his legal costs under the Directors’ and Officers’ insurance (the “<b>D&amp;O Insurance</b>”).</p> <p>While acknowledging the Pure Funder Rule, the Court emphasised that the discretion for NPCOs must be exercised justly, and in expensive litigation, funding is likely to be for reasons beyond generosity.</p> <p>The Court noted Dr Shetty’s concerns about privilege and confidentiality and held that the Order made in relation to this judgement would exclude privileged Information and could be qualified for D&amp;O Insurance confidentiality.</p> <p><b>Conclusion</b></p> <p>In conclusion, the Court ordered Dr Shetty to file and serve the Information in a witness statement. The Court also invited costs submissions from the parties.</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.***