Claim No: CFI 045/2020

THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

(1) EMIRATES NBD BANK (P.J.S.C.)
(2) HSBC BANK MIDDLE EAST LIMITED
(3) ICICI BANK LIMITED, BAHRAIN BRANCH
(4) ICICI BANK UK PLC
(5) UNION BANK OF INDIA
(6) BANK OF JORDAN COMPANY
(7) NATIONAL BANK OF BAHRAIN BSC
(8) AHLI UNITED BANK B.S.C. (DIFC BRANCH)
(9) COMMERCIAL BANK OF DUBAI PSC
(10) WARBA BANK K.S.C.P.

Claimants

and

(1) KBBO CPG INVESTMENT LLC
(2) MR KHALEEFA BUTTI BIN OMAIR YOUSIF ALMUHARI
(3) HIS EXCELLENCY SAEED MOHAMED BUTTI MOHAMED ALQEBAISI
(4) INFINITE INVESTMENT LLC
(5) GROUP OF FATHIMA CO LLC
(6) FATHIMA SUPERMARKET LLC (SHARJAH)
(7) FATHIMA SUPERMARKET WLL (ABU DHABI)
(8) FATHIMA TRADING & SUPERMARKET COMPANY WLL
(9) FAIRWAY GENERAL TRADING
(10) FAIRWAY CATERING SERVICES LLC (DUBAI)
(11) FAIRWAY CATERING SERVICES LLC (ABU DHABI)
(12) FATIMA GENERAL MARKET LLC
(13) TELE LINK COMMUNICATION LLC
(14) ONE PREPAY COMPANY LLC
(15) TECHLINK SYSTEMS LLC
(16) FRESHLY FROZEN FOODS FACTORY LLC
(17) SENORA FOODS LLC
(18) ONE PREPAY COMPANY LLC (KSA BRANCH)

Defendants

ORDER OF H.E. JUSTICE NASSIR AL NASSER

UPON the request made by the Claimants on 7 November 2022 (the "Request") for a Default Judgment against the Third Defendant in accordance with Rule 13.1 (1) and (2) of the Rules of the DIFC Courts (the "RDC"), it is found as follows:

1. The request is not one prohibited by RDC 13.3.

2. The Third Defendant has filed an Acknowledgment of Service with the intention to contest the jurisdiction of the DIFC Courts (the "Jurisdiction Application").

3. On 5 August 2022, Justice Sir Jeremy Cooke issued an order dismissing the Third Defendant's Jurisdiction Application.

4. The Third Defendant has failed to file an Acknowledgment of Service or a Defence to the claim (or any part of the claim) with the DIFC Courts and the relevant time for so doing has expired pursuant to RDC 13.4.

5. The Third Defendant has not: (i) applied to the DIFC Courts to have the Claimant's statement of case struck out under RDC 4.16; or for immediate judgment under RDC Part 24 (RDC 13.6(1)); (ii) satisfied the whole claim (including any claim for costs) on which the Claimants are seeking judgment; or (iii) filed or served on the Claimants an admission under RDC 15.14 or 15.24 together with a request for time to pay in accordance with RDC 13.6(3).

6. The Claimants have followed the required procedure for obtaining Default Judgment in accordance with RDC 13.7 and 13.8.

7. The claim is for a specified sum of money and the Request specifies the date by which the whole of the judgment debt is to be paid or the times and rate at which it is to be paid by instalments in accordance with RDC 13.9.

8. The Request includes a request for interest pursuant to RDC 13.14 and the Claim Form sets out the calculation of interest in the claim.

9. The DIFC Courts are satisfied that the conditions of RDC 13.22 and RDC 13.23 have been met.

10. The Claimants have submitted evidence, as required by RDC 13.24, that (i) the claim is one that the DIFC Courts have power to hear and decide; (ii) no other court has exclusive jurisdiction to hear and decide the claim; and (iii) the claim has been properly served pursuant to RDC 13.22 and RDC 13.23 .

IT IS HEREBY ORDERED THAT:

1. The Request is granted.

2. The Third Defendant shall forthwith pay the following sums:

(a) US$$32,280,092.65 plus contractual interest of US$3,059,735.12 owing as at 27 October 2021 to ICICI Bank Limited, Bahrain Branch;

(b) US$16,018,675.76 plus contractual interest of US$1,517,847.05 owing as at 27 October 2021 to ICICI Bank UK PLC;

(c) US$19,394,593.51 plus contractual interest of US$1,838,213.38 owing as at 27 October 2021 to Bank of Jordan Company;

(d) US$24,153,650.45 plus contractual interest of US$2,289,198.81 owing as at 27 October 2021 to Union Bank of India;

(e) US$29,074,825.23 plus contractual interest of US$2,755,688.12 owing as at 27 October 2021 to National Bank of Bahrain BSC;

(f) US$92,742,926.75 plus contractual interest of US$8,790,673.18 owing as at 27 October 2021 to HSBC Bank Middle East Limited;

(g) US$14,514,557.14 plus profit of US$1,288,760.10 owing as at 27 October 2021 to Ahli United Bank BSC (DIFC Branch);

(h) US$14,616,119.30 plus profit of US$1,300,446.98 owing as at 27 October 2021 to Commercial Bank of Dubai PSC; and

(i) US$47,998,177.85 plus profit of US$4,251,716.56 plus agency fees of US$35,000 owing as at 27 October 2021 to Warba Bank K.S.C.P.

3. Pursuant to Article 39 of the Court Law (DIFC Law No. 10 of 2004) and DIFC Practice Direction No. 4, simple interest shall run on the sums due under paragraph 2 from the date of this Order until payment at the rate of 9% per annum.

NO EFFECT ON EXISTING INJUNCTIONS

4. For the avoidance of doubt, this Order does not affect the Post Judgment Freezing Orders dated 28 October 2021 (as amended) (as against First, Second, Fourth, Thirteenth, Fourteenth, Sixteenth and Seventeenth Defendants) and 1 March 2022 (as against the Fifth to Twelfth Defendants and the fifteenth Defendant) made in this case which continue in force.

COSTS

5. The Third Defendant shall pay the Claimants' costs of and occasioned by the Request on an indemnity basis to be immediately assessed in the sum of US$8,225.

6. The Claimants shall serve the Default Judgment on the Third Defendant.

7. The Third Defendant has the right to apply to set aside this Order pursuant to RDC 14.2.

Issued by:
Delvin Sumo
Assistant Registrar
Date of Issue: 8 November 2022
At: 11:30am