**THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS**

**IN THE COURT OF FIRST INSTANCE**

BETWEEN

**LUMBINI**

Claimant

and

**LOTIKA**

Defendant

---

**ORDER WITH REASONS OF JUSTICE SIR JEREMY COOKE**

---

**UPON** the reviewing the Claimant's Application No. CFI-060-2021/2 dated 24 June 2021 (the **"Application"**) that the current proceedings in CFI-060-2021 and CFI-065-2021 be kept private

**AND UPON** reviewing the Claimant's evidence in answer to the Application dated 4 July 2021

**AND UPON** reviewing the Defendant's evidence in reply dated 12 July 2021

**AND UPON** reading the case file

**IT IS HEREBY ORDERED THAT:**

1. The Application is refused

2. The Claimant shall pay the Defendant's costs of the Application to be assessed by the Registrar if not agreed.

Issued by:
**Nour Hineidi**
Registrar
Date of issue: 5 August 2021
At: 6pm

**SCHEDULE OF REASONS**

1. Mr Lolit applies for the proceedings in CFI-060-2021 and CFI-065-2021 to be kept private. This is opposed by the Lotika.

2. There is a strong presumption in favour of proceedings being held in public. Art 13 of DIFC Law No 10 of 2004 provides that they should be open to the public unless the interests of justice provide otherwise and Rule 35.4 of RDC sets out circumstances in which a hearing may be held in private. Mr Lolit seeks to bring these proceedings within that rule by submitting that publicity would defeat the object of the hearing, that confidential information is involved and publicity would damage that confidentiality and that privacy is necessary in the interests of justice.

3. I do not consider that the interests of justice require this matter to be decided in private nor that any part of the record which is ordinarily available to the public should be denied it. Publicity would not defeat the object of the hearing/ determination of the Judicial Review application (**"JR"**) and there is nothing inherently confidential about the way in which the Loutya Group was run. Mr Lolit chose to bring an application for permission for JR to challenge the refusal to stay the Regulatory Proceedings to await the outcome of the US proceedings on the basis of the alleged risk to himself of publicity which could prejudice a fair trial in the USA. Paragraphs 9-13 of my Ruling set out my reasons for refusal of permission, to which reference can be made. I repeat what appears in paragraph 14:

> "So far as concerns the effects of publicity of the Regulatory Proceedings, there is no evidence before the Court that press coverage, which would inevitably follow on the publication of a Final Decision by the Lotika, would have a serious effect in swaying public opinion in the US or the jury, who will doubtless receive instructions from the trial judge about proceeding only on the basis of the evidence before the court. Any Final Decision would doubtless be inadmissible in a criminal trial in the USA and it is not contended otherwise. It is a matter for the Lotika and Lidan whether or not to impose restrictions on publication."

4. The same holds good, a fortiori, for these proceedings. In July 2019 action was taken against Loutya and Loutya with consequent publicity. Investigation by the Lotika into the conduct of Mr Lolit is ongoing and a Decision Notice is awaited and whilst information about matters before the Lotika's DMC is not normally published prior to a Decision Notice, it was Mr Lolit's decision to seek JR and nothing in the JR application appears to me to present a risk to a fair trial in the USA. Allegations are made against Mr Lolit personally, but he has chosen not to engage with them. He has not given any evidence himself but relied on solicitors' witness statements only. The existence of the Regulatory proceedings against him will, as the Lotika, says, come as no surprise to anyone. The surprise would be if there were none, given the demise of the Loutya Group. Whilst his reputation may fall a little further, I consider that none of the three bases for privacy which are set out in paragraph 2 of this Ruling are met.

5. The public is entitled to see some documents on the Court file without permission of the Court, in accordance with the normal rules- the Statements of Case of each party and judgments or orders, but this will not harm Mr Lolit in the context of the US proceedings for the reasons given above. Nor will any publication of this ruling or the ruling on the JR application for permission.

6. In the circumstances and for the reasons given, the Application fails and the Claimant must pay the Defendant's costs, to be assessed by the Registrar, if not agreed.