THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

STATE BANK OF INDIA (DIFC BRANCH)

Claimant

and

(1) MC HEALTH CARE LLC
(2) NMC SPECIALTY HOSPITAL LLC, ABU DHABI
(3) NEW MEDICAL CENTRE LLC, DUBAI
(4) NEW MEDICAL CENTRE SPECIALTY HOSPITAL LLC, AL AIN
(5) MR B R SHETTY

Defendants

ORDER WITH REASONS OF JUSTICE WAYNE MARTIN

UPON the Claimant's Application No. CFI-047-2020/11 dated 16 July 2024 (the "Application")

AND UPON the Fifth Defendant's evidence in answer dated 30 July 2024

AND PURSUANT TO the Rules of the DIFC Courts (the "RFDC")

IT IS HEREBY ORDERED THAT:

1. The Application is dismissed.

2. The Claimant shall pay the Fifth Defendant's costs of the Application within twenty-one (21) days of agreement with respect to the amount of those costs or, if agreement is not reached within 21 days of this Order, within 21 days after detailed assessment by the Registrar pursuant to Part 40, to take place forthwith after expiry of 21 days without agreement being reached.

Issued by:
Delvin Sumo
Assistant Registrar
Date of issue: 15 August 2024
At: 3pm

SCHEDULE OF REASONS

1. In these proceedings, the Claimant, the State Bank of India (the "Bank") claims against the Fifth Defendant ("Dr Shetty") pursuant to a guarantee allegedly given by Dr Shetty in respect of the debts owed by other Defendants to the Bank. Dr Shetty denies liability on the ground that he did not execute the Guarantee, and asserts that his apparent signature on the Guarantee is a forgery.

2. On 19 June 2024, I granted an application made by the Bank in the terms sought and ordered Dr Shetty to produce to the Bank originals of no fewer than 15 documents bearing his undisputed signature from a list of categories of documents set out in Appendix 1 to the order (the "19 June Order"). Categories specified in Appendix 1 included:

> "-Correspondence - both private and business
> -Legal documentation
> -Purchase receipts
> -Receipts, receipted invoices"

The 19 June Order was sought in order that the signatures on the documents could be compared to the signatures on the guarantee by experts in handwriting analysis.

3. Dr Shetty produced 15 documents to the Bank in purported compliance with the 19 June Order. However, the Bank asserts that the documents do not comply with the terms of the 19 June Order and has applied for an order that unless Dr Shetty produces no fewer than 15 documents in compliance with the 19 June Order within 14 days, his defence shall be struck out and judgment entered for the Bank on its claim against him.

4. The grounds of the Application are contained in a witness statement provided by Ms Tameem Hashmi, a lawyer representing the Bank. Ms Hashmi asserts that:

> "(1) 13 of the 15 documents are simply letters. The only documents which are not letters are document 13, a signed hotel invoice (but not a "receipted" invoice within Appendix 1), and the partnership agreement which is document 15.

(2) Of the 13 letters, seven are letters from Mr Shetty himself, namely documents 3, 6, 7, 8, 10, 11 and 14."

5. Ms Hashmi goes on to assert that:

> "The purpose of seeking the production of documents within the terms of Appendix 1 (which is based on instructions from the Bank's expert) is to ensure that the experts have access to documents of a public nature which are difficult to forge and where the parties can be assured that the documents are genuine and have not been created for the purposes of the inspection. Letters are easy to create after the event, especially when they are letters sent by Mr Shetty himself."

6. That exposition of the purpose for which the 19 June Order was sought is difficult to reconcile with the terms of the order which was sought, and in particular, the terms of Appendix 1 to the 19 June Order, which was prepared and provided by the Bank. That Appendix includes reference to many categories of document which are not "of a public nature", including the categories which have been set out above.

7. As already noted, those categories include "correspondence - both private and business". It is clear from Ms Hashmi's evidence, and from perusal of copies of the documents which were produced to the Bank and which have been provided to the Court, that 13 of the 15 documents clearly fall within the category of "correspondence". The partnership agreement to which Ms Hashmi refers clearly falls within the category of "legal documentation".

8. The remaining document is an invoice from a hotel which has been apparently signed by Dr Shetty in two places. It is not clear to me what the expression "receipted invoices" means in Appendix 1 of the 19 June Order, but if the document produced by Dr Shetty does not fall within that category, it would seem to me to fall within the category of "purchase receipts" as the affixation of Dr Shetty's signature to the invoice from the hotel would seem to indicate purchase and receipt of the services the subject of the invoice. In all events, this document is only one out of the 15 documents provided, and it is difficult to see any reason for greater doubt with respect to the authenticity of the signature on this document than in respect of the signatures on the other 14 documents, all of which clearly and unequivocally fall within the terms of the 19 June Order made at the Bank's request.

9. For these reasons, the documents produced by Dr Shetty comply with the terms of the 19 June Order and this Application must be dismissed with costs.