THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

MIRIFA

Claimant

and

(1) MAHUR
(2) MEISON
(3) MEPUR

Defendants

ORDER WITH REASONS OF JUSTICE SIR JEREMY COOKE

UPON the Order of H.E. Justice Shamlan Al Sawalehi dated 14 April 2023 recognising and enforcing the SHA Arbitration Award

AND UPON the Order of Justice Sir Jeremy Cooke dated 12 May 2023 (the "WWFO") which provided (inter alia) for the Third Defendant to pay the Claimant's costs of the application for the WWFO and for such costs to be the subject of immediate assessment if not agreed between the Parties

AND UPON the failure of the Parties to reach agreement on the costs to be awarded

AND UPON the Claimant's Application No. ARB-009-2023/5 dated 28 August 2023 for assessment of those costs to be made on paper (the "Application")

AND UPON the Claimant's witness statements dated 28 August 2023 and 18 September 2023 and the Third Defendant's witness statement dated 11 September 2023

AND UPON the determination of the Court that such assessment should take place on the basis of the written submissions and witness evidence adduced by the Parties, notwithstanding the Defendants' expressed desire for a hearing

AND UPON reviewing all relevant material added onto the Court file

AND UPON reviewing the Rules of the DIFC Courts (the "RDC")

IT IS HEREBY ORDERED THAT:

1. The Claimant is entitled to recover their reasonable costs of the Application, which are assessed in the sum of USD 250,000.

2. The Third Defendant shall, within 14 days of this Order, pay the Claimant the said sum of USD 250,000.

Issued By:
Delvin Sumo
Assistant Registrar
Date of issue: 24 October 2023
At:11am

SCHEDULE OF REASONS

1. In accordance with the terms of RDC 23.69(3) and 23.76 and in the light of the principles enunciated in the English Court of Appeal decision *in Isah, R v Secretary of State for the Home Department* [2023] EWCA Civ 268 at paras 37-44, the assessment of these costs is most economically and efficiently determined by the Judge who made the WWFO on paper and it is unnecessary to hold a physical hearing as the parties have had the opportunity to address the Court on paper on the appropriate level of costs to be awarded.

2. There will inevitably have been a measure of duplication in the engagement of two firms of lawyers for the WWFO and the engagement of lawyers not involved in the Arbitration will have meant additional work in getting up to speed on the background facts leading to the Award and the need for a WWFO.

3. The hourly rates are not properly the subject of criticism in a case of this magnitude.

4. The time spent on documents by the solicitors in each of the two firms engaged was excessive, particularly when the element of duplication is taken into account.

5. Whilst the WWFO was of major importance and significant work was required, I am unable to see how figures of the size claimed are justified

and have made a deduction to arrive at a reasonable and proportionate figure for the work done.

6. The figure is approximately two thirds of the sum claimed which is often the measure allowed in the UK. Although a higher figure is the norm in the DIFC, for the reasons given above, I consider that a greater reduction is appropriate here for what was ultimately a relatively straightforward application in relation to enforcement of an Award which spoke for itself as to the fraud of the individual defendant.