IN THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

NALANI

Claimant/Respondent

and

NETTY

Defendant/Applicant

ORDER WITH REASONS OF H.E. JUSTICE SHAMLAN AL SAWALEHI ORDER WITH REASONS OF H.E. JUSTICE SHAMLAN AL SAWALEHI

UPON the Order with Reasons of H.E. Justice Shamlan Al Sawalehi dated 15 and 27 May 2025 (the "Orders")

AND UPON the Defendant's Appeal Notice dated 10 June 2025 for permission to appeal the Orders pursuant to Rules 44.19 of the Rules of the DIFC Courts ("RDC") (the "PTA Application")

AND UPON the Defendant's Application No. ARB-027-2024/4 dated 23 June 2025, for a stay of detailed costs assessment proceedings (the "Stay Application")

AND UPON reviewing the parties' written submissions and witness statements

IT IS HEREBY ORDERED THAT:

1. The PTA Application is dismissed.

2. The Stay Application is dismissed.

3. The Applicant shall pay the Respondent's costs of the Applications. The Respondent shall file and serve a Statement of Costs, not exceeding three pages in length, within five days of the date of this Order.

Issued by:
Delvin Sumo
Assistant Registrar
Date of issue: 22 September 2025
At: 2pm

SCHEDULE OF REASONS

1. This Order concerns two related applications brought by the Defendant: (i) the PTA Application, by which the Defendant seeks permission to appeal the Orders issued by this Court on 15 May and 27 May 2025, and (ii) the Stay Application, by which the Defendant seeks to stay the Notice of Commencement pending the outcome of the PTA Application (together the "Applications").

2. Having considered the Applications and the parties' respective submissions, I am satisfied that both Applications are without merit and should be dismissed, without a hearing, for the reasons set out below.

Background

3. The factual and procedural background to these applications has already been comprehensively traversed in the prior rulings of this Court. It is sufficient for present purposes to note that the Defendant's previous application dated 11 April 2025 to set aside the Notice of Commencement dated 21 March 2025 was dismissed by Order dated 15 May 2025, and a Costs Order was issued on 27 May 2025.

Applicant's Submissions

4. In support of the PTA Application, the Applicant submits that the Orders of 15 and 27 May 2025 contain material errors of law and procedure which merit an appeal. The central thrust of the Applicant's challenge is that the Court erred in treating the Partial Award and the ensuing Enforcement Order as constituting final relief sufficient to trigger detailed assessment under Rule 40 of the Rules of the DIFC Courts (the "RDC"). The Applicant asserts that the proceedings remain ongoing given its extant jurisdictional challenge and that a costs assessment is premature.

5. The Applicant contends that the Court mischaracterised the structure and requirements of RDC 40.10. It submits that the Court failed to appreciate the pre-conditions for the commencement of detailed assessment, namely the conclusion of proceedings and the absence of any pending issues concerning jurisdiction or the validity of the award.

6. The Applicant further argues that the 27 May 2025 Order erred in its conclusion that the Enforcement Order reflected only the operative terms of the Partial Award. The Applicant maintains that the Order went beyond the Award's wording.

7. As regards to the Stay Application, the Applicant submits that it is procedurally independent from the earlier Set Aside Notice of Commencement Application and is properly brought pursuant to RDC 4.2(6) and 40.2. It argues that a stay is justified on two grounds: first, to avoid duplication and potential futility in the event the appeal is successful; and second, to prevent prejudice resulting from a premature assessment of costs that may ultimately be invalidated.

8. The Applicant draws an analogy with Erinford-type injunctions and contends that the Stay Application satisfies the relevant criteria. It argues that the appeal raises triable issues, that irreparable harm would arise from allowing the detailed assessment to proceed, and that the balance of convenience favours a short deferral of the costs process.

Respondent's Submissions

9. The Respondent opposes both Applications in full. In response to the PTA Application, the Respondent submits that the Applicant has failed to meet either of the limbs under RDC 44.19. It contends that the issues raised are not novel and were thoroughly considered in the Orders under challenge.

10. The Respondent maintains that RDC 40.1 and 40.10 were correctly applied. It submits that the Partial Award was recognised by this Court in a final and binding Enforcement Order dated 24 December 2024, and that no further proceedings were pending such as to preclude commencement of detailed assessment. The fact that a jurisdiction challenge had been filed did not, in the Respondent's submission, negate the finality of the Order for enforcement purposes.

11. In relation to RDC 40.10, the Respondent rejects the contention that it was misstated or misapplied. The Respondent submits that the Order merely summarised the operative effect of the rule, and that the 21-day timetable for commencing assessment had properly begun upon the issuance of the Enforcement Order.

12. As to the 27 May 2025 Order, the Respondent maintains that it accurately restated the operative terms of the Partial Award and did not exceed its scope. The Order reflected only those findings necessary to enforce the Award and did not impermissibly enlarge its effect.

13. In relation to the Stay Application, the Respondent contends that the Applicant has not demonstrated any risk of prejudice that would justify suspending ongoing assessment. The detailed assessment proceedings are well advanced. The Respondent notes that the Applicant has already filed Points of Dispute and confirmed its availability for a hearing.

14. The Respondent submits that the Applicant's invocation of Erinford principles is misplaced. It asserts that the appeal has no real prospect of success and that any prejudice alleged is speculative. They further submit that there is no risk of irreversible detriment given the Court's ability to adjust or set aside costs orders if necessary.

15. The Respondent further notes that the Stay Application is in substance a restatement of the earlier Set Aside Notice of Commencement Application under a different guise.

Discussion

16. In this section I will address the grounds individually.

17. Ground 1 - This ground is wholly without merit. As set out in paragraph 21 of the 15 May 2025 Order, I expressly found that the DIFC Courts possessed jurisdiction to recognise and enforce the Partial Award under Articles 42 and 43 of the DIFC Arbitration Law. That conclusion followed a careful evaluation of the statutory criteria and the nature of the Award. The enforcement claim fell squarely within the Court's jurisdiction, and the Applicant's objections to jurisdiction were, and remain, misconceived.

18. Ground 2 - This issue was resolved in paragraph 8 of the 15 May 2025 Order, where I found that the Partial Award contained operative and final relief, and therefore qualified for recognition and enforcement. The Award did not comprise merely interim or procedural directions but imposed definitive obligations which were binding on the parties. As the Respondent correctly notes, Article 42 of the DIFC Arbitration Law does not require the Award to be the final award in the arbitration as a whole; it suffices that it contains relief that is final in nature. That threshold was clearly met.

19. Ground 3 - This submission was addressed and rejected in paragraph 21 and 22 of the 15 May 2025 Order. I found that the language of the Enforcement Order faithfully tracked the operative conclusions of the Award and did not purport to introduce new findings. The suggestion that the Court exceeded its powers or modified the arbitral relief is without basis.

20. Ground 4 - This ground was considered and dismissed in paragraph 40 of the 15 May 2025 Order. I held that the Notice of Commencement filed by the Respondent on 21 March 2025 was valid and properly served, and that the procedural requirements under RDC 40.10(1) were satisfied. The Court's costs order, recorded at paragraph 5 of the R&E Order, entitled the Respondent to initiate detailed assessment. No stay had been ordered, and the filing fell within the three-month time limit provided in the rule.

21. Ground 5 - The Applicant's argument that the Court misquoted RDC 40.10 is entirely without merit. As clarified in paragraph 38-40 of the 15 May 2025 Order. RDC 40.10 sets out its triggers in tabular format, and my summary accurately conveyed the substance of the rule and its intended application. There is no legal or procedural misdirection.

22. Ground 6 - This argument was rejected in paragraphs 42-49 of the 15 May 2025 Order. I found that the Notice of Commencement complied with the procedural requirements under Part 40 and was neither premature nor defective. The Applicant's attempt to challenge service and formality was found to be unsubstantiated and contrary to established DIFC Courts practice.

23. Ground 7 - This allegation is unsustainable. The Applicant's jurisdictional objections were fully adjudicated and dismissed in the 15 May 2025 Order. Paragraph 2 of that Order confirmed that the Respondent was entitled to proceed with detailed assessment under RDC 40.10. There are no live jurisdictional issues remaining. The Applicant is attempting to repackage arguments that have already been conclusively resolved. Such an approach is procedurally improper and serves only to delay and frustrate enforcement.

24. Ground 8 - This contention is inconsistent with RDC 40.2, which provides that *"detailed assessment is not stayed pending an appeal unless the Court so orders."* The mere filing of a PTA Application does not suspend the assessment process. To adopt the Applicant's approach would allow meritless or speculative appeals to paralyse enforcement steps, contrary to the Court's obligation under RDC 1.6.

25. Ground 9 - This argument is speculative and lacks legal foundation. The Enforcement Order remains final and binding unless and until it is set aside. The detailed assessment was lawfully initiated and may proceed absent a contrary order. The risk of wasted costs cannot, in and of itself, justify delaying enforcement of a valid judgment. The proper course is to allow the process to continue unless a stay is expressly granted.

26. Ground 10 - The Applicant has not demonstrated any concrete or material prejudice. It does not allege any inability to participate in the assessment or any irreparable harm. As the Respondent has rightly observed, both parties were invited by the Registry to provide availability for the costs hearing. The Respondent responded constructively and in a timely fashion. The Applicant responded only at the end of the designated availability window. The alleged prejudice therefore stems not from any procedural irregularity, but from the Applicant's own failure to engage meaningfully with the Court's direction.

27. Ground 11 - This submission is directly contradicted by the Court's prior reasoning. At paragraph 37 of the 15 May 2025 Order, I explicitly invoked the need for proportionate and efficient resolution in accordance with RDC 1.6. The Court's management of these proceedings has been firmly guided by that objective. The Applicant's serial re-litigation of previously dismissed issues, now dressed in new procedural forms, does not promote fairness or efficiency. It burdens the Court and the opposing party without justification.

28. Ground 12 - The Applicant contends that the matters raised are novel or important and therefore warrant appellate consideration. I do not accept that submission. The arguments advanced concern the settled interpretation and application of RDC 40.10 and the procedural framework for cost assessments. These provisions have been consistently applied by this Court, including in the Orders under challenge. The issues raised are fact-specific and involve no new legal principle or uncertain point of law. As such, they do not meet the threshold of legal novelty or general public importance required under RDC 44.19

29. Ground 13 - This ground is without foundation. The costs award issued under the 27 May 2025 Order was made pursuant to RDC 38.7 and RDC 38.8. As I recorded in the Order, that award reflected the complexity of the issues raised and a proper balancing of proportionality and reasonableness. There is no basis for suggesting that the cost order was excessive or unfair.

30. The Applicant's two live Applications represent a continuation of procedural tactics that have already been rejected by this Court. The Applicant's conduct displays a pattern of obstruction and repetition of dismissed objections. The Stay Application is substantively identical to the previously dismissed Notice of Commencement Set Aside Application. The PTA Application fails to satisfy the statutory threshold under RDC 44.19. Neither Application identifies any error of law, novel legal issue, or matter of public importance sufficient to justify further proceedings.

Conclusion

31. For the foregoing reasons, I am satisfied that both Applications must be dismissed in full.

32. The Applicant shall pay the Respondent's costs of the Applications. The Respondent shall file and serve a Statement of Costs, not exceeding three pages in length, within five days of the date of this Order.