THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF APPEAL

BETWEEN

STATE BANK OF INDIA (DIFC BRANCH)

Claimant/Appellant

and

(1) NMC HEALTHCARE LLC
(2) NMC SPECIALITY HOSPITAL LLC, ABU DHABI
(3) NEW MEDICAL CENTRE LLC DUBAI
(4) NEW MEDICAL CENTRE SPECIALITY HOSPITAL LLC, AL AIN
(5) MR. B.R SHETTY

Defendants/Respondents

ORDER WITH REASONS OF H.E. JUSTICE ROBERT FRENCH

UPON the Judgment of H.E. Justice Andrew Moran dated 8 October 2025 (the "Judgment")

AND UPON the Fifth Defendant's Appeal Notice dated 29 October 2025 seeking permission to appeal the Judgment (the "Application for Permission to Appeal" or "Application")

AND UPON the Claimant's submissions in opposition dated 14 January 2026

AND UPON the Order of H.E. Justice Moran dated 21 January 2026 referring the Application for Permission to Appeal to the Court of Appeal (the "Order")

AND UPON reviewing the Court file and documents filed herein

IT IS HEREBY ORDERED THAT:

1. The Application for Permission to Appeal is dismissed.

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

Issued by:
Delvin Sumo
Assistant Registrar
Date of Issue: 18 February 2026
At: 11am

SCHEDULE OF REASONS

Introduction

1. This is an Application for Permission to Appeal against a decision of H.E. Justice Andrew Moran (the "Trial Judge") given on 8 October 2025. The Application for Permission, originally brought before Justice Moran, has been referred to the Court of Appeal pursuant to Rule 44.8 of the Rules of the DIFC Courts ("RDC"), which provides that:

> "44.8
>
> The lower Court may refer an application for permission to appeal to the appeal Court for decision."

The nature of the proceedings

2. The Claimant claimed against the Fifth Defendant, Mr Shetty, under a Personal Guarantee ("Guarantee") dated 25 December 2018. The Guarantee was said to have been given by the Fifth Defendant in respect of the indebtedness of the First Defendant under a Facility Agreement for USD 50 million, also dated 25 December 2018.

3. The background to the claim is set out in detail in the Judgment of H.E. Justice Andrew Moran, and it is not necessary to set it out in any detail here.

4. The issue at trial was whether the Fifth Defendant had actually signed the Guarantee on which he was sued. The Trial Judge found that he had and was liable under the Guarantee.

5. The decision turned on strong findings of the Trial Judge based on a substantial body of evidence. To put it shortly, the Trial Judge did not believe the Fifth Defendant's denial that he had signed the Guarantee. On the face of it there was ample justification for that finding.

6. Judgment was awarded against the Fifth Defendant in the amount of USD 45,997,554.59.

7. On 29 October 2025, the Fifth Defendant filed an Application for Permission to Appeal. He did not file skeleton arguments with proposed grounds of appeal until 10 December 2025, albeit they were dated 29 October 2025.

8. The Claimant, in a submission opposing the grant of permission, pointed out that the Fifth Defendant would require an extension of time as the skeleton argument and grounds of appeal were required under RDC 44.29 to be filed with the Notice. RDC 44.30 allowed the documents to be filed within 21 days of the Notice where it was impracticable to comply with RDC 44.29. In the end, the Fifth Defendant sought an extension of time.

9. The Trial Judge to whom the Application for Permission to Appeal was made referred it to the Court of Appeal for decision pursuant to RDC 44.8.

10. His Honour's Order referred to the date of the skeleton argument and appeal grounds as 29 October 2025. In the event, I will grant the extension of time and deal with the Application for Permission to Appeal on its merits.

Proposed Grounds of Appeal

Ground 1: Denial of Amendment Application - Procedural Unfairness and Denial of opportunity to present defence

11. Ground 1 arises out of the refusal of H.E. Chief Justice Wayne Martin to allow an amendment to the defence. The Fifth Defendant contended that he had sought permission to amend his Statement of Defence to include additional factual and legal grounds supporting the case, that he did not personally guarantee the Facility Agreement and did not sign the alleged Personal Guarantee to the Facility Agreement. He also wanted to introduce pleadings relating to the invalidity and unenforceability of the Guarantee and to demonstrate that any alleged liabilities under such Facility had been extinguished by the settlement of the principal debt. The refusal of the amendment was said to have curtailed the proper ventilation of the issues in the dispute and to run contrary to settled principles governing amendments under RDC Part 18 which required that a party be allowed to amend its pleadings with the permission of the Court where such amendment is necessary for determining the real questions in controversy.

12. On 18 June 2025, H.E. Chief Justice Wayne Martin dismissed an application for permission to appeal against his ruling and published reasons for doing so. The Fifth Defendant then renewed his permission to appeal to the Court of Appeal. I heard that application and also refused permission.

13. In those reasons I stated:

> "3. Whether or not the decision is properly characterised as a Case Management Decision for the purposes of Rule 44.27 of the Rules of the DIFC Courts is of little consequence to the outcome of this Renewed Application for Permission. It involved discretionary considerations including an assessment of the merits of the proposed pleading amendments.
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> 4. The utility of the amendments is put in question by the Fifth Defendant's statement in the skeleton argument that they:
>
> > ". are not inconsistent with the existing pleadings rather, they are complementary in nature, intended to provide the Honourable CFI Court with a comprehensive and nuanced understanding of the dispute"."

I found then that the prospects of success in an appeal against that discretionary interlocutory decision were small to non-existent. The Renewed Application for Permission to Appeal was then refused.

14. In essence, the Fifth Defendant seeks to reagitate the question of the proposed amendment which was refused by the Chief Justice and in respect of which a Renewed Application for Permission to Appeal was refused by me. There is no basis for Permission to Appeal to be given in respect of Ground 1.

Ground 2: Apparent bias and procedural irregularity

15. The Fifth Defendant contended under this ground that the handling of the proceedings before the trial, including the refusal of the Application for Amendment of the pleadings, gave rise to a reasonable perception of apparent bias and procedural irregularity. This was essentially Ground 1 revisited under a different label. To the extent that it relates to the amendment decision, this Ground has no more merit than Ground 1. There is no merit and no reasonable prospect of success on this ground.

Ground 3: Error of law, failure to recognise discharge of guarantee following settlement of principal debt

16. Under this heading, the Fifth Defendant submitted that the Trial Judge erred in law by holding the Claimant liable as guarantor despite evidence that the principal debt had been settled with the principal borrower.

17. In submissions in opposition, the Claimant pointed out that this was yet another collateral attack on the decision to refuse permission to amend the defence. The submission that the Fifth Defendant's liability under the Guarantee had been discharged upon discharge of the principal debtor under administration, was the basis of the amendment for which permission was refused by the Chief Justice. The Chief Justice pointed out in his Order of 18 June 2025 that the point was hopeless because the Guarantee contained standard form wording to the effect that the discharge of the principal debtor would have no effect on the liability of the guarantor. That said, the Bank had given an undertaking to give credit for any future recoveries which it might receive in the administration of the principal debtor.

18. Again, there is no merit in this Ground.

Ground 4: Misappreciation of the Appellant's testimony and procedural fairness in assessing credibility

19. This is essential a complaint about the Trial Judge's findings as to the Fifth Defendant's credibility. The Fifth Defendant made the rather remarkable submission that being now over 80 years of age he participated in the trial without professional representation. As appears from the judgment, this is simply untrue. As pointed out in the Claimant's submissions, the Fifth Defendant chose to terminate the retainer of his previous solicitors shortly before trial. He retained the services of Mr David Berkley KC on a direct access basis and Mr Berkley appeared on his behalf at the trial. There are a number of references to Mr Berkley's "skilful" cross-examination in the Trial Judge's Reasons for Judgment. Further, as the Claimant's submissions point out, the documents were not voluminous. The sole issue was whether the Fifth Defendant's signature on the Guarantee was his or a forgery. The Trial Judge rejected his oral evidence and preferred the expert evidence of the Claimant's handwriting expert over that of the Fifth Defendant's handwriting expert.

20. The Fifth Defendant complained that the language and some of the remarks made in the judgment were unnecessarily harsh and went beyond what was required for the resolution of the issues before the Court. The Trial Judge made strong statements about the Fifth Defendant's credibility but the fact that strong statements were made does not undermine his findings. No basis is shown that would disclose a reasonable prospect of success in a challenge to those findings.

Ground 5: Erroneous evaluation of expert evidence

21. Under this heading, the Fifth Defendant submitted that the Trial Judge erred in rejecting the expert evidence of his expert while uncritically preferring the evidence of the Bank's expert. The Trial Judge's assessment was careful and reasoned. There is no reasonable prospect of success on this Ground.

Ground 6: Cumulative effect of irregularities and excessive judicial language

22. This Ground adds nothing to the grounds that have already been discussed. It has no reasonable prospect of success.

Conclusion

23. For the above reasons, the Application for Permission to Appeal is dismissed. The Fifth Defendant is to pay the Claimant's costs of the Application to be assessed by the Registrar if not agreed.