

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
COMMERCIAL COURT

Case no. CL-2015-000549

Neutral Citation Number: [2016] EWHC 1430 (Comm)

Court No 20

Rolls Building
Fetter Lane
London EC4

Tuesday, 14 June 2016

Before:

MR JUSTICE WALKER

BETWEEN:

JSC BTA Bank

Claimant

-v-

Eesh Aggarwal

Respondent

Mr T Akkouch and **Mr J Rivett** appeared on behalf of the Claimant.

The Respondent did not appear.

IN PRIVATE

Approved Judgment

IN PRIVATE

Approved Judgment

MR JUSTICE WALKER:

1. Mr Tim Akkouch appears today with Mr Jack Rivett on a without notice application. The hearing has been dealt with in private because the claimant bank fears that if the respondent were to learn of this application there is a real risk that he would take steps to frustrate it. Mr Akkouch has taken me through matters identified in evidence and in his submissions in order to ensure that the court is aware of factors which might weigh against the grant of relief sought in the application. I am satisfied that there is a strong case for that relief which outweighs those factors.
2. The order that is sought is in two main parts. The first part concerns disclosure. The second part concerns restrictions on movement of the respondent.
3. In relation to both parts, the fifth witness statement of Mr Tucker and counsel's skeleton argument relied upon, among other things, sworn evidence of Mr Nicolas Bourg in litigation in New York. They also relied upon what is reported to have been said by a Mr Page, who is said to have made a proposal to the bank under which money would be paid by the bank in exchange for the provision of information which he claimed had been stolen by computer hackers. Mr Tucker states that Mr Page gave details to the bank about the information which could be provided, but the bank declined Mr Page's proposal.
4. I asked Mr Akkouch to confine his submissions today so as to exclude any information deriving from Mr Page or his associates. I do not rule out the possibility that the bank may be able to persuade a judge in future to rely upon that information but I am not inclined to do so at the present stage.

5. I have no doubt that the information provided by Mr Bourg amply warrants the order for disclosure. I say that, of course, on the footing that I have heard only one side. It may well be that, at a hearing where the respondent is represented, the position may turn out to be quite different.
6. The restrictions on travel include a requirement to lodge the respondent's passport with the bank's solicitors. It is an extreme order which will, until the return date of Friday this week, impose onerous restrictions on the respondent. There is, however, strong evidence that the respondent is closely associated with the first and second defendants. Each of those defendants has taken extreme steps in order to try to frustrate recovery by the bank of very large sums found to be due to the bank. Applying the principles to be derived from *Kuwait Airways Corporation v Iraqi Airways Co* [2010] EWCA Civ 741, I consider that those restrictions are all warranted on the basis of the information before me, putting on one side anything emanating from Mr Page or his associates, and I will grant relief accordingly.