

IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO: FSD 269 OF 2022 (NSJ)



IGCF SPV 21 LIMITED

APPLICANT / PLAINTIFF

AND

AL JOMAIH POWER LIMITED

DENHAM INVESTMENT LIMITED

DEFENDANTS

ORIGINATING SUMMONS

LET ALL PARTIES CONCERNED attend before Judge in Chambers, at the Law Courts, George Town, Grand Cayman on the day of 2023, at o'clock, on the hearing of an application by IGCF SPV 21 Limited of C/O Campbells Corporate Services Limited, Floor 4, Willow House, Cricket Square, Grand Cayman, Cayman Islands, for the following orders:

1. A final injunction against the Defendants that they shall (whether by themselves or their agents) terminate or otherwise finally discontinue the proceedings commenced by them in the High Court of Sindh at Karachi, Pakistan by the Suit for Declaration and Permanent Injunction issued on 21 October 2022 (“the **Pakistan Proceedings**”) without any cost to the Plaintiff.

2. A final injunction against the Defendants that they shall not (whether by themselves or their agents) pursue, or take any further steps in, or procure or assist the pursuit of the Pakistan Proceedings.
3. A final injunction against the Defendants that they shall not (whether by themselves or their agents) commence or pursue, or procure or assist the commencement or pursuit of, any proceedings in connection with any dispute or disagreement under, arising out of, or relating to the Shareholder Agreement dated 15 October 2008 (as specifically amended by the Second Deed of Amendment to the Subscription Agreement and Shareholder Agreement relating to KES Power Ltd dated 5 January 2021) (the “SHA”), in any court or tribunal other than in the Grand Court of the Cayman Islands or the English courts.
4. A declaration that the subject matter of the Pakistan Proceedings (as defined in the First Affidavit of Casey McDonald) are disputes within the exclusive jurisdiction of the courts of the Cayman Islands or the English courts pursuant to clause 25.2 of SHA.
5. A declaration that the commencement and continuation of the Pakistan Proceedings constitutes a breach by the Defendants of the SHA.
6. An order that the Defendants shall pay as damages the Plaintiff’s costs and expense of, and occasioned by, the Pakistan Proceedings on the indemnity basis, with interest at a rate of 2.375%, such interest to run from the date the Pakistan Proceedings were commenced (21 October 2022) until payment in full. Such damages shall be taxed on the indemnity basis if not agreed, and shall not be limited to the costs and disbursements of Khalid Jawed Khan & Associates but may include the costs and disbursements of Dillon Eustace.
7. Such further or other relief, including supplemental directions, as the Court thinks fit.
8. An order that the Defendants shall pay the Plaintiff’s cost of, and associated by, this Summons on the indemnity, alternatively standard, basis, to be taxed if not agreed.

If the Defendants do not acknowledge service, judgment may be given or order made against them in relation to them as the Court may think just and expedient.

Dated this 25th day of January 2023


DILLON EUSTACE CAYMAN
Attorneys for the Plaintiff

TIME ESTIMATE: The estimated length of the hearing of this summons is 2 days.

TO: Registrar of the Financial Services Division and the Clerk of the Court

THIS ORIGINATING SUMMONS was filed by Dillon Eustace Cayman, Attorneys at Law acting for the Plaintiff whose address for service is Landmark Square, West Bay Road, PO Box 775, Grand Cayman KY1-9006, Cayman Islands (Ref: **CLK / TIG02.00001**).