

**REMEDIES AVAILABLE IN  
LOCAL COURTS ON  
ENFORCEMENT ORDERS  
AND JUDGMENTS OF THE  
DIFC COURTS**



# REMEDIES AVAILABLE IN LOCAL COURTS ON ENFORCEMENT ORDERS AND JUDGMENTS OF THE DIFC COURTS

## I. INTRODUCTION

1. The United Arab Emirates (“UAE”) is a federation of seven Islamic principalities, or as commonly known, the seven emirates. The modern UAE has a three-level Federal judicial system, and each constituent emirate maintains an independent court system, with concurrent jurisdiction exercised on matters outside the scope of Federal law. The emirates of Abu Dhabi, Dubai, and Ras Al Khaimah maintain their individual court systems *i.e.*, each have their own courts of cassation as the highest court, while the other emirates have the Federal Supreme Court as its highest court.

2. The UAE has two systems of courts *i.e.*, local courts which include the onshore Courts in Dubai, Abu Dhabi Ras Al Khaimah, Sharjah, Um Al-Quwain, Ajman and Fujairah which follow a form of civil law and the offshore courts which include the Dubai International Financial Centre (“DIFC”) Court, and the Abu Dhabi Global Market (“ADGM”) Court which are modelled on common law principles. While there are two clear systems of law operating in the UAE, there is a great degree of overlap, with orders which are final and unappealable from the DIFC Courts executable before the local courts, including the Dubai Courts.



## II. JUDICIAL COOPERATION BETWEEN THE DIFC COURTS AND DUBAI COURTS

3. A party can seek recognition of a foreign court judgment in the DIFC Courts, and convert the resulting DIFC Courts judgment into a judgment of the Dubai Courts for the purpose of enforcement. This is possible even where there is no other link between the judgment and the DIFC. As a result, this mechanism where there is no requirement to prove any nexus of asset for purpose of onward execution came to be colloquially termed as the 'conduit jurisdiction' of the DIFC Courts.<sup>1</sup>

4. While there has been criticism terming DIFC Courts' conduit jurisdiction as unconstitutional and violative of the public policy, such criticism has been rejected by the DIFC Courts.<sup>2</sup> Thus far, the DIFC Courts' conduit jurisdiction has been successful in enabling parties to use a common law gateway for enforcement of awards and judgments across the UAE.

5. The DIFC Courts and its moniker as a "conduit jurisdiction" reinforces a party seeking recognition of a foreign judgment in the UAE. The DIFC Courts are therefore an important cog in the wheel which allows a party to convert its judgment into an onshore execution proceeding before the Dubai Courts, in order to avail of the benefit of a successful enforcement. Therefore, the DIFC Courts are uniquely placed at providing a statutory regime allowing invocation of its conduit jurisdiction for recognition and enforcement of final and conclusive awards and, or judgments from Courts other than the DIFC Courts.

---

<sup>1</sup> To find out more about the conduit jurisdiction, read our insight "*DIFC Courts as a Conduit for Enforcement Within and Outside The UAE*"

<sup>2</sup> For challenge to constitutionality, see *Fiske v Firuzeh*, [2014] DIFC ARB 001 (5 January 2015) and for breach of public policy, see *Egan v Eava*, [2013] DIFC ARB 002 (29 July 2015)



6. In 2009, the DIFC Courts and the Dubai Courts entered into a Memorandum of Understanding (“DIFC-Dubai MoU”)<sup>3</sup> and a Protocol of Enforcement (“Enforcement Protocol”)<sup>4</sup>. While both the DIFC-Dubai MoU and the Enforcement Protocol promote and facilitate cooperation between the DIFC Courts and the Dubai Courts, the Enforcement Protocol goes a step further and deals with aspects of mutual enforcement of judgments, and amongst other things, clarifies requirements for enforcement of judgments of the DIFC Courts in Dubai.

7. In fact, the DIFC Courts and the Dubai Courts have constantly interacted to strengthen their strategic cooperation through various initiatives, specifically concerning the jurisdiction, enforcement of mutual judgments and developing a mechanism to regulate judicial cooperation<sup>5</sup>.

8. While the Enforcement Protocol laid the foundation and road map for judicial cooperation, it has now been superseded and codified by the terms of Law No.16 of 2011,<sup>6</sup> which allows for the enforcement of DIFC Courts judgments in Dubai Courts, if the following three conditions are satisfied:

- (a) they must be final and executory;
- (b) they must be legally translated into Arabic; and
- (c) they must be certified by the DIFC Courts for execution and have a formula of execution affixed by the Courts<sup>7</sup>

---

<sup>3</sup> Memorandum of understanding between the DIFC Courts and the Dubai Courts (16 June 2009)

<sup>4</sup> Protocol of Jurisdiction between the DIFC Courts and the Dubai Courts (7 December 2009)

<https://www.difccourts.ae/about/memoranda/judicial/protocol-of-jurisdiction-between-the-difc-courts-and-the-dubai-courts>

<sup>5</sup> DIFC Courts and Dubai Courts Enhance Mutual Cooperation through a Joint Committee (2 January 2011)

<https://www.difccourts.ae/media-centre/newsroom/2-january-2011-difc-courts-and-dubai-courts-enhance-mutual-cooperation-through-joint-committee>

<sup>6</sup> Law No.16 of 2011 Amending Certain Provisions of Law No. 12 of 2004 Concerning Dubai International Financial Center Courts (31 October 2011)

<sup>7</sup> Article 7(2) of Law No.16 of 2011



9. The DIFC Courts have noted that its judgments should be enforced in Dubai Courts in the same manner as a judgment delivered by the Dubai Courts. Thus far, enforcement of money judgments in Dubai from the DIFC Courts has proved reliable and successful to date<sup>8</sup>

10. In order to aid the interplay between the Courts, a Joint Judicial Committee (“JJC”) was set up to solve jurisdictional issues and conflicts which may arise between the Courts<sup>9</sup>. With further amendments, the JJC has been replaced with the New Judicial Authority (“NJA”) through Dubai Decree No.29 of 2024, thereby broadening its scope and aiming for further consolidation and resolution of conflicts between the jurisdiction of the DIFC Courts and any “judicial authorities in Dubai”<sup>10</sup>

11. The NJA is now tasked with a more definitive mandate and broader responsibilities *i.e.*, resolving jurisdictional conflicts between DIFC Courts and any ‘judicial entities’,<sup>11</sup> in contrast with the JJC’s scope which was limited to jurisdictional conflicts between the DIFC Courts and Dubai Courts. In another significant development, the NJA will become the final arbiter of jurisdictional conflicts in Dubai<sup>12</sup> and will follow a system of precedents, thus making its decisions binding on all judicial bodies including DIFC Courts<sup>13</sup> making it more rooted in common law and providing a catalogue of binding precedents on jurisdictional conflicts.

---

<sup>8</sup> DIFC Courts Enforcement Guide (8 August 2019) <https://www.difccourts.ae/mediacentre/publications/enforcement-guide>

<sup>9</sup> Decree No.(19) of 2016 Forming the Judicial Committee of the Dubai Courts and the Dubai International Financial Center Courts (9 June 2016)

<sup>10</sup> Decree No.(29) of 2024 Concerning the Judicial Committee for Resolving Conflicts of Jurisdiction between the Dubai International Financial Centre Courts and Judicial Entities in the Emirate of Dubai (3 April 2024)

<sup>11</sup> Article 4(1), Decree No.(29) of 2024

<sup>12</sup> Article 9(b), Decree No.(29) of 2024

<sup>13</sup> Article 9(c), Decree No.(29) of 2024



### III. PROCEDURE FOR ENFORCEMENT AND PRO-EXECUTION STANCE ADOPTED BY DUBAI COURTS

12. The UAE is an important commercial hub, acting as a link between Europe and the Indian sub-continent. As a result of these economic links, the UAE's commercial system and to some extent the legal system, has shades of customs adopted by the English commercial law. In some way, there is a renaissance of common law principles which is currently underway in Dubai, with the introduction of the DIFC Courts being a prime example of the economic influx into the UAE and its development trajectory.<sup>14</sup>

13. The UAE has been at the forefront of innovation since the turn of the century, and this is also evident from its pro-enforcement stance. In 2006, the UAE ratified the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958.<sup>15</sup> This was quickly followed with the introduction of the DIFC-LCIA in 2008 as a joint venture between the DIFC and the London Court of International Arbitration, which immediately became the contractual choice of institution for settlement of disputes across the region, although it has since been abolished and replaced by the Dubai International Arbitration Centre.<sup>16</sup>

14. Coupled with these watershed developments, the UAE and notably Dubai have imprinted their pro-enforcement stance on the global map, with the Dubai Courts effectively exercising its powers in executing awards and judgments, which have been recognised and enforced by the DIFC Courts.

---

<sup>14</sup> S.R. Luttrell, Arab Law Quarterly 23 (2009) 139-166, The Changing Lex Arbitri of the UAE

<sup>15</sup> Federal Decree No.43 of 2006 dated 13 June 2006

<sup>16</sup> Decree No.34 of 2021 Concerning the Dubai International Arbitration Centre



15. To understand this onward execution in the Dubai Courts, it is important to look at Law No.12 of 2004 in respect of the Judicial Authority at the Dubai International Financial Centre (“JAL”),<sup>17</sup> which sets out the procedure for enforcement of a DIFC Court judgment in the onshore Dubai Courts, entailing the following steps:

- (a) the enforcing party must request an execution letter from the DIFC Courts, which is issued to the Chief Justice of the Dubai Courts and sets out procedure required for the enforcement;<sup>18</sup>
- (b) the enforcing party must present an application for enforcement to the Execution Judge at the Dubai Courts, accompanied by the execution letter and Arabic translation of the judgment;<sup>19</sup> and
- (c) upon receipt, the Dubai Courts must enforce the judgment in accordance with the Federal Civil Procedure Law.<sup>20</sup> Interestingly, the Execution Judge may not re-open the merits of the case.<sup>21</sup>

16. Importantly, a DIFC Courts’ judgment will only be enforced through the Dubai Courts if the three conditions prescribed under Article 7(2) of the JAL stand satisfied, these are (i) the judgment must be final and executory; (ii) the judgment must be legally translated into Arabic; and (iii) the judgment must be certified by the DIFC Courts for execution and have a formula of execution affixed.<sup>22</sup>

---

<sup>17</sup> Law No.12 of 2004 in respect of The Judicial Authority at Dubai International Financial Centre

<sup>18</sup> Article 7(3)(a) of the Judicial Authority Law

<sup>19</sup> Article 7(3)(b) of the Judicial Authority Law

<sup>20</sup> Federal Decree-Law No.42 of 2022 on the Promulgation of the Civil Procedure Law (abrogating Federal Law No.11 of 1992)

<sup>21</sup> Article 7(3)(c) of the Judicial Authority Law

<sup>22</sup> The formula of execution affixed by the Courts reads as follows: “Authorities must take the initiative to enforce this document and assist in implementing it even forcefully whenever requested to.”

17. The established procedure now is that a DIFC Courts' judgment, order or decision is 'converted' into a judgment of the Dubai Courts, which can then subsequently be enforced under and through any enforcement treaties to which the UAE is a party.<sup>23</sup>

#### IV. MECHANISM FOR ENFORCEMENT IN THE EMIRATES OUTSIDE DUBAI

18. Prior to the introduction of Law No.16 of 2011, the enforcement of DIFC Courts' judgments and orders in the Emirates outside Dubai had to be pursued through a process of "deputisation" or "referral".<sup>24</sup>

19. This has since changed, and the enforcement of DIFC Courts' judgments and orders outside the DIFC is in accordance with the procedure and rules adopted by the competent entities that have the jurisdiction to enforce these judgments and orders.<sup>25</sup> However, it is still unclear how this may practically work as it is not yet an established practice. Therefore, it may be advisable to opt for the "tried and tested" method required under the Federal Civil Procedure Law.<sup>26</sup>

20. The DIFC Courts have also entered into a memorandum of understanding with the Courts in the Emirate of Ras Al Khaimah which *inter alia* includes facilitating and encouraging collaboration including in relation to execution of mutual judgments ("DIFC-RAK MoU").<sup>27</sup> Notably, this DIFC-RAK MoU facilitates the development of protocols about all important judicial areas including enforcement.

---

<sup>23</sup> DIFC Courts Enforcement Guide (8 August 2019) [https://www.difccourts.ae/media\\_centre/publications/enforcement-guide](https://www.difccourts.ae/media_centre/publications/enforcement-guide)

<sup>24</sup> Article 221 of the Federal Law No.11 of 1992 (now abrogated by Article 208 of the Federal Decree-Law No.42 of 2022)

<sup>25</sup> Article 7(2) of Law No.16 of 2011

<sup>26</sup> DIFC Courts Enforcement Guide (8 August 2019) <https://www.difccourts.ae/mediacentre/publications/enforcement-guide>

<sup>27</sup> Memorandum of understanding between the DIFC Courts and the Ras Al Khaimah Courts (22 June 2010)



21. In line with this collaborative approach, the DIFC's Dispute Resolution Authority ("DRA") also entered into a memorandum of understanding with the Ras Al Khaimah Department of Economic Development, which furthers the agenda to work together, towards achieving a vision for efficient and swift commercial justice.<sup>28</sup>

22. Similarly, the DIFC Courts have entered into a memorandum of understanding with the UAE Federal Ministry of Justice,<sup>29</sup> aimed at strengthening the confidence in the judicial system and ensuring judicial cooperation at the local, federal, regional and international level.

23. All these steps have enabled the UAE to set up counter-measures to effectively tackle obstacles and challenges which may arise with enforcement of judgments from the DIFC Courts, which effectively along with the Courts of the Abu Dhabi Global Market operate as the only common law courts in the UAE.

#### IV. MECHANISM FOR ENFORCEMENT ADOPTED BY DUBAI COURTS

24. The enforcement of DIFC Courts' judgments before the Dubai Courts is far more straightforward. As per Article 7(2) of the JAL, a party seeking enforcement must ensure that the judgment of the DIFC Courts is final and executory, accompanied by an Arabic translation, and certified by the DIFC Courts with the formula of execution affixed.

---

<sup>28</sup> Memorandum of understanding between the DIFC's DRA and the Ras Al Khaimah Department of Economic Development (12 December 2016)

<sup>29</sup> Memorandum of understanding between the DIFC Courts and the UAE Ministry of Justice (26 August 2010)

25. Once these requirements are fulfilled, the DIFC Courts' judgments may be enforced before the Dubai Courts. To execute a judgment or order of the DIFC Courts before the Dubai Courts, a party will be required to file a writ of execution before the onshore Dubai Courts.

26. Articles 242-251 of the Federal Civil Procedure Law provide general provisions relating to attachments, and include within its fold, provisional seizures and precautionary attachments.

27. A precautionary attachment order over a defendant's property is one which is made prior to bringing a substantive claim on the merits of the dispute *i.e.*, where there is credible evidence shown by a claimant of its substantive claim, amount of debt due, and risk of dissipation of assets by the defendant, to avoid potential enforcement.

28. In terms of assets which can be attached by the Dubai Courts, there exists a wide-ranging list which are restricted.<sup>30</sup> While the most commonly attached assets are bank accounts, other assets including real property may also be attached.

29. In a landmark development, which has been hailed as a significant advancement towards debt recovery cases, the Dubai Courts have broadened the scope of assets which can be attached to include commercial licenses, noting that such licenses are also intangible assets which enhance a company's value, and can be materially assessed, are permitted for sale, albeit subject to approval, and can thus be seized.<sup>31</sup>

---

<sup>30</sup> Article 242 of Federal Decree-Law No.42 of 2022

<sup>31</sup> Naief Yahia and Mohamed El Dessouky, Commercial Licenses Now Recognized as Attachable Assets in Debt Recovery [https://www.lexismiddleeast.com/eJournal/2024-05-08\\_17/](https://www.lexismiddleeast.com/eJournal/2024-05-08_17/); DCC 1/2024



30. This presents judgment creditors with additional ammunition apart from the usual assets which are readily available for attachment, as they can now strategically seek to attach commercial licenses, including trade licenses of the debtor as an attachable asset, thereby assisting in swifter debt recovery.

31. The Federal Civil Procedure Law provides a wide range of remedies which may be available to a judgment creditor at the execution stage before the onshore Dubai Courts,<sup>32</sup> which are discussed in further detail below:

### *A. Garnishment*

32. Articles 252-263 of the Federal Civil Procedure Law enables a judgment creditor to seek garnishment over movable property of or debts owed to a judgment debtor in the hands of third parties. This right enables the judgment creditor to seek garnishment even if the debt is deferred, subject to a condition, or disputed.<sup>33</sup> Materially, there is no requirement to serve prior notice on the judgment debtor.<sup>34</sup>

33. Any payments by the garnishee are required to be made with the Dubai Court's treasury, and movable assets to be delivered with an appointed custodian, accompanied by a statement. The Dubai Courts will then proceed to notify the judgment debtor of the deposit placed.<sup>35</sup>

34. If no deposit is made, the garnishee is required to make appropriate disclosure in a report.<sup>36</sup> If the garnishor's right is

---

<sup>32</sup> Chapter 3, Federal Decree-Law No.42 of 2022

<sup>33</sup> Article 252 of Federal Decree-Law No.42 of 2022

<sup>34</sup> Article 253 of Federal Decree-Law No.42 of 2022

<sup>35</sup> Article 255 of Federal Decree-Law No.42 of 2022

<sup>36</sup> Article 256 of Federal Decree-Law No.42 of 2022



established by an execution writ, they may apply to seek an order of garnishment based on the report.<sup>37</sup> It is important to highlight that any failure to provide sufficient disclosure may result in a judgment being passed against them, and in favour of the judgment creditor.<sup>38</sup>

35. This process entails the party to identify assets which are subject to garnishment. The Dubai Courts will issue notifications to third parties seeking confirmation of debt owed to the judgment debtor, which the third parties are obligated to respond to, notwithstanding their relation to the judgment creditor.

36. There has been some speculation as to who can be construed as a “garnishee” for the purposes of the Federal Civil Procedure Law. This has been clarified by the Abu Dhabi Court of Cassation;<sup>39</sup> in a case where funds of a judgment debtor in a bank account had been subject to garnishment, who then further proceeded to seek garnishment of those very funds to the execution proceedings to settle its debt. The Court rejected the judgment debtor’s plea holding that it did not have the right to seek garnishment against its own assets, holding further that a garnishee could not be construed as either the Court or the judgment debtor.

37. In practice, although garnishment does provide a judgment creditor with a potentially successful recovery, they are usually difficult to secure and are at the discretion of the Execution Judge.<sup>40</sup> Therefore, it is advisable to ensure that a proper

---

<sup>37</sup> Article 260 of Federal Decree-Law No.42 of 2022

<sup>38</sup> Article 259 of Federal Decree-Law No.42 of 2022

<sup>39</sup> ADCC 873/2024 (19 September 2023)

<sup>40</sup> Walid Azzam & Karim Mahmoud, Garnishment Applications – Security and Recovery from Third Parties  
[https://www.lexismiddleeast.com/eJournal/2016-04-14\\_17/](https://www.lexismiddleeast.com/eJournal/2016-04-14_17/)



investigative exercise is undertaken, such that information relating to third party debt is available.

## *B. Travel Ban*

38. Articles 324-326 of the Federal Civil Procedure Law enables a judgment creditor to secure a travel ban against the judgment debtor, if there are serious reasons to believe that the debtor is a flight risk, and the debt is not less than AED 10,000. In certain cases where the debt amount is not ascertainable, the Execution Judge is required to make a provisional quantification based on the evidence available and seek a damages' undertaking from the creditor. The Execution Judge may also undertake an investigation if the documents are found to be lacking<sup>41</sup>

39. This step to seek a travel ban allows the judgment creditor to obtain immediate judicial protection if there are risks associated with a debtor fleeing the UAE and frustrating execution of the judgment. It enables the judgment creditor to place an effective counter-measure with the assistance of the Dubai Courts.

40. In order to request a travel ban, the judgment creditor must submit an application to the Execution Judge. This request must state reasons justifying the risk of the judgment debtor fleeing, or selling all or part of its assets, liquidating or closing the entity that received the facility, or other evidence to the effect that the debtor seeks to end its stay in the UAE and is in a preparatory mode to flee the country.<sup>42</sup> The Dubai Courts have held that if there is a justifiable risk and the judgment creditor's request is based on serious reasons that the debtor would escape, it would

---

<sup>41</sup> Article 324 of Federal Decree-Law No.42 of 2022

<sup>42</sup> Haytham Abdalla, Travel ban in the UAE [https://www.lexismiddleeast.com/magazine/TheOath/2019\\_May\\_28](https://www.lexismiddleeast.com/magazine/TheOath/2019_May_28)



be right to prohibit a debtor from travelling.<sup>43</sup>

41. Pending determination of the request, the Execution Judge may order the debtor's passport to be deposited with the Dubai Court's treasury, thereby preventing travel in the interim. If the Execution Judge is satisfied, a travel ban may be issued, which is then communicated to all ports of exit across the UAE. A travel ban can remain in place until the debtor's obligations are fulfilled.

42. However, requests for travel ban should be approached cautiously since if reasons are found to be unjustified and there exists sufficient proof that the debtor has close ties with society diminishing the flight risk, the Dubai Courts would be quick to discourage issuance of a travel ban.<sup>44</sup> Thus, while requests for a travel ban can be considered as an effective method, the judgment creditor must ensure that the request is carefully crafted and sufficient evidence is provided, in order to ensure its decisiveness.<sup>45</sup>

43. There are several conditions which are provided under Article 325 of the Federal Civil Procedure Law, which provides the manner in which travel bans can be lifted.<sup>46</sup>

44. The issuance of travel bans has become more or less the go-to option for judgment creditors, as it allows for quick settlement of their debt. This has prompted the Ministry of Justice to simplify the process of lifting travel bans to a near automated process, which requires no submission of documents. It allows the debtor

---

<sup>43</sup> DCC 299/2010 (30 November 2011)

<sup>44</sup> UAE 173/2006 (10 October 2006)

<sup>45</sup> Haytham Abdalla, Travel ban in the UAE [https://www.lexismiddleeast.com/magazine/TheOath/2019\\_May\\_28](https://www.lexismiddleeast.com/magazine/TheOath/2019_May_28)

<sup>46</sup> Article 325 of Federal Decree-Law No.42 of 2022



to almost instantly travel once the legal case is resolved. Nevertheless, it is important to note that despite this automated process, a travel ban will be lifted only if all legal conditions are met *i.e.*, resolution of the legal case, compliance with court orders and notification to authorities<sup>47</sup>

45. Often, issuance of travel bans lead to settlements between parties due to a genuine fear of imposing restrictions on the judgment debtors' movements, which can in some cases last for at least a year, unless certain conditions are imposed for making the travel ban lapse<sup>48</sup>

46. The travel ban is a powerful tool for execution, and can be utilised for compelling compliance with not just money judgments, but any final and executory order. There have been instances where the Dubai Courts have issued travel bans even in aid of interim measures granted by the DIFC Courts.

### *C. Attachment And Sale Of Assets*

47. Apart from the general provisions relating to attachments, provisional seizures and precautionary attachments discussed above, a judgment creditor can also seek attachment of movable property held by a debtor,<sup>49</sup> attachment of shares, papers, receipts and equity interests,<sup>50</sup> and attachment of real property, with the power to seek sale of such property<sup>51</sup>

48. Articles 264-282 of the Federal Civil Procedure Law enables a

---

<sup>47</sup> Hasan Elhais, Will Travel Bans in the UAE be automatically lifted once a legal case is resolved? <https://www.lexology.com/library/detail.aspx?g=0c6c4b0e-eba0-4baf-8f6a019f208b90cd#:~:text=Despite%20the%20automation%2C%20it's%20important,court%20rulings%20or%20settlement%20agreements>

<sup>48</sup> Article 325 of Federal Decree-Law No.42 of 2022

<sup>49</sup> Chapter 4, Federal Decree-Law No.42 of 2022

<sup>50</sup> Chapter 5, Federal Decree-Law No.42 of 2022

<sup>51</sup> Chapter 6, Federal Decree-Law No.42 of 2022

judgment creditor to attach movable property in the hand of a debtor. The notice of attachment must contain the details of the execution writ, domicile or place of work of the judgment creditor, place of attachment, including steps taken by the Execution Bailiff highlighting obstacles and/or objections encountered during attachment process and steps taken thereof. Importantly, a detailed list of items with a statement of their approximate value must also be included in the attachment notice<sup>52</sup>

49. However, merely since an attachment is placed on the movables, it must not be construed that a debtor has accepted the judgment<sup>53</sup>

50. The Federal Civil Procedure Law *inter alia* also provides a detailed process including appointment of a custodian and how attached items are to be handed over to such custodian and stored, including rights and duties of the custodian and fees payable for the custodianship<sup>54</sup>

51. The judgment debtor may also seek sale of the attached movables and must submit a request to the Execution Judge complete with sale price and purchaser's approval, which must be presented to the judgment creditor for their objection(s), if the sale price is below the debt, following which the attached movables are sold and sale proceeds deposited in the Dubai Court's Treasury in favour of the judgment creditors.<sup>55</sup> Nonetheless, the Execution Judge has the power to order sale even if the judgment creditor denies approval,<sup>56</sup> since the

---

<sup>52</sup> Article 264 of Federal Decree-Law No.42 of 2022

<sup>53</sup> Article 264(3) of Federal Decree-Law No.42 of 2022

<sup>54</sup> Article 266-271 of Federal Decree-Law No.42 of 2022

<sup>55</sup> Article 272 of Federal Decree-Law No.42 of 2022

<sup>56</sup> Article 272(2) of Federal Decree-Law No.42 of 2022



judgment creditor is required to proceed with sale of the attached movables within thirty days unless there are legal impediments<sup>57</sup>

52. The Federal Civil Procedure Law also enables an action for recovery of the attached movables,<sup>58</sup> which if rejected, will enable the judgment creditor to proceed with execution notwithstanding possible appeals.<sup>59</sup> However, it is interesting to note that the Federal Civil Procedure Law provides a second action for recovery as well.<sup>60</sup>

53. Articles 283-284 of the Federal Civil Procedure Law enables a judgment creditor to attach shares, papers, receipts, and equity interests. Insofar as it concerns endorsable shares and papers, these may be attached by using modalities identical to the attachment of movables. However, attachment of revenues due, nominate shares and dividends due to a judgment debtor can be attached by following modalities laid down for attachment of assets due to a debtor in hands of third parties. It will thus be important to carefully identify the type of shares or papers which are being sought to be attached, as the applicable modalities may vary.<sup>61</sup>

54. Articles 285-305 of the Federal Civil Procedure Law enables a judgment creditor to make an application seeking attachment of real property and sale thereof. This request must include full details, *i.e.*, name, surname, occupation, domicile, and place of work of the creditor and debtor, as well as a description of the real property complete with its details. The judgment creditor is also

---

<sup>57</sup> Article 273 of Federal Decree-Law No.42 of 2022

<sup>58</sup> Article 279-280 of Federal Decree-Law No.42 of 2022

<sup>59</sup> Article 281(2) of Federal Decree-Law No.42 of 2022

<sup>60</sup> Article 282 of Federal Decree-Law No.42 of 2022

<sup>61</sup> Article 283 of Federal Decree-Law No.42 of 2022



empowered to secure orders to enable an Execution Bailiff to enter the property and obtain the necessary details to describe the property.<sup>62</sup>

55. Once the Execution Judge is satisfied with the reasons seeking attachment, he may pass an order directing attachment and communicating this with the relevant department, which department shall then in turn inform the Execution Judge of any rights, impediments which are related to disposal of the real property.<sup>63</sup>

56. The Federal Civil Procedure Law also lays down a detailed procedure regarding sale of the real property, including appointment of experts to assess the price of the real property,<sup>64</sup> manner in which property is to be auctioned,<sup>65</sup> and steps to be followed by the successful bidder.<sup>66</sup> However, it is not permissible to sell real property otherwise than to a UAE national, with the exception of certain cases pertaining to permissibility of foreigners owning real property.<sup>67</sup>

57. Notably, save for defects in the auction process or in the form of the judgment, or if a judgment is issued without a stay of procedures in a case in which a stay was legally mandatory, there is no provision to appeal the judgment awarding the auction of the attached real property.<sup>68</sup> Third parties are also able to apply for an order that execution proceedings be declared void together with an application of entitlement over the real

---

<sup>62</sup> Article 285 of Federal Decree-Law No.42 of 2022

<sup>63</sup> Article 286 of Federal Decree-Law No.42 of 2022

<sup>64</sup> Article 288-289 of Federal Decree-Law No.42 of 2022

<sup>65</sup> Article 296 of Federal Decree-Law No.42 of 2022

<sup>66</sup> Article 297 of Federal Decree-Law No.42 of 2022

<sup>67</sup> Article 291 of Federal Decree-Law No.42 of 2022

<sup>68</sup> Article 300 of Federal Decree-Law No.42 of 2022



property. However, they are required to implead the creditor and the debtor, in which case the Dubai Courts will stay sale proceedings if there is evidence of ownership.<sup>69</sup> Materially, a sale will not be stayed if this relates to a part of the real property<sup>70</sup>

58. Therefore, a detailed mechanism has been charted out by the Federal Civil Procedure Law insofar as it concerns attachments. However, a judgment creditor must traverse each procedure with caution and after conducting a careful analysis including a proper investigation into the assets of the debtor.

#### *D. Debtor's Detention*

59. Article 319 of the Federal Civil Procedure Law enables a judgment creditor to seek detention and imprisonment of a judgment debtor if they fail to pay the creditor, unless the judgment debtor proves that it is unable to pay.<sup>71</sup> However, a judgment debtor is not deemed to be capable of paying if its solvency is based entirely on assets that cannot be attached or sold. Thus, a judgment debtor can claim inability to discharge the judgment debt, in order to avoid debtor's detention. These claims of such inability will however not be accepted – (i) if the debtor smuggles or conceals property with the intention to harm the judgment creditor, or (ii) in instances involving debt instalments or guaranteed payment for the original debt before the Execution Judge, unless the judgment debtor provides evidence demonstrating a change in circumstances and its impact on the ability to reimburse.

60. Unlike a travel ban, debtor's detention has a more stringent

---

<sup>69</sup> Article 302 of Federal Decree-Law No.42 of 2022

<sup>70</sup> Article 303 of Federal Decree-Law No.42 of 2022

<sup>71</sup> Article 319 of Federal Decree-Law No.42 of 2022



impact not only restricting but also confining the debtor and acts as a deterrent for quick settlement of debts. In practice, however, seeking a debtor's detention has evolved into a challenging and a complex process.

61. In 2023, the Dubai Court of Cassation<sup>72</sup> took a divergent position from the explicit text of the Federal Civil Procedure Law, holding that the judgment creditor bears the burden of proving that the judgment debtor has the ability to discharge its debt.

62. This was further confirmed more recently in another decision of the Dubai Court of Cassation, in which it was held that a debtor cannot be imprisoned unless the creditor submits proof that the debtor has means to pay the debt or that the debtor is involved in transferring or concealing his assets or that he owns assets that may be seized and liquidated to fulfil the debt.<sup>73</sup>

63. To add to its complexity, while a debtor's detention is usually made for a period of six months,<sup>74</sup> the Dubai Courts have held that each renewal of a detention order in respect of a judgment debtor will be considered a new decision, thus allowing several rounds of appeal to a debtor.<sup>75</sup>

64. Thus, the Dubai Courts have consistently set a high threshold insofar as it concerns debtor's detention, which should be used only if there is cogent evidence that the debtor has the ability to pay or is seeking to conceal his assets as it would be counter-productive and a time-consuming exercise.

---

<sup>72</sup> Dubai Decision No.4 of 2023; Mohammed Nedal Dajani, Lifting the Burden on Debtors: Dubai Courts Facilitate the Ease of Settling Debt [https://www.lexismiddleeast.com/eJournal/2024-07-02\\_5](https://www.lexismiddleeast.com/eJournal/2024-07-02_5)

<sup>73</sup> Dubai Decision No.9 of 2024

<sup>74</sup> Article 319(3) of Federal Decree-Law No.42 of 2022

<sup>75</sup> DCC 215/2004 (3 April 2004)



## IV. CONCLUSION

65. The DIFC Courts is an attractive jurisdiction, including as a “conduit jurisdiction”, for the purposes of enforcement onshore in the UAE. The ease with which judgments and orders of the DIFC Courts can be executed onwards before local courts is a testament to the pro-enforcement stance of the UAE, and specifically the Dubai Courts, which has been leading the charge in cooperating with the DIFC Courts.

66. Moreover, the Dubai Courts consists of a robust mechanism which aims to safeguard the rights of a judgment creditor by not only providing remedies to enable successful execution of judgments but also protection against assets of a delinquent debtor, in order to ensure that these are not concealed and/or dissipated. This dual-approach has enabled the Dubai Courts to ensure efficient justice by ensuring swift execution of judgments and speedy recovery of debt.

67. This judicial cooperation between the DIFC Courts and the remaining UAE Courts, has revolutionised the region, with Dubai becoming not only an important commercial hub, but also the centre for efficient resolution of disputes in the Middle East.



## ABOUT US

Singularity is an Asia and Africa focused international disputes boutique, established in August 2017. Since then, we have handled over US\$ 8 billion in cross-border disputes in various sectors, including energy and resources, construction and infrastructure, shipping and maritime, sports and entertainment, international trade and business, and private equity and finance. These disputes have arisen out of business relations and projects in various parts of the world including the Bahamas, British Virgin Islands, Cayman Islands, Canada, Egypt, Hong Kong, India, Israel, Italy, Indonesia, Kazakhstan, Nigeria, Malaysia, Oman, Philippines, Russia, Turkey, UAE, UK, USA, Saudi Arabia, Sierra Leone Singapore and Somalia.

We are recognised as market leaders.

- a. Ranked as "Most Active in the Enforcement & Annulment of Commercial Arbitration Awards" - Jus Connect's 2023 Rankings
- b. Chambers Global - Dispute Resolution: Arbitration (2023)
- c. Legal 500 - Tier 2 Dispute Resolution: Arbitration (2023)
- d. Asian Legal Business - Fast 30: Fastest & Fierce Growing Law Firms (2022)
- e. AsiaLaw Profiles - Notable Firm (2022)
- f. Benchmark Litigation (India) - Recognised for Commercials & Transactions; Construction; International Arbitration; White Collar Crime practice areas (2023); Top 6 Boutique Firms in Asia-Pacific for Dispute Resolution; Tier 3 in India for International Arbitration (2021)
- g. Leaders' League - Best Law Firm in India for Intl' Arbitration & White-Collar Crime (2021)



- h. Financial Times - Recognised for moving the Litigation Finance market forward (2021); Top 5 in Asia-Pacific for Innovation in Dispute Resolution (2020)
- i. Forbes India - Top Law Firm in India for White-Collar Crime and Arbitration practice (2021)
- j. BusinessWorld - Oil & Gas Law Firm of the Year (2021)

## OUR MIDDLE EAST PRACTICE

Singularity Legal is licensed to practice as legal consultants in the UAE, including as solicitors before the courts at Dubai International Financial Centre (DIFC) and Abu Dhabi Global Markets (ADGM).

Our partner, Prateek Bagaria, has also been registered as a Part II lawyer with full rights of audience before the DIFC Courts and will be heading the firm's Middle East practice.

On the firm's entry into the UAE, he said:

*"DIFC is an upcoming business and trade hub and has been a priority center for Indian financial institutions, funds, family businesses, multinational corporations, and trading houses, among others, operating in the Asia-Africa corridor. Moreover, in light of the new India-UAE Comprehensive Economic Partnership Agreement (CEPA), business dealings in the DIFC are slated to grow exponentially. We are thrilled to expand our practice to the Middle East, where our clients increasingly require our assistance with their disputes. This expansion will also give the clients more immediate access to the firm's specialists and wider network in the MENA region."*



Singularity now has the end-to-end ability to service clients across the UAE, including DIFC and ADGM Courts, covering disputes relating to:

- (a) construction and infrastructure projects
- (b) shipping and maritime
- (c) bank guarantees and insurance
- (d) debt recovery, enforcement, and insolvency
- (e) intellectual property
- (f) digital assets
- (g) pro bono representation

In view of our remarkable achievements in the Middle East, we have also been ranked as one of the “most active law firms in the enforcement and annulment of commercial awards in the United Arab Emirates”.



### ABOUT EXPERT TALK

The Expert Talk initiative seeks to provide quality continued digital education to professionals, through freely accessible webinars, and a digital library of blogs, alerts, insights and talks, on dispute resolution and litigation finance.

LAWYERS OF TOMORROW



## DISCLAIMER

The contents of this insight should not be construed as a legal opinion. This insight provides general information existing at the time of preparation. Singularity Legal neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this insight. It is recommended that professional advice be taken based on the specific facts and circumstances. This insight does not substitute the need to refer to the original pronouncements.





*South Asia Office*

1809-1810, One Lodha Place,  
Senapati Bapat Marg,  
Lower Parel,  
Mumbai - 400013

*United Arab Emirates*

Level 41, Emirates Towers,  
Sheikh Zayed Road,  
Dubai, UAE  
PO Box 31303

*Singapore Office*

138 Market Street,  
#24-01 CapitaGreen,  
Singapore 048946

**e:** [singularity@singularitylegal.com](mailto:singularity@singularitylegal.com)

**w:** [www.singularitylegal.com](http://www.singularitylegal.com)

LAWYERS OF TOMORROW

