



In The Supreme Court of Bermuda

CIVIL JURISDICTION

COMMERCIAL COURT

2024: No. 70

IN THE MATTER OF CASSATT INSURANCE COMPANY, LTD

AND IN THE MATTER OF THE COMPANIES ACT 1981

RULING

Date of Hearing: 19, 20 December 2024

Date of Ruling: 20 December 2024

Appearances: James Sellick, Appleby (Bermuda) Limited, for Cassatt Insurance Company, Ltd.

Kyle Masters, Carey Olsen Bermuda Limited, for the Petitioners

Ruling of Mussenden CJ

Introduction

1. The Company has applied (the “**Leave Application**”) for leave to appeal my judgment in this matter dated 4 November 2024 (the “**Judgment**”) and by extension the Order for Directions dated 9 November 2024 (the “**Directions Order**”) granted pursuant to the Judgment. The application for leave was based on three grounds as follows:

- a. Ground 1 - Failure to take into account material facts as to jurisdiction and principle in relation to section 111 CA 1981;
 - b. Ground 2 - Failure to take into account material facts as to jurisdiction and principle in relation to section 163 CA 191; and
 - c. Ground 3 - Exercise of discretion on an erroneous basis and wrong in principle.
2. The Company also made an application to stay the Directions Order pending a determination of the Leave Application and/or the final appeal of the Judgment (“the “**Stay Application**”).
3. On 19 and 20 December 2024, I heard submissions from counsel for the Company who advanced the three grounds of appeal and the Stay Application. Also, I heard from counsel for the Petitioners who opposed the Leave Application and the Stay Application.
4. On 20 December 2024, after hearing the submissions, I issued my decision that I refused leave to appeal on all three grounds. I undertook to set out in writing what I said in my decision. I stated as follows:

“My decision is that I am going to refuse the application for leave on all three grounds. I accept the Petitioners’ position in respect of what was set out in their skeleton argument, that is, generally.

In respect of Ground 1, I was dealing with the issue of my case management powers. I had accepted that I could make the order that I did which was to have the trial first on the issue of standing along with the oppressive conduct. So therefore, in my view I do not make a determination about standing and was not required to make a determination about standing, but I did have the power to reserve that to a trial of that issue at a later stage.

In respect of Ground 2, the winding up issue, I accept what the Petitioners say in that that was not addressed at the hearing and therefore it is very difficult to say that I erred in something that I was not required to address, even if it is expected that I should have done that on my own. In any event, I decided that I would not grant leave on that ground.

As Ground 3 was parasitic on Grounds 1 and 2, I have decided that it follows that I will not grant leave on Ground 3.

In respect of the test as it applies to Grounds 1 and 2, I take the view that there is no real prospect of success on those two Grounds.”

5. Later on 20 December 2024, counsel for the Company requested from the Registrar clarification whether the Stay Application was refused as it was not mentioned during the oral reasons for refusing leave. I communicated through the Registrar that the Stay Application was refused also.

Dated 20 December 2024



**HON. MR. LARRY MUSSENDEN
CHIEF JUSTICE**