

**IN THE SINGAPORE INTERNATIONAL COMMERCIAL COURT
OF THE REPUBLIC OF SINGAPORE**

[2026] SGHC(I) 10

Originating Application No 18 of 2026 (Summons No 1193 of 2026)

Between

DWJ

... Claimant

And

DWK

... Defendant

JUDGMENT

[Arbitration — Award — Recourse against award — Setting aside]
[Civil Procedure — Costs — Security]

TABLE OF CONTENTS

INTRODUCTION.....	1
BACKGROUND	2
THE ARBITRATION.....	4
THE GROUNDS OF THE CHALLENGE TO THE AWARD	5
THE APPLICATION FOR SECURITY FOR COSTS.....	6
STAGE 1	7
STAGE 2	8
QUANTUM.....	13
CONCLUSION.....	15

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**DWJ
v
DWK**

[2026] SGHC(I) 10

Singapore International Commercial Court — Originating Application No 18
of 2026 (Summons No 1193 of 2026)
Sir Nigel Teare IJ
9 July 2026

15 July 2026

Judgment reserved.

Sir Nigel Teare IJ:

Introduction

1 SIC/OA 18/2026 (“OA 18”) is an application by the Claimant to set aside an arbitration award dated 16 December 2025 (“Award”). In the arbitration, the Claimant was the respondent, and the Defendant was the successful claimant.

2 HC/SUM 1193/2026 (“SUM 1193”) is an application by the Defendant for an order that the Claimant provide security for the Defendant’s costs of defending OA 18.

3 In SUM 1193, the case of the Defendant is that:

(a) The Claimant is ordinarily resident outside of the jurisdiction, having its registered address in Hong Kong; and

(b) It is just for the Claimant to furnish security for costs for its claim. The Claimant has no assets within Singapore against which an order for costs may be enforced. Moreover, the Claimant has little to no chance of succeeding in its application in OA 18 to set aside the Award.

4 In SUM 1193, the case of the Claimant is that:

(a) It is not a concern that the Defendant will suffer great expense and inconvenience of having to enforce a Singapore judgment in Hong Kong;

(b) The Defendant accepts that the Claimant has substantial assets in Hong Kong which the Defendant can use to satisfy any costs orders made in the Defendant's favour; and

(c) The Claimant has a good chance of succeeding in its application to set aside the Award, and the Defendant does not have a good chance of successfully defending the application.

5 For the reasons that follow, I allow SUM 1193, and order that security for costs be provided in the sum of \$100,000.

Background

6 The Claimant is engaged in the business of providing financial advisory services for capital raising. The Defendant is engaged in the business of

providing comprehensive carbon reduction solutions, focusing on carbon capture, utilisation and storage technologies.¹

7 The dispute between the parties which was resolved by arbitration arose out of an agreement dated 16 February 2022 (“Agreement”) under which the Claimant agreed to provide financial advisory services to the Defendant’s parent company.² The Agreement contained an arbitration agreement, providing for arbitration under the auspices of the Singapore International Arbitration Centre (“SIAC”), with the seat of the arbitration being Singapore.³

8 On 18 July 2022, the Agreement was amended to provide that the Defendant’s parent company would pay the Claimant a monthly retainer of \$43,000 *per* month from July 2022 onwards (“Addendum No. 1”).⁴

9 On 1 September 2022, the Defendant entered into a Novation Agreement by which it agreed to assume all responsibilities and obligations of the Defendant’s parent company under the Agreement, and to be bound by the Agreement vis-à-vis the Claimant.

10 On 20 February 2023, the Agreement was amended again (“Addendum No. 2”) pursuant to which the Defendant would pay the Claimant a non-refundable monthly retainer fee of \$43,000 *per* month starting in July 2022 (that is, the sum under Addendum No. 1) and a separate refundable monthly payment of \$194,000 *per* month from February 2023 onwards (“Refundable Payments”).

¹ Award at paras 68–69.

² Award at para 71.

³ Award at para 13.

⁴ In the course of this judgment, I have converted all currencies into Singapore dollars at the rate prevailing at the time of this judgment, and rounded them off to the nearest thousand.

If a transaction was successfully executed during the term of the Agreement, the Refundable Payments would be credited towards a transaction fee that would be payable to the Claimant. However, if no transaction was successfully executed, the Refundable Payments were to be paid back to the Defendant.

11 On 16 November 2023, the Agreement was further amended (termed Addendum No. 3) pursuant to which it was agreed that the Agreement would be automatically terminated on 30 April 2024, unless the parties agreed to extend the termination date in writing.

12 The Agreement was not extended in writing and accordingly was terminated on 30 April 2024.

The arbitration

13 Between April and December 2024, the Defendant made demands for payment, failing which arbitration would be commenced.

14 On 8 January 2025, the Defendant commenced arbitration⁵ and SIAC invited the Claimant to submit a response to the request for arbitration.

15 At about this time there were written discussions on a messaging platform known as “Kakao” between the parties concerning the possible provision of finance and an extension to the time for the Claimant to file a response in the arbitration. It is the Defendant’s case that no such provision of finance or extension of time was ever finalised.

⁵ Award at para 18.

16 In May 2025 the Tribunal was constituted, and in June 2025 the Tribunal issued Procedural Order No. 1, which required a Statement of Defence by August 2025.⁶ None was forthcoming, and in September the Tribunal issued Procedural Order Number 2, pursuant to which the hearing would take place on 22 September 2025.⁷

17 The hearing took place remotely. The Claimant did not appear.

18 The Tribunal issued an Award dated 16 December 2025. The Tribunal found that the Claimant was contractually obliged to repay the Defendant certain of the Refundable Payments and ordered the Claimant to pay them to the Defendant.

19 The Claimant applied to set aside the Award. The case was originally filed in the General Division of the High Court (“GDHC”), and was transferred to this court on 24 April 2026.⁸

The grounds of the challenge to the Award

20 The grounds advanced by the Claimant in OA 18 are summarised as follows:⁹

- (a) The Claimant did not participate in the Arbitration because it did not have legal advice, and was under the impression that the dispute between the parties could be resolved amicably and/or in Hong Kong,

⁶ Award at paras 37 and 39.

⁷ Award at para 46.

⁸ Correspondence from Court dated 24 April 2026.

⁹ Claimant’s Written Submissions (“CWS”) at para 11.

and that the Defendant would withdraw the arbitration if the Claimant could assist it to achieve its financial objectives;

(b) The former Chief Executive Officer (“CEO”) of the Defendant’s parent company gave verbal assurances to the Claimant between January 2023 and February 2023 that the Defendant would not enforce Addendum No. 2 against the Claimant and that Addendum No. 2 was only being signed “as a matter of formality”; and

(c) The Defendant had a duty to make full and frank disclosure of all material facts to the Tribunal, and breached this duty by failing to disclose to the Tribunal the alleged assurances given by the former CEO. The Claimant submits that this constituted bad faith and fraud on the Defendant’s part, and that the Award should therefore be set aside “in all fairness and in the interests of justice and public policy”.

The application for security for costs

21 The hearing for SUM 1193 was held on 9 July 2026. Both parties were represented.

22 The Defendant submits that the application for security for costs in SUM 1193 is governed by Order 9 rule 12(1) of the Rules of Court 2021 (“ROC 2021”), and that the provisions on security for costs under Order 16 rule 2 of the Singapore International Commercial Court Rules 2021 (“SICC Rules”) do not apply notwithstanding the transfer of the proceedings to the SICC. This is because the latter provision does not apply upon a transfer from the GDHC

unless the court otherwise directs. There was no such direction in this case, so the SICC Rules would not apply.¹⁰ The Claimant does not dispute this.

23 Order 9 rule 12(1) of the ROC 2021 provides as follows:

The defendant may apply for security for the defendant's costs of the action if the claimant —

(a) is ordinarily resident out of the jurisdiction;

...

24 In *Cova Group Holdings Ltd v Advanced Submarine Networks Pte Ltd* [2023] SGHC 178, Goh Yihan JC (as he then was) stated as follows at [16]:

As such, in considering whether security for costs should be ordered pursuant to O 9 r 12(1), a two-stage framework such as the one set out in the High Court decision of *Siva Industries and Holdings Ltd v Foreguard Shipping I Singapore Pte Ltd* [2017] SGHCR 5 at [4] should be applied:

(a) first, whether the court's discretion to order security for costs under O 9 r 12(1) (or s 388 of the Companies Act) has been enlivened; and

(b) second, whether it is just to order security for costs having regard to all the relevant circumstances.

Stage 1

25 In the present case there is no dispute that the Claimant, being a company with its registered address in Hong Kong, is ordinarily resident out of the jurisdiction. Accordingly the court's jurisdiction to order security for costs is engaged.

¹⁰ Defendant's Written Submissions ("DWS") at para 12.

Stage 2

26 The question for the court is whether it is just to order security for costs in all the circumstances of the case. The Defendant has put forth three reasons in favour of such an order.

27 First, the Defendant submits as follows:¹¹

Where the plaintiff does not have any assets of a fixed nature within jurisdiction which a defendant can look to for the purposes of satisfying any costs order which it may eventually obtain, this is a factor that weighs strongly in favour of ordering security for costs. The reason is because a defendant should not be made to incur the inconvenience, delay, and expense of enforcing a costs order in another jurisdiction. The defendant's entitlement to costs should also not depend on enforcement procedures in a foreign court. In these circumstances, if there was no adequate security, the defendant would be in a worse position than if the claimant had provided funds to satisfy any adverse costs order.

28 In response, it is submitted on behalf of the Claimant that, given that the Defendant has easily and readily commenced proceedings in Hong Kong to enforce the Award, it is not a concern that the Defendant will suffer great expense and inconvenience in having to enforce a Singapore judgment in Hong Kong, and it also shows that the Defendant accepts that the Claimant has substantial assets in Hong Kong which the Defendant can use to satisfy any costs orders made in the Defendant's favour.¹²

29 Counsel informed me during the hearing for SUM 1193 that leave to enforce the Award had been granted in Hong Kong, but that the Claimant had applied to set that aside. There is also evidence from a representative of the Defendant that the Claimant is resisting enforcement of the Award in Hong

¹¹ DWS at para 29.

¹² CWS at para 2.

Kong. Counsel for the Defendant submitted that it is likely or at the very least possible that the Claimant will resist any attempt made by the Defendant to enforce a costs order against it in Hong Kong, which will cause the Defendant to incur even more expense.

30 The Claimant says that this is speculation.

31 In my judgment, it is significant that the Claimant does not deny that it is seeking to resist the enforcement proceedings in Hong Kong. There is thus unchallenged evidence that the Claimant is seeking to resist the enforcement proceedings in Hong Kong. In those circumstances there is an evidential basis for inferring that the Claimant will seek to resist any proceedings which are taken in Hong Kong to enforce a costs judgment of the Singapore court. That will cause the Defendant to incur expense which it would not have to incur had the Claimant had assets in Singapore. It will also cause delay in enforcing a costs judgment of the Singapore court.

32 At the hearing it was observed by counsel for the Claimant that there was no expert evidence of Hong Kong law that, as suggested orally by counsel for the Defendant, any application to enforce a costs order could not be “piggy backed” on the existing enforcement proceedings. That is so, but equally there was no expert evidence that a costs judgment of this court could be “piggy backed” in extant Hong Kong proceedings (which seems to be the thrust of the Claimant’s submissions¹³). In the absence of such evidence I must consider the probabilities. The existing enforcement proceedings in Hong Kong concern the enforcement of an arbitration award. The enforcement of a costs order of this court may well raise different considerations from those relevant to the

¹³ CWS at para 2.

enforcement of an arbitration award. It may or may not be possible to add such a claim for enforcement to the existing proceedings but if it is possible it is likely to cause further expense and possible delay, and may well be resisted by the Claimant.

33 Second, it is said that the Claimant has no reasonable prospect of success on its application to set aside the Award in OA 18.¹⁴

34 In considering submissions of this nature it is necessary to have well in mind that the merits of the Claimant's challenge to the Award, though a relevant consideration, will be determined at the main hearing; see *Ong Jane Rebecca v Pricewaterhousecoopers* [2009] 2 SLR(R) 796. As held at [23]:

Parties should not attempt to go into the merits of the case unless it can be clearly demonstrated one way or another that there is a high degree of probability of success or failure.

35 I have already noted above at [20] the summary of the Claimant's three arguments for setting aside the Award. I have also read what has been said on behalf of the Claimant in its submissions and supporting affidavits. The Claimant has submitted that:¹⁵

...the Claimant has a good chance of succeeding in its application to set aside the Award, and that the Defendant does not have a good chance of successfully defending the application.

36 It appears that the main ground for setting aside the Award is that the Defendant had a duty to disclose the assurances allegedly given by the former CEO of the Defendant's parent company in 2023, that it failed to do so, and that in those circumstances the award should be set aside in the interest of justice.

¹⁴ DWS at para 34.

¹⁵ CWS at para 23.

37 The Defendant has set out its reasons for resisting the Claimant's application for setting aside the Award.¹⁶ It is apparent from these submissions and its supporting affidavits that the application to set aside the award is disputed on both grounds of fact and of law. The legal grounds include a submission that there was no duty to disclose such communications since the arbitration was an *inter partes* proceeding (notwithstanding the Claimant's refusal to attend), so there was no duty of full and frank disclosure. The factual grounds include an allegation that until these proceedings the Defendant was unaware of what the former CEO is alleged to have said in 2023. The Defendant says that the Claimant has "little to no chance" in succeeding on its claim.¹⁷

38 The Defendant has raised substantial and formidable arguments, supported by authority, as to why the Claimant's case will not succeed. I am, however, particularly conscious that now is not the time or place for assessing the merits of the application.

39 What can be said is that it is apparent from the Defendant's written submissions that the Defendant has a reasonable or plausible prospect of successfully resisting the challenge to the Award, and so obtaining an order for costs. The Claimant has not engaged with the Defendant's arguments and so cannot show a high probability that it will succeed or that the Defendant will fail.

¹⁶ DWS at paras 35–38.

¹⁷ DWS at para 4(a).

40 Third, the Defendant says that the Claimant has a history of delay and non-compliance in the Arbitration which makes it just for it to be ordered to provide security for costs.¹⁸

41 It is clear that the Claimant failed to take part in the Arbitration. That failure included a failure to pay the arbitration costs requested by SIAC. At first sight this is concerning, but in this application it must be viewed in the context of the Claimant's reasons for not participating in the arbitration. Those reasons, which are based upon the alleged discussions in 2023 and written discussions between July 2024 and January 2025, are challenged by the Defendant. They will be the subject of submissions at the hearing of OA 18. It is not appropriate for me to comment on them at this stage.

42 In my judgment, security for costs should be ordered, for these reasons:

- (a) The Defendant has a reasonable or plausible defence to the claim to set aside the Award;
- (b) The Claimant has no assets in this jurisdiction and so, if the Defendant secures an order for costs in its favour, it will be forced to seek to enforce the order of this court in Hong Kong where the Claimant may have assets;
- (c) Any such attempt to enforce is likely to be resisted just as the application to enforce the Award is being resisted in Hong Kong;
- (d) The Defendant is likely to incur costs and delay in enforcing the costs order in Hong Kong which it would not have to incur if the Claimant had assets in this jurisdiction. To enforce a costs order of this

¹⁸ DWS at para 40.

court in Hong Kong is likely to be a more complex and more expensive exercise than enforcing the costs order in Singapore on an asset within the jurisdiction.

43 For these reasons it is just, in all the circumstances of this case, that the Claimant provide security for the Defendant's costs of the application to set aside the arbitration award.

Quantum

44 When this application for security for costs was issued, the claim to set aside the Award was in the GDHC. That claim has since been transferred to this court, where a different and more generous costs regime applies. That regime has been explained and described in *Senda International Capital Ltd v Kiri Industries Ltd* [2023] 1 SLR 96 at [51]–[57], providing for costs on an indemnity basis, subject to the requirement of reasonableness.

45 It was submitted by counsel for the Claimant that the costs regime of the GDHC continued to apply after the transfer to this court. Order 22 rule 3(5) of the SICC Rules in fact provides that after transfer the court is not precluded from taking into account the costs regime in the GDHC. Thus the court is not obliged to apply that costs regime but may do so. In this case, when the case was transferred to the SICC, the court ordered that:¹⁹

Order 22 of the SICC Rules is to apply to the assessment of costs that are incurred in respect of all proceedings in and arising from [the present matter] on and after its transfer to the Singapore International Commercial Court.

¹⁹ Correspondence from Court dated 24 April 2026.

46 The quantum of security for costs sought by the Defendant was originally \$40,000. That was the figure considered appropriate under the costs regime in the GDHC. Following the transfer to this court it was increased to \$120,000. I was told that that was made up of \$15,000 for the period before transfer and \$105,000 for the period after transfer.

47 Counsel for the Claimant objected to the increase, saying that it required an amendment to the application. However, the revised estimate was clearly set out in the Defendant's written submissions.²⁰ They were dated 15 May 2026. The Claimant has thus known of the increase for some time and has had an opportunity to challenge it.

48 In considering whether the estimate is reasonable I have noted that the Defendant's supporting affidavits were sworn before the date on which the case was transferred to this court and that no further evidence is anticipated. However, the Defendant's written submissions, which set out the Defendant's case for dismissing the application to set aside the Award, were prepared after that date. No further steps are required to be taken before the hearing (save, perhaps, the preparation of fuller submissions), which both parties estimate will last no longer than two hours.

49 Although the Claimant has not taken any particular point concerning the estimate, I consider that, given that most of the work necessary for the hearing has already been done, it will be sufficient to fix the quantum of security at \$100,000.

²⁰ DWS at paras 44–49.

50 I order that, as requested, security for costs by the Claimant shall be provided in the form of payment into court or by a solicitor's undertaking. It is to be paid within 28 days of the order, and, unless security is so provided, the Claimant's claim shall be struck out.

51 The Defendant sought an order that security be provided within 14 days. That was not questioned by the Claimant. But since the challenge to the Award will be struck out if security is not provided, I considered it appropriate to provide for a longer period of 28 days.

Conclusion

52 For the reasons above, I allow SUM 1193, and order that the Claimant provide security for costs to the Defendant in the sum of \$100,000.

53 The costs of SUM 1193 remain to be considered. If parties are not able to agree on these costs, I direct them to file written submissions on costs within seven days of the date of this judgment, limited to five pages each. Unless requested to hear parties orally, I will proceed thereafter to decide on the incidence and quantum of costs on the basis of their submissions.

Sir Nigel Teare
International Judge

Tien De Ming, Grismond (Infinitus Law Corporation) for the
claimant;
Mahesh Rai s/o Vedprakash Rai, Yong Wei Jun Jonathan,
and Lai Yi Qian (Drew & Napier LLC) for the defendant.
