

IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS IN BIRMINGHAM  
PROPERTY TRUSTS AND PROBATE LIST (ChD)

IN THE MATTER OF THE GURU NANAK GURDWARA, WELL LANE, WEDNESFIED  
AND IN THE MATTER OF THE CHARITIES ACT 2011

Neutral Citation Number [2024] EWHC 3451 (Ch)

Case No. PT-2024-BHM-000036

Courtroom No. 23

Birmingham Civil Justice Centre  
Priory Courts  
33 Bull Street  
Birmingham  
B4 6DS

Monday, 14<sup>th</sup> October 2024

Before:

THE HONOURABLE MR JUSTICE MICHAEL GREEN

B E T W E E N:

(1) AVTAR SINGH ATWAL  
(2) BALBIR SINGH BHANDAL

Claimants

and

THE CHARITY COMMISSION FOR ENGLAND AND WALES

Defendant

MR M SMITH KC appeared on behalf of the Claimants

MR F SADIQ appeared on behalf of the Defendant

JUDGMENT  
(Approved)

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*This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.*

MICHAEL GREEN J:

1. This is an application under section 115 of the Charities Act 2011 for the permission of the Court to bring charity proceedings as so defined. The Charity Commission has refused permission to bring the proceedings and the claimants are entitled under section 115 to ask the High Court for permission.
2. Mr Matthew Smith KC has appeared before me today for the 22 intended claimants and Mr Faisal Sadiq has appeared for the Charity Commission which continues to oppose permission being granted. I am grateful to them both and their legal teams for their clear and helpful submissions.
3. The broad grounds upon which the Commission has refused permission are that: (a) further efforts should have been made to pursue ADR before pursuing expensive litigation; and (b) that the Commission has all the necessary powers to take action against the proposed defendants and the Court should allow the Commission to do its job. The claimants are passionately concerned about the situation of their place of worship and say that they tried ADR but the intended defendants refused to engage with it and they say that the Commission has so far not acted to use its powers despite being under an obligation to do so, and they fear that if they are not allowed to pursue this litigation the issues will never be resolved. Furthermore, they say that the limitation clock is ticking.
4. I shall explain some of the background.
5. The case concerns the Sikh temple or Gurdwara in Wednesfield, Wolverhampton. It is the only Gurdwara in Wednesfield and the parties are all members of its congregation. There are over 600 such members and, according to the claimants, the vast majority, some 85% of the members, support this action being brought. I said there are 22 claimants. Ten of the intended claimants are, or were until their purported dismissal by the defendants in April 2023, members of the management committee of the Gurdwara. The other 12 claimants are members of the congregation.
6. The intended defendants are the trustees of the Gurdwara. The claim concerns their management and control of the place of worship and the funds which the congregation donates to the Gurdwara. The allegations against them are serious: a failure, going back years, to register the institution as a charity with the Charity Commission, which does not seem to be disputed as a matter of fact; and breaches of duty including failures to provide accounts and allowing private benefits to accrue to themselves or persons associated with them, which are contested as matters of fact.
7. The claimants say, but the defendants dispute, that 85% of the members of the congregation want the trustees to be removed. There is also an important history which needs resolving as to which document or documents govern the institution. Under one document, the congregation has the right to remove the trustees. Under the other, it does not and the trustees hold sway. The Commission has the power to override the constitution and remove the trustees who are recalcitrant.
8. Most aspects of the claim constitute “charity proceedings” within the meaning of section 115 of the Charities Act for which permission is required. We had a small debate as to whether the claimants have standing to pursue all the claims but I am satisfied, at least at this stage, under section 115, that they do.

9. The claimants did seek permission from the Charity Commission. Initially this was refused on the basis that the parties had not exhausted ADR options. A form of ADR was organised by the Supreme Sikh Council in early 2023 but the defendants declined to participate further once that Council required them, *inter alia*, to provide financial information and to offer reinstatement to a number of teachers in the Gurdwara school who had been summarily sacked by the defendants.
10. The claimants have repeatedly offered to take part in a mediation with the defendants. Under pressure from the Commission, the defendants latterly made positive noises about engaging in mediation but they cancelled the mediation planned for 20 April 2024, a few days before it was due to take place.
11. The claimants recently renewed their offer of mediation but have received no response other than an acknowledgement of receipt.
12. Mr Smith has also offered on the claimants' behalf, to engage in a further attempt of mediation after permission is granted, to see if matters can be resolved without pursuing the expensive, and what will clearly be damaging, litigation.
13. Following the issue of this application, the Commission put in evidence which supplemented its reasons for refusing consent. The Commission says that it is able to address all the matters in dispute using its own statutory powers.
14. On this application the claimants accept that the Commission can act in respect of most aspects of the claim, but not all, such as the question of the governing constitutional document. However, the real issue, as put by Mr Smith, is not whether the Commission has a theoretical power to address some or all of their claims, but whether it will actually do so. He said that their inaction over the past years means that there can be no confidence that the Commission will act if permission is refused. Mr Sadiq said that the Commission could not really take action whilst there remained the prospect of these matters going to court, but if that prospect is removed, and permission is refused, the Commission will be bound to act because it has a duty to do so and it will act. He says that the statutory regime anticipates precisely this situation and Parliament wanted the Commission to take responsibility and take action in this sort of situation, particularly so as to avoid the charity's resources being wasted on hard-fought litigation.
15. The dispute, therefore, largely comes down to whether I think the Commission will act in accordance with its duties and that this is the best or least unsatisfactory way forward in the circumstances.
16. The claimants say they should not be deprived of access to the court. They say that they face an unenviable choice. Either bring the matter to court themselves or leave the fate of their place of worship and the funds they have donated to it, entirely with the Commission, even though it has not acted to date and will not commit to acting in the future.
17. The dispute about the government instrument in the Gurdwara is between an undated declaration of trust ("declaration of trust"), which must date from on or after 28 August 1980 as that is the date of a trust mentioned in the first recital to it, and a revised constitution in 2014 ("the 2014 constitution"). The claimants contend that the 2014 constitution is at least of constitutional effect, in particular because they were elected by the members of the congregation to the management committee in April 2022 under its provisions and there are further provisions dealing with their removal by the members of the congregation but not by the

trustees. By contrast, the defendants appear to be relying on the declaration of trust as the governing document of the charity and they purportedly removed the management committee in April 2023 under its provisions.

18. The first set of claimants as I said, were elected as members of the management committee to serve from April 2022 in accordance with the procedure under the 2014 constitution. They became concerned about a number of things which had occurred during the lockdown, which are detailed in the particulars of claim. Those include firstly why the trustees had done certain building works, such as converting part of the Gurdwara into residential accommodation, without the approval of the congregation or management committee, and the fact that the works were done by the first defendant, who is a builder. Second, they are concerned about the lack of financial information provided by the defendants especially as to the building works and whether the first defendant had been paid. Third concerns the occupation of the Gurdwara as premises by persons related to the defendants, some of whom are illegal immigrants. Fourth is the poor quality of the accommodation given to such persons. Fifth is the appointment by the defendants of a new head teacher to oversee the Gurdwara's education classes where the new head is related to the third defendant and there was no open recruitment process and the sacking of the eight teachers who complained about that. Sixth is the fact that the third defendant has convictions for terrorism offences in India. And last is the defendants' failure to engage with the Commission's correspondence which was triggered by a complaint to the Commission made by one of the claimants, or to progress the need to register the Gurdwara as a charity.
19. As Mr Smith fairly points out, the defendants appear to dispute these allegations but the simple fact of the matter is that the Gurdwara remains unregistered and there appears to have been a new charity set up by the defendants in recent months which is causing serious further concern to the claimants.
20. The claimants and the defendants agreed to refer their differences to the Supreme Sikh Council and to abide by its decision. On 25 February 2023, the Supreme Sikh Council requested the defendants to provide financial details of the refurbishment costs, to give details of the chartered accountants said to have prepared the Gurdwara's accounts and to give a chance to the sacked teachers to rejoin the school.
21. In late March 2023, the Charity Commission contacted the Gurdwara, apparently in response to the complaint made to it, seeking to establish whether it was a charity and whether it should be registered. The Commission's communication was received by the claimants who tried to get the defendants to engage with it but the defendants would not.
22. In late April 2023, the defendants purported to disband the management committee, change the locks to the Gurdwara premises, and declined to engage further with the Supreme Sikh Council.
23. In May and June 2023, 630 members of the congregation signed a petition calling for the removal of the defendants as trustees. The defendants dispute the validity of the petition and call into doubt whether all the signatories were actually members of the congregation.
24. On 22 June 2023, the Charity Commission wrote to the trustees thanking them for confirming that they would be registering the charity. Having received such confirmation, the Commission said that it was therefore closing its regulatory

- compliance case. The Commission seem only to have been concerned about registration at that time, not the other matters that the claimants had by then, complained about. In any event the charity remains unregistered with the Charity Commission having done nothing further to enforce compliance with the requirement to register.
25. Extraordinarily, on 10 November 2023, the defendants' solicitors wrote to the claimants' solicitors claiming that the charity had been registered. For that false proposition, they relied on the Commission's letter of 22 June 2023, that I just referred to.
  26. The claimants, therefore, felt compelled to apply under section 115. They sent a pre-action letter to the defendants on 28 September 2023. The claimants then applied to the Commission on 10 November 2023 under section 115. Consent was refused on 1 February 2024 and this application was issued on 21 February 2024.
  27. In the Commission's letter of 1 February it says as follows:

“As mentioned above, the Commission has a duty to look at whether we can resolve this issue under section 115(3). Our intention is to write to the defendants as trustees to advise them that this dispute cannot be ignored, that they should engage in ADR with your clients to resolve the dispute. Both sides of this dispute have obtained legal advice and the mechanism that is designed to resolve this dispute (or at least reduce the number of disputed issues), is only likely to be achieved if independent external mediation is undertaken with proper engagement on both sides. The Commission also intends to remind the trustees of their statutory duty under section 30 of the Act to register the charity and that their failure to do so to date, despite having already received regular free advice from the Commission, may be considered by the Commission as misconduct or mismanagement in the administration of the charity.”
  28. Mr Sadiq submitted that the importance of a finding of misconduct is that it would trigger the Commission's considerable regulatory powers including suspension or removal of trustees, giving directions to the trustees, and appointing an interim manager who will have all the powers of the trustees.
  29. On 30 April 2024 the Commission acknowledged service out of time and filed a witness statement from Mr Felix Rechtman . together with a statement of further reasons for their refusal of permission.
  30. On 1 July 2024 the first to fourth defendants, plus a Mr Joga Singh applied to register a new charitable incorporated organisation, (“CIO”), known as the Guru Nanak Gurdwara, Wednesfield which is the same name as the original unregistered charity. In fact it purported to be the long-awaited registration of the old charity except that it was not. It was a new CIO with the foundational model constitution, meaning that it put the power back into the hands of the trustees. Mr Sadiq accepted that this was not the right way to have gone about this but he emphasised that this was considered by the registration team at the Charity Commission, rather than the investigations or regulatory compliance team

and that the registration team would not have known anything about the existing charity. The only thing they would check is whether there was already an existing charity registered with a similar name but of course, there was not.

31. Having discovered its existence and being naturally concerned at this development, the claimants wrote in September this year to the Commission with a series of questions, but they received no real answers. The claimants even offered to adjourn this hearing, if it was the case that the Charity Commission had now taken control of the situation. However, the terse response from the Commission on 26 September 2024 was to the effect that the Charity Commission cannot do anything prior to the section 115 application hearing and it would only act in the event that the section 115 application was withdrawn or refused. This is really the defining point in the application now.
32. I should add that the claimants also attempted to invite the defendants to a further mediation but to no avail.
33. On 7 October 2024, last week, the claimants filed an updated witness statement from their solicitor, Mr Bharat Murria.
34. The relief sought in the proposed claim is as follows:
  - a. A declaration that the Charity is a charity within the meaning of section 1 of the 2011 Act.
  - b. A declaration as to which document is the governing instrument of the Charity.
  - c. An order removing the proposed defendants as trustees of the Charity.
  - d. A declaration that the congregation of the Gurdwara may appoint new trustees.
  - e. Orders requiring either the proposed defendants or any new trustees to apply to the Commission for registration as a charity.
  - f. Such accounts and enquiries as seem fit to the High Court.
35. As to the first two issues, Mr Smith submitted that if the Gurdwara is a charity, as everyone seems to accept, it requires to be registered - see section 30(1) of the 2011 Act - and it is the statutory duty of the defendants to register it under section 35(1) of the Act. The Commission has asked them to apply for registration. As I have just described, the defendants appear to have said that they will register the Gurdwara, yet they have not done so. It may be that the defendants do not accept that the Gurdwara is a charity and the registration of the CIO might be an indication that that it so but a declaration that it is a charity would be useful and this would trigger the obligation to register it.
36. Secondly it is critical that the constitutional documents are established and everyone knows which document or documents govern the affairs of the Gurdwara. Is it the declaration of trust or the 2014 constitution, or a combination of both? The Court can make a declaration on that issue. Mr Smith submitted that the Commission would not be able, at least not definitively, to rule on this question but Mr Sadiq said that there were ways and means of establishing the governing document through the exercise of the Commission's statutory powers.
37. As to the legal framework, I should start with section 115 which provides as follows. It is headed "Proceedings by Other Persons" and I quote:
  - (1) Charity proceedings may be taken with reference to a charity by-
    - (a) the charity,
    - (b) any of the charity trustees,

- (c) any person interested in the charity, or
  - (d) if it is a local charity any two or more inhabitants of the area of the charity but not by any other person.
- (2) Subject to the following provisions of this section, no charity proceedings relating to a charity are to be entertained or proceeded with in any court unless the taking of the proceedings is authorised by order of the Commission.
- (3) The Commission must not, without special reasons, authorise the taking of charity proceedings where, in its opinion, the case can be dealt with by the Commission under the powers of this Act other than those conferred by section 114.
- (4) This section does not require an order for the taking of proceedings-
- (a) in a pending cause or matter, or
  - (b) for the bringing of any appeal.
- (5) Where subsections 1 to 4 require the taking of charity proceedings to be authorised by an order of the Commission, the proceedings may nevertheless be entertained or proceeded with if, after the order has been applied for and refused, leave to take the proceedings was obtained from one of the judges of the High Court attached to the Chancery Division.
- (6) Nothing in subsections 1 to 5 applies -
- (a) to the taking of proceedings by the Attorney General with or without a relator, or
  - (b) to the taking of proceedings by the Commission in accordance with section 114.
- (7) If it appears to the Commission on an application for an order under this section or otherwise, that it is desirable-
- (a) for legal proceedings to be taken with reference to any charity or its property or affairs, and
  - (b) for the proceedings to be taken by the Attorney General,
- the Commission must so inform the Attorney General and send the Attorney General such statements and particulars as the Commission thinks necessary to explain the matter.
- (8) In this section, “charity proceedings” means proceedings in any court in England or Wales brought under –
- (a) the court’s jurisdiction with respect to charities, or
  - (b) the court’s jurisdiction with respect to trusts in relation to the administration of a trust for charitable purposes.”

38. It appears to be common ground for the purposes of this application that the claim, other than the claim for a declaration that the institution is a charity constitutes “charity proceedings”, and that the claimants have the necessary standing under section 115.
39. The principles governing a renewed application to the Court pursuant to section 115, were considered by Mr Justice Norris in *Rai & Ors v Charity Commission for England and Wales* [2012] EWHC 1111 (Ch), and then further summarised by the same judge, Mr Justice Norris, in *Garcha & Ors v Charity Commission for England and Wales* [2014] EWHC 2754 (Ch).
40. I then repeated that summary in *Butler-Sloss v Charity Commission for England and Wales* [2021] EWHC 1104 (Ch), at paragraph 12 as I was there considering the exercise of the Court’s discretion to permit proceedings to be brought under section 115. I allowed the application in that case but it was very different, being concerned with a pure point of law. Anyway, Mr Justice Norris’ summary is as follows:
- “(a) The court is exercising an original jurisdiction and not acting as an appellate court against the decision of the Charity Commission.
  - (b) The jurisdiction conferred by section 115(5) of the Charities Act 2011 to grant leave to take proceedings is conferred in unrestricted terms, though earlier decisions may illuminate its exercise.
  - (c) Although the Court is exercising an original jurisdiction, the fact that the Charity Commission has refused permission to bring the proceedings, is part of the evidence, and that prior decision is entitled to respect because of the expertise brought to bear in making it.
  - (d) There must of course be a legally sustainable claim to be advanced in the proceedings for which permission is sought (by which is meant one that has a real, as opposed to a fanciful prospect of success).
  - (e) This legally sustainable claim must be advanced in good faith.
  - (f) Although a sustainable claim advanced in good faith is a necessary condition, it is not a sufficient condition because the point of having a specific filter (in addition to the thresholds that have to be crossed under the CPR in any event), is to prevent the resources of the charity being frittered away on internal disputes.
  - (g) The Court must ultimately be satisfied that the commencement of litigation is the least unsatisfactory course, having regard to the interests of the charity as a whole.”
41. Both sides accept that these are the principles that apply. It is particularly (f) and (g) that are most applicable to the current case but (c) is also important and respect needs to be accorded to the expertise of the Commission which has been entrusted



by Parliament with the regulation of charities and it makes multi-factorial decisions with the best interests of the charity concerned in mind.

42. As was said by Her Honour Judge Jackson in *Batson v Charity Commission for England and Wales* [2022] EWHC 2609 (Ch), at paragraph 38:

“In my judgment it is not the role of the High Court, even when it has an inherent jurisdiction to manage and control charities to usurp the statutory regime. The statutory regime has been put in force by Parliament to determine how disciplinary proceedings and charities should be regulated. When the statutory regime is ongoing, it needs to be allowed to take place and that is because that regime is far wider than the proceedings that are proposed in this case are, and there are different considerations.”

43. Mr Sadiq made certain submissions about the role of the Commission. First of all the 2011 Act confers upon the Commission various statutory objectives under section 14. These include: the *public confidence objective*, which is to increase public trust and confidence in charities; the *compliance objective*, which is to promote compliance by charity trustees with their legal obligations in exercising control and management of the administration of their charities; the *charitable resources objective*, which is to promote the effective use of charitable resources; and the *accountability objective* which is to enhance the accountability of charities to donors, beneficiaries and the general public.
44. In addition, the 2011 Act confers upon the Commission the following general functions: encouraging and facilitating the better administration of charities; and identifying and investigating apparent misconduct or mismanagement in the administration of charities- see section 15(2).
45. The Commission’s regulatory powers are extensive. By section 46(1) of the 2011 Act, the Commission is empowered to institute enquiries with regard to, *inter alia*, a particular charity generally or for a particular purpose. Where the Commission is conducting an enquiry, it has the power to require persons to provide to it, accounts or other documents, answer questions in writing and give evidence to the Commission - see section 47.
46. The 2011 Act vests in the Commission considerable regulatory powers, these include:

- a. The power to suspend a trustee- section 76(3)(a).
- b. The power to appoint additional trustees - section 76(3)(b).
- c. The power to appoint an interim manager to manage the property and affairs of the charity - section 76(3)(g).
- d. The power to give directions to a person - section 84, and
- e. The power to remove a trustee - section 79(4).

These powers can be exercised not only where the Commission has found misconduct but also where the Commission is satisfied,

“That it is necessary or desirable to act for the purpose of:

- (i) protecting the property of the charity, or
- (ii) securing a proper application for the purposes of the charity of that property or property coming to the charity.”

47. So how should these principles be applied in this case? This is of the utmost importance to the claimants and the other members of the congregation who support them. It appears to them that despite their complaints being brought to the Commission's attention, that nothing has been done and that they have effectively been forced into making this application and to pursue this litigation with all the inevitable risks that that entails. The defendants have refused to register the charity and, having not done so for all these years, they appear to have attempted to set up an alternative CIO in which they will retain power and to which perhaps they intend to transfer the charity's assets and yet the Charity Commission appear to be refusing to act. It would be in everyone's interests, including the claimants and the charity, for the Charity Commission to use its extensive powers to investigate, remove trustees, appoint an interim manager, and sort out the registration and constitutional documents issue. I have no doubt that there is a way of this being resolved satisfactorily by the Commission and that this will be quicker and less costly to all concerned, even bearing in mind that the Charity will have to pay for the interim manager.
48. But the problem is, as articulated by Mr Sadiq, that the Charity Commission will not act while there remains the prospect of the matter proceeding in Court. Mr Sadiq referred to the case of Ms Batmangelidh and the Kids Company charity which is still occupying court time even after Mrs Justice Falk, as she then was, dismissed the disqualification proceedings brought against Ms Batmangelidh and others. I do not know the ins and outs of that but Mr Sadiq informed me that there are judicial review proceedings in the High Court concerning whether the Charity Commission can properly investigate and potentially make findings inconsistent with the findings that Mrs Justice Falk made. The fact that the Charity Commission can be accused of this and be subject to judicial review proceedings, seems to have led to a policy decision that the Commission will not act where the matter is going to court.
49. Mr Smith said that the Charity Commission is under a duty to act if it has credible information suggesting that it should investigate and/or take action to ensure that the charity is not being mismanaged and its resources wasted.
50. I suggested at the outset of the hearing that a way forward could be for me to grant permission but then to stay the proceedings to allow the Commission time to take action and also for there to be a further attempt at mediation. Mr Smith said that that would be a good idea and he referred me to a case where Master Pester had made clear in his order, that the Charity Commission should not feel constrained not to act because of the grant of permission and the possibility of the court proceedings continuing. It would also solve the limitation issue.
51. Mr Sadiq said that the Charity Commission would still be unlikely to act if permission is granted. He did say that if permission was refused, the commission would act, at least to launch an investigation. Of course, such an investigation would not be pre-judged but he could say that such an investigation would happen and in fairly short order and that such an investigation could lead to the exercise of those extensive powers that everyone wants the Charity Commission to use in this case.
52. So the conundrum is, do I have sufficient confidence in the Charity Commission that if I refuse permission outright, it will effectively resolve the issues with this charity. Or do I think that it will not really act unless its feet are held to the fire. I am afraid I have concluded the latter.

53. To date, the Commission has shown a remarkable disinterest in even getting the Charity registered which is a step that should have been taken ages ago and which I do not see is dependent on any finding of misconduct or is affected by the section 115 application. If the Commission is not prepared to act on that, I find it difficult to see that it will act with any urgency if all the pressure is off by my refusal of permission.
54. I consider that the claim as drafted has at least a reasonable prospect of success and it is brought in good faith by the claimants in order to take back control of the Charity to the members and donors, from the trustees, who are behaving unsatisfactorily and possibly much worse than that. It is likely to be in the best interests of the Charity for the trustees to be removed.
55. So committed are the claimants that they are prepared to fund this litigation themselves. True it is that there is a possibility in certain circumstances, that costs will have to be paid by the Charity. For instance, if the defendants win at the end of the day and the claimants are not good for the money. But I do not think that that is a strong enough risk to prevent permission being granted.
56. Heavy reliance is placed on section 115(3) of the Act which requires the Commission not to authorise the taking of charity proceedings where it can be dealt with under its powers. I know that the Commission has relied on that for the purposes of refusing consent, and properly so. While that is a very relevant factor for the Court in considering whether to grant permission under section 115(5), it is perhaps of even more relevance to the Court whether the Commission will actually use those powers in this case.
57. As I have said, I am not sufficiently confident that it will and I do not think it right to leave the claimants in limbo with the limitation clock ticking and the prospect of having to incur the further costs of making another application in a few months time when they find that the Commission has not acted sufficiently to address all these problems.
58. I am also concerned about the registration of the CIO and the Commission's apparent lack of action in that respect.
59. In all the circumstances, I am satisfied that the least worst or least unsatisfactory course is to give permission for these charity proceeding but I want there to be every opportunity for this to be resolved without resort to court. Accordingly, I, like the claimants want the Commission to act and to act promptly by using its powers to get the Charity registered, resolve the governing documents issue and what is to happen to the CIO. However that can be achieved, whether by the appointment of an interim manager or new trustees is of course a matter for the Charity Commission itself. But it surely must act and to encourage it to do so, I will give permission but subject to a stay on those proceedings when issued, to allow for both the Commission to act and for further attempts at mediation in accordance with the principles outlined in *Churchill v Merthyr Tydfil* [2023] EWCA Civ 141.
60. I am prepared to put the Master Pester recital, if I can call it that, which I hope will encourage the Commission to act. If the Commission decides not to act, arguably in breach of its duties to do so, then the claimants will unfortunately have to proceed with the litigation.
61. The issue of the stay can be brought back to court by any party including the defendants at any time if it is working unfairly or should be removed or varied but

that is what I will order and I hope that a suitably worded order can be drafted to reflect my decision.

**End of Judgment.**

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