Neutral Citation Number: [2025] EWHC 2485 (Ch)

Case No: CH-1987-M-No 4627
and BL-2019-001900

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST (ChD)

Royal Courts of Justice
Rolls Building, Fetter Lane,
London, EC4A 1NL

Date: 3 October 2025

Before :

HHJ PAUL MATTHEWS
(sitting as a Judge of the High Court)

- -

Between :

VAQAR MALIK	**Claimant**
- and -	
(1) BILAL AHMED MALIK	
(2) TAJ BEGUM MALIK	
(3) IFTIKHAR AHMED MALIK	
(4) SARFRAZ AHMED MALIK	**Defendants in Claim CH1987 -M-4627**
(5) ILYAS AHMED MALIK	
(6) STILGOES INVESTMENTS LIMITED	
(1) IFTIKHAR AHMED MALIK	
(2) SARFRAZ AHMED MALIK	**Defendants in Claim BL-2019 -001900**
(3) ILYAS AHMED MALIK	
(4) AYESHA ANWAR BAIG	

- -
- -

The Claimant in person
James Kinman (instructed by **Stephenson Harwood LLP**) for the **Third Defendant** in the first claim and the **First Defendant** in the second **(Iftikhar Ahmed Malik)**

Hearing dates: 29-30 July 2025

- -

This judgment was handed down remotely at 10:30 am on 3 October 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archive.

HHJ Paul Matthews :

Introduction

1. This is my judgment on five applications made in two claims, part of sprawling litigation between the parties which spans almost forty years. In this jurisdiction alone, that litigation has so far involved the county court and the High Court (on multiple occasions), the Court of Appeal (on three occasions) and the Supreme Court (on one occasion). There is also litigation involving third parties, and litigation in other countries.

2. The main protagonists are two brothers, Iftikhar Malik and Vaqar Malik. They are both Pakistani in origin, and Iftikhar remains resident in Pakistan. But Vaqar is also a British citizen and lives in London. The main object of the litigation appears to be a valuable flat in a prestigious block in central London. The flat is registered in the name of Iftikhar. But Vaqar has for many years now been in occupation and claims the right to remain there. The battleground is the business empire, based on carpets, largely created by their father, Bilal Ahmed Malik.

3. Because almost all the parties have the same family or surname, I will, without intending any discourtesy, refer to them by their first or given names. The family included Bilal Ahmed Malik and his wife Taj Begum Malik, and their five children, Iftikhar, Sarfraz, Ilyas, Vaqar and Ayesha (who is the only daughter). Both Bilal and Taj are now dead. Taj died in 2004 and Bilal in 2014. But, so far as I am aware, no steps have been taken in the 1987 English Partnership Action (in which they were defendants) to apply for their estates to be represented. Because of the further legal proceedings which have been taken, I should mention that Vaqar married Saira, and they have children, including Fahim and Rahim.

4. Four of the five applications now before me are made in a claim which was commenced by Vaqar in 2019, under reference BL-2019-001900 ("the 2019 English Partnership Claim"). The remaining one, extraordinarily, is made in a claim which was also brought by Vaqar, and which began as long ago as 1987, under reference CH 1987-M-No. 4627 ("the 1987 English Partnership Action"). These two sets of proceedings are together referred to as the Partnership Proceedings, to distinguish them from other litigation between the same parties, which are claims for possession of a central London residential property referred to below ("the Possession Proceedings").

5. I mention here for completeness that Vaqar also launched proceedings in Pakistan in 1987 ("the 1987 Pakistani Partnership Action"). This action was struck out on 7 May 1988. Vaqar appealed the strike out, but in fact withdrew the whole action on 20 May 1999. And Vaqar in addition launched proceedings in Pakistan against his siblings and others relating to the succession to their father's estate in 2019. I refer to these proceedings further below. But they are not relevant to what I have to decide.

The five applications

6. The five applications now before me are unfortunately not the only extant applications in this litigation. By my reckoning, there are nine altogether (or possibly ten, though I am told that one has now been resolved). Nevertheless, by the order of HHJ Gerald, sitting as a judge of the High Court, dated 16 May 2025, it is the following five applications only that are listed before me on this occasion:

> (1) An application by Iftikhar dated 9 December 2024, for extensions of time in which to acknowledge service and challenge the jurisdiction of the court in relation to the 2019 English Partnership Claim;
>
> (2) An application by Iftikhar dated 24 January 2025, making a challenge to the jurisdiction of the English court, but alternatively seeking to strike out, or obtain reverse summary judgment on, the 2019 English Partnership Claim;
>
> (3) An application by Vaqar dated 26 January 2025, for a stay of the application in (2) above, pending the decision in application (1) above;
>
> (4) An application by Vaqar dated 11 March 2025, for an order lifting an automatic stay of the 1987 English Partnership Action imposed by CPR PD51A, paragraph 19(1);
>
> (5) An application by Iftikhar dated 6 May 2025, for an order lifting any automatic stay of the 2019 English Partnership Claim that may have been imposed by CPR rule 15.11, so far as necessary to decide the applications (1) and (2) above.

7. It will be seen that applications (1) to (3) and (5) concern the 2019 English Partnership Claim. Application (4) alone concerns the 1987 English Partnership Action. Applications (1), (2) and (5) were made by Iftikhar. Applications (3) and (4) were made by Vaqar. These applications were originally listed to be heard by HHJ Gerald (sitting as a judge of the High Court) on 14-15 May 2025. However, on an application made by Vaqar, that judge recused himself, and the applications were relisted before me instead.

8. I had the benefit of detailed skeleton arguments from both sides in advance of the hearing. Vaqar also put in further documents and written submissions before the hearing began, during it, and indeed after it. The applications were argued orally before me by James Kinman of counsel for Iftikhar, and by Vaqar in person, over two and a half days. Iftikhar's counsel addressed me on all the applications first, over the first morning and a part of the first afternoon. Vaqar addressed me, again on all the applications, for the greater part of the first afternoon and the whole of the second day. Iftikhar's counsel addressed me in reply on the morning of the third day. I then reserved my judgment. This is that judgment.

The evidence

9. The evidence on these applications was as follows. I have listed them under each of the five applications separately:

(1) application by Iftikhar dated 9 December 2024 (extensions of time): supported by evidence of Adam Polonsky (his solicitor) in the application notice; opposed by witness statement of Vaqar dated 6 January 2025;

(2) application by Iftikhar dated 24 January 2025 (challenge to jurisdiction): supported by witness statements from Adam Polonsky and from Iftikhar, both dated 23 January 2025; in opposition, Vaqar relies on his own witness statement of 6 January 2025 and that of his former solicitor Prakash Patel of 13 April 2022;

(3) application by Vaqar dated 26 January 2025 (for stay on (2)): supported by witness statement from Vaqar dated 26 January 2025;

(4) application by Vaqar dated 11 March 2025 (lifting automatic stay on 1987 action): supported by witness statement from Vaqar dated 11 March 2025; opposed by witness statement from Adam Polonsky dated 11 April 2025;

(5) application by Iftikhar dated 6 May 2025 (lifting automatic stay on 2019 claim): supported by evidence of Adam Polonsky in the application notice.

10. I make clear that none of the witnesses who made those statements or gave that written evidence was cross-examined at the hearing. Indeed, there was no suggestion (by either side) that there should be any cross-examination. Accordingly, although I am not obliged to accept all the evidence presented (because the witnesses may for example be mistaken), and I can weigh it up, for present purposes I am not at liberty to *disbelieve* the evidence contained in the affidavits, unless I consider that it was manifestly incredible in light of all the circumstances: see *Long v Farrer & Co* [2004] BPIR 1218, [57], which the Court of Appeal applied in *Coyne v DRC Distribution Limited* [2008] EWCA Civ 488, [58].

11. However, and as I have already said, these applications are made in the context of long-running litigation between the parties, both here and in Pakistan. Over the years, there have been a number of English judgments in the litigation. Some of these are significant in deciding issues between the parties which thereafter cannot be relitigated. So there is no need for evidence on some points. For ease of reference I give brief details here of the earlier English judgments:

9 July 1987	Sir Neil Lawson	(High Court)
5 August 1987	Fox, Parker LJJ	(Court of Appeal)
21 February 2012	John Jarvis QC	[2012] EWHC 711 (Ch)
13 February 2019	HHJ Gerald	(County Court)
21 June 2019	Falk J	[2019] EWHC 1843 (Ch)
18 December 2019	Zacaroli J	[2019] EWHC 3530 (Ch)
17 May 2021	Meade J	[2021] EWHC 1886 (Ch)

14 March 2022	HHJ Gerald	(County Court)
29 March 2022	Lewison, Peter Jackson, Asplin LJJ	[2022] EWCA Civ 411
20 January 2023	Bacon J	[2023] EWHC 59 (Ch)
4 November 2024	King, Asplin, Zacaroli LJJ	[2024] EWCA Civ 1323
14 March 2025	Leech J	[2025] EWHC 778 (Ch)
16 May 2025	HHJ Gerald	(High Court)

History of the litigation

The first stage: the 1987 and 2018 claims

12. For the purposes of deciding these applications, and on the basis of the material before me, first of all, I take the initial facts from the judgment of HHJ Gerald in his judgment delivered on 14 March 2022, to which I have added in footnotes a few additional comments derived from the papers before me:

> "1. On 06.12.78 Iftikhar Ahmad Malik, the Part 20 Claimant,[1] completed the purchase and was granted the long lease of the two bedroomed flat at 7, South Lodge Flats, 245 Knightsbridge, London SW7 1DG ('the flat') which he had bought off-plan on a visit to London from Pakistan, where he lived, and exchanged contracts on 28.03.77, paying the £7,250 deposit of the £72,500 purchase price which was later negotiated down to £70,250. On 28.09.84, at a time when no family member was living at the flat as their home, the lease was extended to 999 years on payment of £1,758.49 ('the lease').
>
> 2. Completion, and dealing with the conveyancing solicitors Mr Scott-Tucker of Stilgoes, was handled by Iftikhar's younger brother Vaqar, one of the Part 20 Defendants, who had moved from Pakistan to London to run the family businesses' new company Superpink Limited in around November 1978 or thereabouts. That was a relatively short-lived venture, as it was folded in 1985, a few years after Vaqar had been 'recalled' to Pakistan in September 1982.
>
> 3. After completion of some decorations, Vaqar lived at the flat as his home from May 1979 until returning to Pakistan in December 1981 to get married, then coming back to live in the flat with his new wife Saira in January 1982 until they returned to Pakistan in September 1982 where they rented accommodation until Vaqar returned to London in January 1987 followed by his wife and by then two children.
>
> 4. Whilst living at the flat as a bachelor, various family members would stay from time, including Iftikhar's wife and son who stayed at the flat from 1979 to 1981 for either two terms or two academic years whilst their

[1] The Part 20 claim is explained further below.

son was having medical treatment. From September 1982 to January 1987, when no-one was living at the flat, Iftikhar and Vaqar and their respective families living in Pakistan, they and and various other family members would use the flat when visiting in London, the keys being kept with the porter.

5. On 06.01.87, following a major breakdown in relations with his family, Vaqar returned to London and took up residence in the flat without his parents' or brothers' knowledge (apart, possibly, from brother Sarfraz). Father Bilal Malik stayed at the flat for a short period from the end of January, no doubt to try and sort differences out. Vaqar was joined by his wife and children in February. On Friday 26.06.87 Vaqar refused to allow his mother Taj, Iftikhar, Sarfraz, sister Asya and various others in to the flat since when, it is common ground, no-one other than Vaqar's immediate family has been in occupation.

6. Litigation in England and Pakistan ensued. On 03.07.87, Iftikhar as registered absolute owner issued proceedings against Vaqar and his then wife Saira in the High Court in London seeking possession,[2] and secured an interlocutory injunction[3] requiring access which, for practical purposes, was not complied with and was successfully appealed.[4] On 28.07.87, Vaqar issued proceedings in the High Court in London[5] principally against his father, mother and three brothers by seniority Iftikhar, Sarfraz and Ilyas allegedly as partners claiming that the flat was owned by the partnership and he was entitled to the flat being allocated to him as his share of the partnership and live there, any notion of a partnership being hotly denied. The day before, on 27.07.87, Vaqar had issued proceedings in Pakistan[6] seeking an injunction restraining interference with his occupation of the flat as being an asset of the partnership.[7]

7. Neither English action was pursued. Iftikhar's action was stayed until payment by him of £25,000 into court on security for costs by 11.12.87 order of Master Munrow which was not complied with until 11.02.11, some 23 years later. Both actions were stayed automatically under the new CPR as of 25.04.00. During that period, there was an agreement that the English actions be stayed pending resolution of proceedings which had been issued by Vaqar in Pakistan (July 1988 to October 1991)[8] and, thereafter, whilst there were unfruitful attempts were made within the

[2] Action CH 1987 M No 6199, referred to as "the 1987 Possession Action".
[3] From Sir Neil Lawson on 9 July 1987.
[4] On 5 August 1987, to the Court of Appeal, comprising Fox and Parker LJJ.
[5] Action CH1987 M No 4627, referred to as "the 1987 English Partnership Action".
[6] This is the "1987 Pakistani Partnership Action", referred to above at [3]. Amongst other things, it sought an order for the winding-up of the alleged partnership.
[7] The injunction was granted, but discharged on 30 April 1988.
[8] As noted above at [3], this action was struck out in 1988, the strike-out appealed, and then withdrawn by Vaqar in 1999.

family to resolve matters which, upon breakdown, led to Iftikhar applying to lift the stays on 16.03.11.[9]

8. On 16.02.12, Mr John Jarvis QC sitting as a Deputy High Court Judge, refused to grant that application.[10] Vaqar was present throughout the hearing, but any interest he had in the flat was then vested in his trustee in bankruptcy he having been bankrupted on 01.04.10[11] who was represented by counsel as was Iftikhar. During the course of that hearing, Vaqar stated that he would not be pursuing any claim for adverse possession of the flat, he and his wife Saira having lodged such application with HMLR on 20.07.00 which he withdrew on 27.02.01 as HMLR stated that it needed resolution by court. Any rights Vaqar may have had, or has, to the flat automatically re-vested in him on 01.04.13 under section 238A(2) Insolvency Act 1986, his trustee not having pursued any claim to any interest in the flat by adverse possession or otherwise.

9. And so it was that on 17.04.18, Iftikhar as absolute owner, issued this Part 20 Claim[12] against Vaqar and his two children Fahim and Rahim by his second wife seeking possession and mesne profits.[13] By his Part 20 Defence and Counterclaim, Vaqar claims that Iftikhar held the flat on trust for him on and from the date of completion, 06.12.78, and in the alternative that he has been in adverse possession since 03.07.87 as pleaded but equally could be 26.06.87 being the date when he asserted physical possession. Neither of his sons make any claim independent of their father. It is Iftikhar's position that it is an abuse of process for Vaqar to claim having disavowed adverse possession before the Deputy Judge[14] back in 2012, but that if the adverse possession claim succeeds (which is denied) he should be reimbursed service charge and rental payments he has made. In contrast to his 1987 action, Vaqar does not sue any of his alleged fellow partners, or their representatives; nor has anyone sought to serve notice on them to ensure they are all bound by the outcome of this case."

13. In addition to filing their defence and counterclaim, Vaqar and his sons applied to strike out the possession claim against them, or to obtain reverse summary judgment on it. But that application was dismissed by HHJ Gerald on 13 February 2019. The dismissal was appealed to Falk J. She refused the appeal on 21 June 2019 (see [2019] EWHC 1843 (Ch)). Vaqar and his sons then applied for permission for a second appeal, but the application was dismissed by Lewison LJ on 7 October 2019.

---

[9] These were applications within both the 1987 Possession Action and the 1987 English Partnership Action.
[10] See [2012] EWHC 711 (Ch).
[11] In submissions, Vaqar told me that he had been discharged from bankruptcy in October 2012.
[12] It was a Part 20 claim, because on 17 November 2017, the freehold owner of the block in which the flat is situated brought a claim in the county court against Iftikhar, Vaqar and Vaqar's sons for an injunction to enable it to investigate a leak. Iftikhar issued the Part 20 claim against Vaqar and his sons to recover possession and for mesne profits (originally 1987.M No 3054, but renumbered on transfer to the Chancery Division).
[13] Referred to as "the 2018 Possession Claim".
[14] Mr John Jarvis QC.

14. In the meantime, on 12 September 2019, Vaqar issued a claim in Pakistan (called a "Plaint") against his siblings and other family entities in relation to the inheritance of his father's estate. I note in passing that paragraph 6 of the Plaint says in part that

> "The cause of action firstly arose in favour of plaintiff and against the defendants in May 2014, when the father of the plaintiff died, who was the real owner of the properties and the business fully mentioned in the Plaint …"

The flat (and other properties in England) are among the properties mentioned in the Plaint.

15. Then, just a month later, on 11 October 2019, Vaqar also issued a further partnership claim, in the (English) High Court, dealing with the partnership alleged by Vaqar to subsist between the members of the family ("the 2019 English Partnership Claim"). It overlaps with issues arising in the 2018 Possession Claim in the county court. But it is also inconsistent with the inheritance claim made in Pakistan begun a month earlier. This can be seen from the prayer to the later claim, which reads in part as follows:

> "AND THE CLAIMANT CLAIMS:
>
> (1) A Declaration that the Flat is and was at all material times an asset of the Partnership and is held on trust by the Third Defendant [Ilyas] for the Partnership and subject to the beneficial interest of the Claimant in the flat.
>
> (2) A Declaration that at all material times the Flat was purchased by the Partnership and appropriated to the Claimant as part of his share in the Partnership assets.
>
> (3) A Declaration that First Defendant [Iftikhar] is not entitled to claim ownership or possession of the flat as the flat is held by the first Defendant as a trustee for the Claimant."

(I add that it seems likely that the reference in paragraph (1) of the prayer to the third defendant, Ilyas, was a mistake for the first defendant, Iftikhar.)

16. On 14 October 2019 and 4 December 2019, Vaqar applied for the transfer of the 2018 Possession Claim from the county court to the High Court, so that it could be tried alongside the 2019 English Partnership Claim. Zacaroli J dismissed the applications on 18 December 2019: see [2019] EWHC 3530 (Ch). In his judgment, he noted that the

> "new High Court proceedings … make essentially the same claims in relation to the Flat as are contained in Vaqar's pleading in the County Court proceedings."

17. The court having dismissed Vaqar's application, the 2019 English Partnership Claim was not tried with the 2018 Possession Claim. I will come back to subsequent events in that claim later.

The 2018 Possession Claim: trial and appeals

18. The 2018 Possession Claim proceeded to trial in the county court. It was part-heard by HHJ Gerald in January 2020, but then adjourned and not resumed (because of the Coronavirus pandemic) until March 2022, when the trial was completed. HHJ Gerald delivered his judgment on 14 March 2022. As to the defence based on the trust claim, he held that

> "67. … there is insufficient evidence to find on a balance of probabilities that the money was in fact 'family money', whatever that somewhat inchoate phrase means …
>
> 68. … Both counsel agreed that it was not necessary for me to determine the issue of whether or not there was a partnership as such went to credibility only, the key question being the source of the purchase monies, even though some of [counsel for Vaqar]'s cross-examination of Iftikhar was on the footing that there was a partnership without any evidence to properly put to him how and when it came about or when the various alleged partners joined it …
>
> […]
>
> 70. In my judgment, Vaqar has failed to adduce credible evidence to rebut the presumption that Iftikhar is to be presumed to be the absolute beneficial owner of the flat."

So the trust claim failed.

19. As to the defence based on the adverse possession claim, the judge held:

> "100. … in my judgment, it is an abuse of process and unfair for Vaqar to now seek to advance a case for adverse possession. In short, the 1987 proceedings stopped time running but became irrelevant once struck out which, amongst other things, was brought about or strongly influenced by Vakar's disavowal before the Deputy Judge[15] of an intention to bring any claim for adverse possession which has enabled Vaqar to bring the very claim for adverse possession which he previously said he would not. Not only does that amount to impermissible approbation and reprobation, but in my judgment it amounts to an abuse of process, being an afront to justice …
>
> 101. Having determined that it is an abuse of process, it is not necessary for me to consider whether Vaqar has established title by adverse possession. However, for completion, I will briefly state why he has not."

[15] That is, Mr John Jarvis QC, in February 2012.

20. The judge then went on to give his reasons for that secondary conclusion as to why Vaqar had not established a title by adverse possession. I need not set them out here. So, in the judge's view, Vaqar could not advance a case for adverse possession, because it would be an abuse of process, but, if he had been able to do so, in the judge's view, it would anyway have failed on the merits. The judge's order, dated 14 March 2022, included an order that Vaqar give up possession of the flat to Iftikhar.

21. That decision, being one of a judge sitting in the county court, was appealed to the High Court, but only on the adverse possession ground. No application was made for permission to appeal the decision on the trust ground, Vaqar being (according to his own skeleton argument) "constrained to accept that HHJ Gerald's decision turned on the Judge's assessment of the available evidence". The appeal was heard by Bacon J, and judgment was given by her under neutral citation number [2023] EWHC 59 (Ch). I can take the further events of this litigation now from part of the decision of the Court of Appeal, given on 14 November 2024, on appeal and cross-appeal from the decision of Bacon J: see [2024] EWCA Civ 1323.

22. In the decision of that court, Zacaroli LJ, with whom King and Asplin LJJ agreed, said:

> "25. Bacon J allowed Vaqar's appeal, but granted Iftikhar's application, concluding (in brief summary) as follows:
>
> (1) Vaqar was not precluded, on the basis of abuse of process, from advancing an adverse possession defence to the 2017 Action;
>
> (2) The fact that Vaqar had asked Iftikhar to pay service charges on the flat did not demonstrate a lack of intention to possess the flat;
>
> (3) Iftikhar could not raise for the first time on appeal the contention that he had consented to Vaqar's occupation. Not only had the point not been pleaded, it was contrary to the position of both parties at trial and, had it been raised at trial, it would have required new evidence and would have resulted in a different approach to the evidence being taken at trial;
>
> (4) For similar reasons, Iftikhar could not raise for the first time on appeal the contention that Vaqar had occupied the flat as the licensee of Bilal (as opposed to the contention that he purported to do so);
>
> (5) Although Iftikhar's contention that Vaqar intended to occupy as Bilal's licensee was one that he was entitled to take on appeal, it failed on the basis of the facts found by the judge;
>
> (6) Notwithstanding Iftikhar's serious and substantial delay in applying to lift the stay on the 1987 Action, it was appropriate in all the circumstances to lift that stay; and
>
> (7) There being no defence to Iftikhar's claim for possession in the 1987 Action, Iftikhar was entitled to summary judgment."

So, despite the fact that Bacon J allowed Vaqar's appeal, she nevertheless made a possession order. This was done on the basis that, although Vaqar's adverse possession claim might be effective in relation to the 2018 Possession Claim, it was *ineffective* in relation to the 1987 Possession Action.

23. In the Court of Appeal, Zacaroli LJ considered the arguments of the parties, and concluded:

> "89. Having rejected the submissions based on specific alleged errors, I reject the unsupported contention that HHJ Gerald's decision fell outside the broad ambit within which reasonable disagreement is possible. There is no basis, applying the test in the *Aldi Stores* case, for interfering with his evaluative judgment.
>
> 90. For the above reasons, I would allow the appeal against Bacon J's decision on the question of abuse of process, and restore the order made by HHJ Gerald in the 2017 Action. As noted above, that renders it either otiose or academic to address the remaining points raised on these combined appeals."

24. The Court of Appeal declared that both the possession order made by HHJ Gerald, and that made by Bacon J, were valid and enforceable. They ordered Vaqar and his sons to give possession of the flat to Iftikhar, and ordered Vaqar to pay mesne profits to Iftikhar for the six years before the commencement of the 2018 Possession Claim, and up to the date of giving possession. The order provided that the date for giving up possession was 2 December 2024, but, if before then there was an application to the Supreme Court for permission to appeal, stayed until determination of that application or further order. Vaqar did make an application to the Supreme Court for permission to appeal, but permission was refused by that court on 26 February 2025.

The present applications

25. In the meantime, in December 2024 and January 2025, the first four of the five applications with which I am concerned were issued, two by Iftikhar and two by Vaqar. Three of the four were issued in the 2019 English Partnership Claim, and one in the 1987 English Partnership Action.

26. On 9 March 2025 Vaqar applied to the High Court for an interim injunction to restrain and/or for a stay of enforcement of the possession orders. On 14 March 2025, Leech J dismissed that application as totally without merit. Vaqar applied to the Court of Appeal for permission to appeal against the order of Leech J dated 14 March 2025. On 30 June 2025, permission to appeal was granted, but on terms that the appeal should be postponed until after the determination of the Partnership Proceedings (whether by means of the present applications or otherwise).

27. Vaqar also sought to appeal to the High Court a second time against the possession order made by HHJ Gerald in 2022. The appellant's notice was struck out by Richards J on 17 March 2025, on the basis that it was an abuse of the process of the court, given that there had already been one appeal to the

High Court (and a further appeal to the Court of Appeal) in relation to this order. It also involved a collateral attack on the decision of the Court of Appeal. Then Vaqar applied to the Court of Appeal to re-open the earlier appeal under CPR rule 52.30. That application was refused by Zacaroli LJ on 27 March 2025.

28. On 1 May 2025 the listing office notified the parties that the four applications in the Partnership Proceedings would be heard on 14-15 May 2025, before HHJ Gerald, who was listed to be sitting in the High Court at that time. On 6 May 2025 Vaqar applied for an order that HHJ Gerald recuse himself and that the applications listed before him for 14-15 May 2025 be vacated and relisted before another judge. On the same day, Iftikhar issued the fifth application (in the 2019 English Partnership Claim) to lift any automatic stay on that claim, so far as might be necessary to deal with the first two applications listed.

29. As already stated above, on 16 May 2025 HHJ Gerald delivered a judgment in which he recused himself, and ordered that the hearing of the now five applications be vacated, to be relisted with expedition. Those are the five applications which were then relisted before and heard by me on 29-30 July 2025. In the meantime, an application for permission to appeal against the order of HHJ Gerald of 16 May 2025 was refused by the Court of Appeal on paper on 3 July 2025.

The 2019 English Partnership Claim

30. I must now return to events in the 2019 English Partnership Claim. As I have already mentioned, this claim was begun in October 2019. The defendants were Iftikhar and his three other siblings. Although this is not formally in evidence before the court, Vaqar told me at the hearing that on 12 October 2019 he had sent copies of the claim form to the four defendants by post in Pakistan, but they were returned undelivered. He showed me one of the returned envelopes, addressed to Iftikhar.

31. On 31 July 2025, he sent to the court a written submission on this point, annexing photocopies of various posting receipts and tracking documents. He also attached a document apparently signed by his son Fahim as a certificate of service. Although his submission says that the certificate of service was filed on 17 October 2019, I have been unable to find it on the court file. But it does not matter. At this time Vaqar did not have permission to serve the proceedings out of the jurisdiction, and so, even if the documents had been delivered to their addressees, this could not have amounted to valid service.

32. There was then the hearing before Zacaroli J in December 2019 when he refused Vaqar's application to transfer the County Court possession claim to the High Court to be tried with the 2019 English Partnership Claim. The contemporaneous skeleton argument prepared by leading and junior counsel on behalf of Vaqar for that hearing expressly accepted (at [9]) that the documents in the 2019 English Partnership Claim had not yet been served on any defendant. In fact, on 5 December 2019, Vaqar had made an application without notice for permission to serve the claim form out of the jurisdiction. On 17 December 2019, Deputy Master Bartlett had adjourned the application

to be heard on notice to the defendants. The deputy master gave permission to serve the application for permission to serve out on Iftikhar by delivering it to Iftikhar's solicitors in London, and on his siblings (the second to fourth defendants) at their home addresses in Pakistan. The order provided for the service of evidence and the submission of time estimates for the hearing and dates to avoid.

33. It is recorded in this order that Vaqar appeared by counsel at the hearing, but also that the serving party was Vaqar himself. So at that time Vaqar was acting in person, though using direct access counsel. This is confirmed by the notice of change of legal representative dated 6 February 2020 and filed at the High Court, which gave notice that he had instructed solicitors and "has not had previous legal representation in relation to this claim". These solicitors then made an application dated 11 February 2020 for an extension of time for service of the claim form to 31 March 2020. In his witness statement in support of that application, dated 10 February 2020, Vaqar's solicitor Mr Prakash Patel very properly explained why the claim form had not yet been served.

34. This included a reference to instructing counsel on a direct access basis in relation to this claim. Mr Patel went on to say:

> "9. Unfortunately, there was then a significant breakdown in the relationship between the Claimant and the counsel he had instructed and they were dis-instructed by him. I understand this to have been in December 2019."

But there is no mention made in this witness statement of the application for permission to serve out which had been heard by Deputy Master Bartlett, and the order which he had made on 17 December 2019. Since it would have been relevant to the application now being made, I infer that the reason is because the solicitors did not know about it at that time. There is certainly no further reference to the order of Deputy Master Bartlett that I can see in the papers before me, and it appears to have been lost sight of.

35. At all events, on 19 February 2020, Deputy Master Hansen ordered that time for service of the claim form be extended to 4 PM on 31 March 2020. On 6 April 2020, Master Shuman extended time for service the claim form further to 4 PM on 30 June 2020. On 12 August 2020, on a further application to extend time, Master Shuman adjourned the hearing to 3 September 2020, so that further evidence in support could be filed. On 3 September 2020, Deputy Master Hansen extended time for service to 28 September 2020. On 28 September 2020, the same deputy master extended time for service further to 29 March 2021.

36. On 25 September 2020, Vaqar's solicitors applied to the court for permission to serve the defendants out of the jurisdiction at their residential addresses in Pakistan or elsewhere in Pakistan. Mr Prakash Patel made a witness statement,

also dated 25 September 2020, in support of that application.[16] There is no mention in this witness statement of the earlier application for permission to serve out or of the order of Deputy Master Bartlett. Once again, I infer that this is because Mr Patel was not aware of them. By a further order of 28 September 2020, Deputy Master Hansen gave permission to Vaqar to serve the claim form particulars of claim on the defendants in Pakistan, giving each of the defendants 23 days after service in which to acknowledge service. The order records that the deputy master read the papers, but not that there was any attendance before him. I infer that the deputy master made his decision on the papers alone.

37. On 28 May 2021, Deputy Master Arkush further extended time for service of the claim form to 16 August 2021, adding "This is the final extension of time". On 14 April 2022, however, Deputy Master Bowles (as he then was) extended time for service further to 28 August 2021 for the first and second defendants, and 12 July 2022 for the third and fourth. The timing of this last order is important, because it subsequently transpired that a copy of the claim form and particulars of claim had been sent to Pakistan and, according to Vaqar, but not Iftikhar, served on Iftikhar in Pakistan on 27 August 2021. (I will return to this question later.) So, at the time of the alleged service, the claim form had in fact expired, and the order of Deputy Master Bowles in April 2022 was retrospective in operation.

38. Iftikhar's case is that he was aware of the order of Deputy Master Hansen of 28 September 2020, but that he never received the 2019 English Partnership Claim at his home address in Pakistan. It was only on 2 December 2024, after the decision of the Court of Appeal that Vaqar's solicitors claimed (in correspondence apparently marked "without prejudice") that Iftikhar had been served the proceedings at his home address in Lahore on 27 August 2021. And it was only on 5 December 2024 that Iftikhar's solicitors became aware of the order of Deputy Master Bowles of 14 April 2022. On 9 December 2024 (two working days after 5 December) those lawyers issued an application for an extension of time for acknowledging service and for challenging the jurisdiction of the court, and on 10 December 2024 they served the application by email together with a form of acknowledgement of service on Vaqar's then solicitors.

39. The evidence contained in the application notice of 9 December 2024 contains the following passage:

> "14. On 2 December 2024, during the course of without prejudice correspondence relating to the 2018 Possession Action, Vaqar's solicitors ('Spencer West') told Iftikhar's solicitors ('Stephenson Harwood') that Vaqar had served the 2019 Partnership Action at No. 11C, Shami Road, on 27 August 2021. On 5 December 2024, Spencer West provided Iftikhar with a copy of an order by Deputy Master Bowles dated 14 April 2022, by which the Deputy Master had retrospectively extended the validity of the Claim Form in the 2019 Partnership Action to 28 August 2021. This was

[16] This was not in the bundle, but is on the court file. Iftikhar's position is that this was not served on him and that he is unable to access it on CE-File.

> the first time that Iftikhar or his legal representatives became aware of that order."

40. At the hearing before me, Vaqar took the point that Iftikhar should not have referred to the information concerning the order of Deputy Master Bowles, because it was contained in "without prejudice" correspondence. He expanded on this in the written submissions dated 31 July 2025. Iftikhar's response was that by his application of 9 December 2024 he was seeking an extension of time, and so he had to explain the long delay that had occurred.

41. In *Unilever plc v The Proctor & Gamble Company* [2000] 1 WLR 2436, 2444, Robert Walker LJ (with whom Simon Brown LJ and Wilson J agreed) said:

> "(5) Evidence of negotiations may be given (for instance, on an application to strike out proceedings for want of prosecution) in order to explain delay or apparent acquiescence. Lindley LJ in *Walker v Wilsher*, 23 QBD 335, 338 noted this exception but regarded it as limited to 'the fact that such letters have been written and the dates at which they were written.' But, occasionally, fuller evidence is needed in order to give the court a fair picture of the rights and wrongs of the delay."

In my judgment, this is just such a case. It was not wrong to give this evidence to the court on that application.

42. Also in the email of 10 December 2024, Iftikhar's solicitors made a request for documents and information connected with the application to the court for permission to serve out of the jurisdiction:

> "1. As made clear from the application, neither we nor our client have copies of the evidence and written submissions which have been relied upon by your client at the various ex parte applications seeking, *inter alia*, permission to serve the claim form out of the jurisdiction and various extensions of time for service, including the retrospective extension. Please provide the full complement of these documents.
>
> 2. Similarly, we do not have copies of any orders made pursuant to those ex parte applications, save the order of Deputy Master Bowles dated 14 April 2022. Please provide copies. We should be grateful if, in respect of each order, you would provide a statement of when each order was served (and at what address) and provide evidence to support those assertions.
>
> 3. Finally, we do not have a copy of the particulars of claim relating to claim BL-2019-001900. Please provide a copy."

43. CPR rule 23.9 relevantly provides:

> "(1) This rule applies where the court has disposed of an application which it permitted to be made without service of a copy of the application notice.

> (2) Where the court makes an order, whether granting or dismissing the application, a copy of the application notice and any supporting evidence must, unless the court orders otherwise, be served with the order on any party or other person –
>
> (a) against whom the order was made; and
>
> (b) against whom the order was sought."

44. And, in *Interoute Telecommunications (UK) Ltd. v Fashion Gossip Ltd*, *The Times*, 10 November 1999, Lightman J said:

> "It is the duty of counsel and solicitors, when they make an ex parte application for relief (and most particularly freezing injunctions) to make in the course of the hearing a full note of the hearing, or, if this is not possible, to prepare a full note as soon as practicable after the hearing is over, and to provide a copy of that note with all expedition to all parties affected by the grant of relief on that ex parte application. This is essential so that the parties affected may know exactly what occurred and the basis and material on which the order was made, and so that in this way they may be provided with the material to make an informed application for discharge."

45. In *Cinpres Gas Injection Ltd v Melea Ltd* [2006] FR 36, Pumphrey J said:

> "21. The purpose of these rules is to ensure that the defendant must know if it is not present at the hearing what case it has to meet. There should therefore be a full note … "

46. Iftikhar's solicitors received no substantive response to their request, and wrote again on 18 December 2024. There was again no response. On 7 January 2025, Vaqar advised Iftikhar's solicitors that he had served a notice of change of legal representative in the 2019 English Partnership Claim, and would now be acting in person. Iftikhar's solicitors wrote to him on 13 January 2025, explaining that they had had no response to their requests to Vaqar's former solicitors, and repeating their request to him. Vaqar's response was sent on 15 January 2025, in an email dealing with a number of matters. The relevant part read as follows:

> "Regarding your request for additional documents, my position is that you are not entitled to them. Your client has been aware of these proceedings for the past five years and has had ample opportunity to address these matters comprehensively."

47. For the sake of completeness, I mention four other applications which have been issued in the 2019 English Partnership Claim, but which were not listed before me. These are (i) an application by Vaqar dated 30 December 2024 for judgment in default, (ii) an application by Vaqar dated 28 April 2025, accusing Iftikhar of contempt of court, (iii) an application by Iftikhar dated 9 July 2025 to strike out that application, and (iv) an application by Vaqar dated 21 July 2025 for various orders including deemed effective service of the 2019

English Partnership Claim. None of these was before me at the hearing on 29 and 30 July 2025, and I do not deal with them in this judgment.

Challenging the jurisdiction of the English court

48. By his application dated 24 January 2025, Iftikhar seeks to challenge the jurisdiction of the English court over him in relation to the 2019 English Partnership Claim. He does this in two distinct ways. First of all, he says he has never been served with the proceedings. Secondly, he says that, if he has been served, the English court should not exercise its jurisdiction over him.

Procedure

49. The rules which prescribe the procedure for disputing the jurisdiction of the English court are set out in CPR Part 11. The relevant rules are as follows:

> "(1) A defendant who wishes to –
>
> (a) dispute the court's jurisdiction to try the claim; or
>
> (b) argue that the court should not exercise its jurisdiction
>
> may apply to the court for an order declaring that it has no such jurisdiction or should not exercise any jurisdiction which it may have.
>
> (2) A defendant who wishes to make such an application must first file an acknowledgment of service in accordance with Part 10.
>
> (3) A defendant who files an acknowledgment of service does not, by doing so, lose any right that he may have to dispute the court's jurisdiction.
>
> (4) An application under this rule must –
>
> (a) be made within 14 days after filing an acknowledgment of service; and
>
> (b) be supported by evidence.
>
> (5) If the defendant –
>
> (a) files an acknowledgment of service; and
>
> (b) does not make such an application within the period specified in paragraph (4),
>
> he is to be treated as having accepted that the court has jurisdiction to try the claim.
>
> (6) An order containing a declaration that the court has no jurisdiction or will not exercise its jurisdiction may also make further provision including –

> (a) setting aside the claim form;
>
> (b) setting aside service of the claim form;
>
> (c) discharging any order made before the claim was commenced or before the claim form was served; and
>
> (d) staying the proceedings."

50. Accordingly, in order for Iftikhar to be able to challenge the jurisdiction of the English court, he must first file an acknowledgement of service (which expressly does not amount to a submission to the jurisdiction), and then must make his challenge application within 14 days of filing that acknowledgement. In fact, he filed his acknowledgement of service, *and* a notice of application to extend the 14-day deadline, on 9 December 2024. The 14 days expired on 23 December 2024, so his application to extend time is an "in-time" application.

51. His notice of application to challenge the jurisdiction is dated 24 January 2025, about a month out of time. If Iftikhar was validly served with the proceedings in 2021, then the time for acknowledging service has long expired, and he needs an extension of time to 9 December 2024 for filing the acknowledgement of service, as well as an extension of time for filing the challenge application. If on the other hand Iftikhar was not validly served with the proceedings in 2021, then time for filing an acknowledgement of service never started running, and so cannot have expired, and thus he needs no extension of time for that. But he still needs an extension of time for filing the challenge application.

Iftikhar's application of 6 May 2025

52. However, before I can deal with these matters, I need to deal with Iftikhar's application dated 6 May 2025 for an order lifting any automatic stay of the 2019 English Partnership Claim that may have been imposed by CPR rule 15.11. That rule provides as follows:

> "(1) Where—
>
> > (a) at least 6 months have expired since the end of the period for filing a defence specified in rule 15.4;
> >
> > (b) no defendant has served or filed an admission or filed a defence or counterclaim; and
> >
> > (c) no party has entered or applied for judgment under Part 12 (default judgment), or Part 24 (summary judgment); and
> >
> > (d) no defendant has applied to strike out all or part of the claim form was form or particulars of claim,
>
> the claim shall be stayed.

> (2) Any party may apply under Part 23 for the stay to be lifted. The application must include an explanation for the delay in proceeding with or responding to the claim."

53. This rule will impose a stay only if the English court has jurisdiction over Iftikhar in relation to the 2019 English Partnership Claim, so that he would be obliged to serve a defence, but has not done so, and Vaqar has not applied for judgment in default. Vaqar has in fact now applied for judgment in default, by notice dated 30 December 2024 (though that application was not listed before me). But, if a stay had by that date been imposed by the rule, the making of such an application would not of itself reverse it. An application specifically to lift the stay would be needed.

54. In the present case, Iftikhar has applied for any stay that may have been imposed to be lifted, in order for him to make his other applications. He has explained in the evidence that he did not know about the purported service upon him and therefore was not aware that he had any obligation to respond. I have not yet reached the point in my judgment where I deal with the question whether the English court does have such jurisdiction over Iftikhar. But logically I should deal with this matter now. In my judgment it is sensible to lift any stay that may have been imposed, in order that the other matters before me can be dealt with.

Was Iftikhar served with the 2019 English Partnership Claim?

Service out of the jurisdiction

55. I now turn to consider the question whether Iftikhar was ever validly served with the 2019 English Partnership Claim. The first, and most important, part of this question is whether or not Iftikhar was in fact served with the proceedings out of the jurisdiction, at his home address in Lahore on 27 August 2021. The evidence on this point on behalf of Vaqar is as follows. In his witness statement of 6 January 2025, supported by a statement of truth, Vaqar says:

> "4. Iftikhar has been aware of the proceedings under BL-2019-001900 since 2019. The Claimant obtained an order for out-of-jurisdiction service on 28 September 2020, pursuant to CPR Part 6, from Deputy Master Hansen, permitting service on Iftikhar at 11C Shami Road, Lahore Cantonment, Pakistan.
>
> 5. The relevant documents were posted on 29 July 2021 by the Foreign Process Section and successfully served on 27 August 2021, as confirmed in the Fourth Witness Statement of Prakash Patel. This service was executed in compliance with the court's directions, and proof of delivery has been filed with the court."

56. The Fourth Witness Statement of Prakash Patel is dated 13 April 2022. Mr Patel was and is a solicitor and partner in the firm of solicitors then acting for Vaqar. The witness statement was made in support of Vaqar's application of August 2021 for an extension of time for service of the claim form. The

witness statement was not however seen by Iftikhar until much later, after the decision of the Court of Appeal in December 2024. This witness statement is supported by a statement of truth, and contains the following:

> "13. We have since received confirmation that the documents were delivered to the First and Second Defendants on 27 August 2021. I refer to the proof of delivery and post receipt, as well as the application notices that set out the relevant addresses for the Defendants at pages 3 to 9 of PP4. I also refer to my trainee solicitor's, Sophie Angus, recent email to the Foreign Process Section on 7 April 2022 providing proof of delivery and thereby discharging the undertakings provided to the Foreign Process Section (PP4 page 10)."

Of course, Mr Patel is not giving first hand evidence of things that he has done or seen. He is relying on the documents provided by UK Royal Mail, which in turn rely on what has been reported by others in Pakistan.

57. A "post receipt" and two "proofs of delivery" are exhibited to the statement. They are all documents apparently issued by Royal Mail. The post receipt is set out below

CERTIFICATE OF POSTING

Cubitt Town
15 Castalia Square
London
Greater London
E14 3PQ

Posting date: 29/07/2021 10:02
Session ID: 1-412509
After last acceptance time? N

Destination Country Pakistan
Address Validated? N
4 X Int Sign Large Letter @ £10.50
Weight 0.114 kg
Conditions Accepted? Y

Reference number
RZ314260423GB
Building Name or Number Postcode
SUITE 15 FLOOR 4 80 W -

Reference number
RZ314260658GB
Building Name or Number Postcode
74/4B TARIQ ROAD LAHO -

Reference number
RZ314260661GB
Building Name or Number Postcode
HOUSE NO 11 C SHAMI R -

Reference number
RZ314260445GB
Building Name or Number Postcode
HOUSE NO 20-B ZAFAR R -

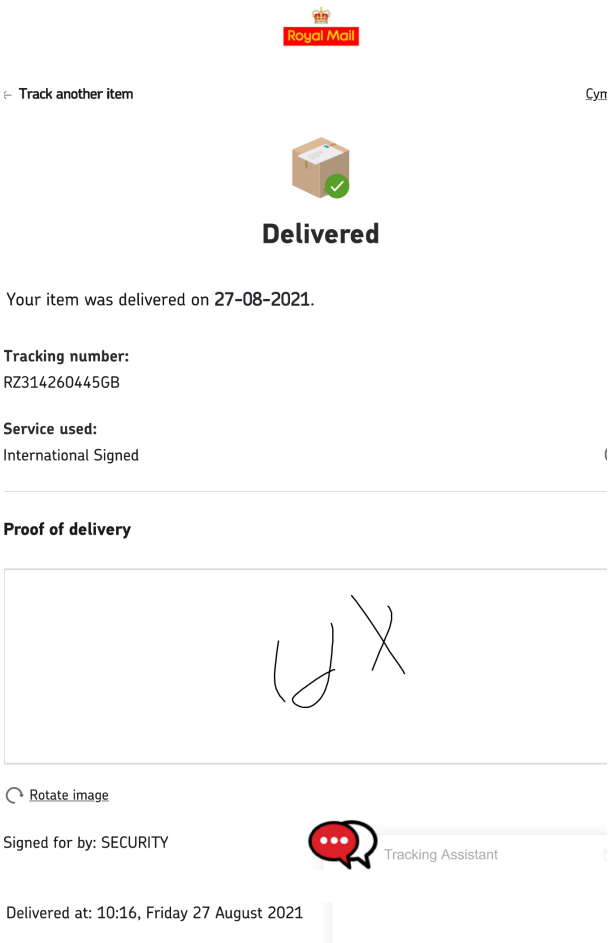
Tracked until it leaves the UK. Signature on delivery. Track it at royalmail.com.

PLEASE REFER TO SEPARATE TERMS AND CONDITIONS

For information about Royal Mail services, please visit www.royalmail.com

PLEASE RETAIN AS YOUR PROOF OF POSTING

58. The first proof of delivery is set out below:



59. The second proof of delivery is set out below:

60. It will be seen that the first proof of delivery relates to item no RZ314260445GB, and the second to item no RZ314260661GB. The post receipt shows that RZ314260445GB was the item addressed to 20B Zafar Road, Lahore, and that RZ314260661GB was the item addressed to 11C Shami Road, Lahore. What is striking is that both items are said to have been

delivered at exactly the same time, 10:16 on 27 August 2021, and each signed for by a person with a signature that is identical to the other, and whose name is given in both cases as "SECURITY". The evidence of Iftikhar before me (unchallenged on this point) was that the two addresses are in fact some 2 km apart. (For completeness, I mention here that it is accepted by Vaqar that the proceedings were not served on the third and fourth defendants.)

61. The evidence on this point on behalf of Iftikhar is as follows. In the application notice dated 9 December 2024, Adam Polonsky, Iftikhar's solicitor, says (in box 10 of the notice):

> "15. I am told by Iftikhar that he has not received the 2019 Partnership Action at No. 11C, Shami Road. He does not accept that it was posted to that address, or that he has been served … "

This statement is supported by a statement of truth.

62. In Iftikhar's own witness statement dated 23 January 2025, which is also supported by a statement of truth, he says this:

> "6. It is said by Vaqar that I have been served with the Claim Form in these proceedings however I confirm that neither the Claim Form nor any other document or order relating to the proceedings has never been served on me at No. 11C, Shami Road, Lahore Cantonment, Lahore, Pakistan, or at all.
>
> 7. At the time in question (on 27 August 2021) I was not in Lahore but was residing in Islamabad and the northern areas of Khyber Pakhtunkhwa, Pakistan overseeing the construction of a property belonging to my wife. At page 1, I attach a copy of a registration card for the Richmond Boutique Hotel in Nathia Gali (northern Pakistan) which shows that I was a guest of the hotel between 24 August 2021 and 26 August 2021. After leaving Nathia Gali on 26 August 2021, I returned via Changla Gali to Islamabad where I remained until 8 September 2021, save for a further short visit to Changla Gali.
>
> 8. At page 2, I attach a copy of a courier receipt dated 28 August 2021 which shows a document sent to me in Islamabad (ISB) from Sarwar Road in Lahore (LHR).
>
> 9. At pages 3-4, I attach a copy of an online bank statement from my bank, Meezan Bank Limited, which evidences debit card transactions from my time in northern Pakistan:
>
> > 9.1 On 25 August 2021 a transaction at the Alpine Hotel & Resort in Nathia Gali in the amount of PKR 4,800;
> >
> > 9.2 On 26 August 2021 a transaction at the Hummingbird Resort & Hotel in Changla Gali (northern Pakistan) in the amount of PKR 1,500;

> 9.3 On 26 August 2021 a transaction at Hatim supermarket in Islamabad in the amount of PKR 9,941;
>
> 9.4 On 26 August 2021 a cash withdrawal from Jinnah Super Branch in Islamabad in the amount of PKR 25,000;
>
> 9.5 On 30 August 2021 a cash withdrawal from Jinnah Super Branch in Islamabad in the amount of PKR 39,500;
>
> 9.6 On 30 August 2021 a transaction at Capri petrol station in Islamabad in the amount of PKR 3,200;
>
> 9.7 On 31 August 2021 a transaction at Capri petrol station in Islamabad in the amount of PKR 2,530;
>
> 9.8 On 2 September 2021 a transaction at the Hummingbird Resort & Hotel in Changla Gali in the amount of PKR 10,867;
>
> 9.9 On 4 September 2021 a cash withdrawal from Jinnah Super Branch in Islamabad in the amount of PKR 23,500;
>
> 9.10 On 6 September 2021 a cash withdrawal from Jinnah Super Branch in Islamabad in the amount of PKR 29,000.
>
> 10. I returned to No. 11C, Shami Road, Lahore Cantonment, Lahore, Pakistan on 8 September 2021. Had any documents been delivered there while I was away I would have been told and they would have been handed to me. No Claim Form or Particulars of Claim from Vaqar were there on my return.
>
> 11. I see that exhibited to Mr Patel's Fourth Witness Statement dated 13 April 2022, there is a copy of a "*proof of delivery*" which purports to demonstrate that something was delivered to my address in Lahore (No. 11C Shami Road, Lahore) on 27 August 2021 at 10:16 and signed for by "*Security*".
>
> 12. My gatekeeper, who would never identify himself as 'Security', has confirmed that the signature evidenced in the proof of delivery is not his signature. He has also confirmed that so far as he is aware no documents from England have ever been delivered to my property.
>
> 13. Moreover, it has been drawn to my attention that the proof of delivery relating to the alleged service of the Claim Form at my property is in all respects identical to that relating to the alleged service of the Claim Form on my brother Sarfraz at No. 20-B Zafar Road, Lahore (bearing the same signature and time). The two addresses are completely unconnected (being approximately 2 km apart) and do not share common security."

63. There is a question as to what is the standard of proof involved in resolving this issue. I am not now concerned with the test to be applied by a judge in considering whether to give permission to serve out of the jurisdiction. In such a case the judge will take into account whether jurisdiction has been

established under one of the gateways in CPR PD 6B, but also the apparent merits of the claim itself. As to the latter, the test is whether there is a serious question to be tried, that is, a real (as opposed to unreal) prospect of success: *Seaconsar Far East Ltd v Bank Markazi Jomhouri Islami Iran* [1994] 1 AC 438, HL. In effect this is the same test as for resisting an application for summary judgment. As to the former, the applicant must show a good arguable case, or, as it has been put, much the better argument on the material available: *Canada Trust Co v Stolzenberg* [2002] 1 AC 1, HL; *Brownlie v Four Seasons Holdings Inc* [2018] 1 WLR 192, SC. This is a higher standard than a serious question to be tried.

64. But it is not necessary to demonstrate *more* than a good arguable case, and in particular not the balance of probabilities. As Lord Steyn said in *Stolzenberg* (at 13G-H),

> "The adoption of such a test [*ie* the balance of probabilities] would sometimes require the trial of an issue or at least cross-examination of deponents to affidavits. It would involve great expense and delay. While it is true that the jurisdictional issues under the Conventions are very important, they ought generally to be decided with due despatch without hearing oral evidence."

And it would generally be unwise for a court addressing purely jurisdictional issues to delve too deeply into matters that will be the subject of pleading, disclosure, evidence and cross-examination at trial. So, a test such as serious question to be tried, or good arguable case (the better of the argument) is appropriate.

65. But what I am concerned with here is whether, permission having been given to serve out, that service *has in fact taken place*. This is a purely factual inquiry, analogous to that which is made when the judge considers (after the event) whether personal service has been properly effected on a defendant within the jurisdiction. In *Tseitline v Mikhelson* [2015] EWHC 3065 (Comm), Phillips J (as he then was) referred to this distinction, when he said:

> "37. However, the present case does not arise in the context of an application to serve a party out of the jurisdiction, but is a simple question of whether personal service was effected in the jurisdiction under domestic rules of service."

66. Nevertheless, he recorded (at [35]) that it was

> "common ground that it is for Mr Tseitline to demonstrate a good arguable case that service was effected on Mr Mikhelson,"

although, because there was a video recording available of what had happened,

> "38. … the parties were agreed that the precise formulation of the standard of proof was unlikely to be of significance in the present case".

67. In *Gorbachev v Guriev* [2019] EWHC 2684 (Comm), HHJ Pearce (sitting as a High Court judge) also said that

> "27. The relevant law on the personal service of a claim form can be summarised as follows:
>
> […]
>
> (ix) The burden is on the Claimant to show a good arguable case that service was effected on the Defendant - see for example *Tseitline*."

68. I confess to having doubts about this. The merits of the case (and indeed whether it falls within a gateway) will be issues in the case, and addressed at the trial. So, there is a good reason they should not be pre-empted at the jurisdictional stage on necessarily limited material. On the other hand, the actual *fact* of service will not be such an issue. So, if the defendant says "I was not served", one might have thought that it should be dealt with like any interlocutory issue of fact, even if witnesses giving evidence in writing are not normally cross-examined on their statements. After all, the High Court has jurisdiction to order disclosure of documents in order to determine a question of jurisdiction, such as whether a defendant was domiciled in England at a particular time, even though it will exercise such jurisdiction only rarely: *Rome v Punjab National Bank* [1989] 2 All ER 136; *Canada Trust Co v Stolzenberg* [1997] 1 WLR 1582, CA.

69. Nevertheless, two judges sitting at first instance have reached the same view and I merely have doubts about that view. In any event, I do not think it makes any difference in the present case. So, I will proceed on the basis that the question of the fact of service is to be determined by asking whether Vaqar has the better of the argument on the material available.

70. As I have said, there was no cross-examination of witnesses before me. Accordingly, I cannot *disbelieve* the evidence contained in the witness statements, unless I consider that it was manifestly incredible in light of all the circumstances. Of course, witnesses can be honestly mistaken, and may believe something which is in fact untrue. But I do not think that it is possible for Iftikhar to be honestly mistaken about his own movements in late August and early September 2021, especially when he has produced supporting documents, nor about whether he received any documents on his return to Lahore. He must know that, one way or the other. Nor do I think that his evidence was "manifestly incredible".

71. But Vaqar's case depends on Mr Patel, and he is in a different position. I have no doubt that he, a senior solicitor, is telling the court what he honestly believes to be the truth. However, he is giving no first hand evidence at all. He does not know what happened in Lahore. He is entirely dependent on what (unidentified) others in Pakistan have told Royal Mail, and what Royal Mail have told him. It is all third hand. He could easily be honestly mistaken in asserting that Iftikhar was in fact served. On the material before me, and taking into account not only Iftikhar's coherent and detailed evidence, but also

the striking features of the two proofs of delivery (coincidence in both delivery time and recipient signature), I conclude that Iftikhar, not Vaqar, has the better of the argument. So Vaqar has not established the jurisdiction of the English court over Iftikhar. By parity of reasoning, although he is not a party, the same is true in relation to service on his brother Sarfraz.

Should the court set aside the permission to serve out?

72. Even if I were wrong about this, and the proceedings were served on Iftikhar (and Sarfraz) in Pakistan, a further question would arise, and that is whether Vaqar can retain the benefit of that service when he has not complied with the procedural requirements attaching to orders obtained *ex parte* granting permission to serve out of the jurisdiction. I set out these procedural requirements earlier. They arise both from statutory rules, such as CPR rule 23.9, and case law such as *Interoute Telecommunications (UK) Ltd. v Fashion Gossip Ltd*, *The Times*, 10 November 1999, and *Cinpres Gas Injection Ltd v Melea Ltd* [2006] FSR 36. The case law makes clear how important it is that these rules are observed.

73. It is clear from the emails passing between Iftikhar's solicitors and Vaqar's solicitors in December 2024, and then between Iftikhar's solicitors and Vaqar in January 2025 that Vaqar has not complied with these requirements. Moreover, Vaqar was represented by solicitors until January 2025 and therefore presumably was advised of his obligations in this regard. His outright refusal to comply is accordingly all the more serious.

74. CPR rule 3.1(7) provides that

> "A power of the court under these Rules to make an order includes a power to vary or revoke the order."

And CPR rule 11(6) (already set out above) relevantly provides that

> "An order containing a declaration that the court has no jurisdiction or will not exercise its jurisdiction may also make further provision including –
>
> […]
>
> (c) discharging any order made before the claim was commenced or before the claim form was served … "

75. In my judgment, Vaqar's failure to comply with the procedural requirements is so blatant and so serious that, if I had held that Iftikhar had been served at his home in Lahore pursuant to the permission to serve out of the jurisdiction granted by the Deputy Master, I would have set aside that order granting permission. The result, once again, would have been that Iftikhar could not have been validly served in accordance with the procedural rules.

Other arguments for service on Iftikhar

76. The next question is whether there is any other argument for saying that Iftikhar has been served with the 2019 English Partnership Claim. In fact, Vaqar puts forward two other arguments. One is that he provided the claim form to Iftikhar in October 2019, during a hearing in the county court possession proceedings. What happened was that Vaqar in his oral submissions to the court sought to rely on a copy of the claim that he had just issued (that is, the 2019 English Partnership Claim). Unremarkably, the judge insisted that, before making his submissions based on that document, he first provide a copy to counsel for Iftikhar. As the judge said, "one of the rules we have is openness and fairness".

77. Vaqar was not thereby intending to serve the proceedings. Indeed, in the hearing up until then he had not in any way attempted to give or even show a copy to Iftikhar's legal team. The only reason he handed the copy over at all was *because the judge told him to*, so that he would then be able to address the judge on what the document said. And he said he had already sent off the proceedings to Iftikhar's homes address in Pakistan. Moreover, there is old authority that serving process in the sight of the court is a contempt of court, even if it does not involve the arrest of a party: *Cole v Hawkins* (1738) And 275, 2 Str 1094. The court should therefore lean against supposing that Vaqar intended to serve process actually in court. And I do. In my judgment what Vaqar did on this occasion was not intended, and did not amount, to service of proceedings.

78. The other argument that Vaqar advances is that, by opposing his application to transfer the 2018 Possession Claim to the High Court, to be heard with the 2019 English Partnership Claim, Iftikhar has somehow been served with those proceedings, or at any rate cannot now say that he has not been served. The argument appears to be that, when Iftikhar by his lawyers took part in the hearing, they did so *in the application in the 2019 English Partnership Claim* and not in the application in the 2018 Possession Claim.

79. However, this is denied by Iftikhar's contemporaneous skeleton argument, prepared by his counsel for that hearing:

> "This skeleton is served in respect of D2-4's application by notice dated 14 October 2019 with claim number BL-2019-001921 only. Mr Iftikhar Malik has not been served with the High Court Proceedings with claim number BL-2019-001900, nor D2-4's application by notice dated 4 December 2019 in those proceedings, and has not instructed any lawyers to act on his behalf or to accept service of them. Mr Iftikhar Malik reserves the right to challenge the jurisdiction of the English Court to hear or determine the proceedings numbered BL-2019-001900 if and when he is served with them."

80. And it is confirmed by the opening statement in Vaqar's own skeleton argument for the same hearing, prepared by his counsel, that

> "1. Iftikhar's representatives appear at this hearing by reason of the order of Mann J 6 Dec-19 [a direction that the two applications be heard together]. Those representatives have not been instructed to accept service

> in relation to claim number BL-2019-001900, and do not appear in relation to that application".

81. In the light of these clear statements, from both sides, Vaqar's argument is opportunistic. Moreover, like the other arguments, it is feeble, and goes nowhere. It is no basis for supposing that Iftikhar has been served. It is not even a basis for submitting that Iftikhar is in some way estopped from denying that he has been served, even though that had not happened. As a result, I am satisfied that Iftikhar has not, and should not be treated as if he had, been served.

82. I record that Vaqar has, very belatedly, on 25 July 2025, applied for a further extension of time in which to serve the proceedings on Iftikhar. But this application came much too late to be listed before me on 29 July 2025, and it was not included in the hearing bundle. Consequently, I have not had to deal with it in this judgment. Accordingly, the position I have reached is that, as a matter of law, the court has no jurisdiction over Iftikhar in relation to the 2019 English Partnership Claim.

Declaration

83. But, in order for the court so to declare, Iftikhar must make an application under CPR Part 11. As already noted, on the basis that he has never been served, Iftikhar does not require an extension of time for acknowledging service, but he does require an extension to file his challenge application. This is the subject matter of Iftikhar's application of 9 December 2024. Since he gave notice of application to extend the 14 day deadline before that deadline expired, there is no need for him to apply for relief from sanctions. In *Jalla v Shell International Trading & Shipping Co Ltd* [2021] EWCA Civ 1559, Coulson LJ (with whom Edis LJ agreed) said, of an "in-time" application:

> "29. The court will grant a reasonable extension if it does not impact on hearing dates or otherwise disrupt proceedings: see *Vneshprombank LLC v Georgy Bedzhamov* [2019] EWHC 1430 (Ch), citing *Hallam Estates v Baker* (2014) 4 Costs LR at 26."

84. At the time of filing the acknowledgement of service and the notice of application to extend time for a challenge to jurisdiction, Iftikhar did not know what documents Vaqar was supposed to have served on him, or the basis on which permission to serve out of the jurisdiction was obtained. In my judgment it was quite reasonable for Iftikhar to seek an extension of time in order to obtain the relevant documents. His solicitors sought those documents from 10 December 2024, but in fact they were never provided, Vaqar's outright refusal coming only on 15 January 2025. An extension of about a month to 24 January 2025 would not impact on any hearing dates or otherwise disrupt proceedings. In my judgment, such an extension of time should be given. Accordingly, the challenge application was properly made within time as extended, and the court can accordingly declare that it has no jurisdiction over Iftikhar in relation to the 2019 English Partnership Claim. Since the claim form has expired without having been served on Iftikhar and his siblings, it can go nowhere.

Forum non conveniens

85. But, if I were wrong about service on Iftikhar, and the court somehow did have jurisdiction over him, that does not mean that the court is obliged to exercise it. The court may decline to exercise jurisdiction on the basis that England is not the appropriate forum for the dispute (known as "*forum non conveniens*"). In *Vauxhall Motors Limited v Denso Automotive UK Ltd* [2025] EWHC 213 (Ch), Bacon J summarised the principles of this doctrine. I reproduce below only the paragraphs of her summary relevant to this case:

> "49. The *forum conveniens* principles set out in the well-known judgment of Lord Goff in *Spiliada Maritime Corp v Cansulex (The Spiliada)* [1987] AC 460 apply both to the question of whether to permit service outside the jurisdiction in relation to service-out defendants, and whether to decline jurisdiction in relation to service-in defendants. Those principles have been the subject of considerable further commentary in more recent case-law. For present purposes the relevant principles can be summarised as follows:
>
> > i) In service-in cases, the burden is on the defendant to show that England and Wales is not the natural or appropriate forum for the trial, and that there is another available forum which is clearly or distinctly more appropriate, or which in other words is the "natural forum" for the trial of the action. If the court is satisfied that there is another available forum which is *prima facie* the appropriate forum, the burden shifts to the claimant to show that there are special circumstances by reason of which justice requires that the trial should nevertheless take place in this country: *Spiliada* pp. 476–478.
> >
> > ii) In service-out cases, the burden is on the claimant to show that England and Wales is clearly or distinctly the most appropriate forum. It is not sufficient to show that it is one of several equally suitable available fora: *Gulfvin Investment v Tahrir Petrochemicals* [2022] EWHC 1040 (Comm), [2022] 4 WLR 66, §§18–22.
> >
> > iii) Where there are multiple defendants, some of which have been served without the need for permission and some with permission, the court is in essence looking for a single jurisdiction in which the claims against all the defendants may, as a whole, most suitably be tried: *Lungowe v Vedanta Resources* [2019] UKSC 20, [2020] AC 1045, §68; *Mercedes-Benz v Continental Teves* [2023] EWHC 1143 (Comm), [2023] 5 CMLR 21, §22.
> >
> > iv) In seeking to establish the appropriate forum for the litigation, the court should consider the forum with which the action has 'the most real and substantial connection': *Spiliada* p. 478; *Lungowe* §66.

> v) Relevant factors will include the location of witnesses and documents, and their language, consideration of the places where the parties reside or carry on business, the place where the wrongful act or omission occurred, and the place where the harm occurred: *Spiliada* p. 478; *Lungowe* §66.
>
> vi) It is generally preferable, other things being equal, that a case should be tried in the country whose law applies. That factor carries particular force if issues of law are likely to be important and there is evidence of relevant differences in the legal principles between the different competing fora: *VTB Capital v Nutritek,* [2013] UKSC 5, §46.
>
> […]
>
> ix) In considering whether there are special circumstances requiring a stay not to be granted notwithstanding the conclusion that another forum is *prima facie* more appropriate, one factor may be cogent evidence establishing that the claimant will not obtain justice in the foreign jurisdiction: *Spiliada* p. 478.
>
> x) Procedural differences such as differences in disclosure rules in different jurisdictions are, however, generally not reasons making it unjust to stay proceedings in this jurisdiction: *Spiliada* pp. 482–483.
>
> xi) If a claimant would be out of time in the foreign jurisdiction, and did not act unreasonably by failing to issue protective proceedings in that forum, that does not render the foreign jurisdiction "unavailable", but may be a reason why it would be unjust to stay the domestic proceedings. It will be relevant to consider the claimant's awareness of the time-bar and the explanation for its failure to issue protective proceedings: see *Spiliada* pp. 483–484; *Citi-March v Neptune Orient Lines* [1996] 1 WLR 1367, p. 1374. If the claimant has acted reasonably in commencing proceedings in England and Wales, and in allowing time to expire in the relevant foreign jurisdiction, a stay (or set-aside of service) should only be granted on terms the defendant waives the time-bar in the foreign jurisdiction, assuming it can do so: *Baghlaf Al Safer v Pakistan National Shipping* [1998] CLC 716, p. 727; and see also *Spiliada* p. 484."

86. Because this doctrine arises only if the court has jurisdiction over Iftikhar, the factual hypothesis on which I discuss it must be (contrary to my holding) that he was validly served in 2021. In that case, he would need an extension of time in which to make a jurisdiction challenge *and* in which to acknowledge service. This would also require relief from sanction under CPR rule 3.9. That rule relevantly provides:

> "(1) On an application for relief from any sanction imposed for a failure to comply with any rule, practice direction or court order, the

> court will consider all the circumstances of the case, so as to enable it to deal justly with the application, including the need –
>
> (a) for litigation to be conducted efficiently and at proportionate cost; and
>
> (b) to enforce compliance with rules, practice directions and orders."

87. In *Denton v TH White Ltd* [2014] 1 WLR 3926, the Court of Appeal laid down a three-stage test for granting relief from sanction:

> "24. … A judge should address an application for relief from sanctions in three stages. The first stage is to identify and assess the seriousness and significance of the "failure to comply with any rule, practice direction or court order" which engages rule 3.9(1). If the breach is neither serious nor significant, the court is unlikely to need to spend much time on the second and third stages. The second stage is to consider why the default occurred. The third stage is to evaluate "all the circumstances of the case, so as to enable [the court] to deal justly with the application including [factors (a) and (b)]".

88. Looking at the first stage, the delay is on any view lengthy and therefore serious. However, in my judgment it is not significant, because Vaqar has not sought to advance the proceedings in that time. For his own reasons, he has concentrated on defending the possession proceedings, and only now that they have failed has he turned back to the Partnership Proceedings. The failure to acknowledge service has had no impact. At the second stage, the reason for the failure to acknowledge service is because Iftikhar did not know, until December 2024, that Vaqar claimed to have served him in 2021. Once Iftikhar knew of this, he promptly filed an acknowledgement of service. Vaqar did not inform Iftikhar of his efforts to serve him in Pakistan, and therefore has only himself to blame for what has happened. At the third stage, and consideration of all the surrounding circumstances, it is clear to me that relief from sanction should be granted.

89. I therefore turn now to the application of the doctrine of *forum non conveniens* to the facts of this case. The important issues in the 2019 English Partnership Claim are first of all whether or not there was a partnership between him and members of his family, and if there were, their respective rights in relation to partnership assets. Pakistan is or was the centre of the alleged partnership, as stated by Vaqar himself in proceedings issued there in 2019. If there were a partnership, it would probably be governed by Pakistani law. Iftikhar and his siblings apart from Vaqar are resident in Pakistan. There are already related proceedings on foot in Pakistan. A partner has a claim to a share in the residue of partnership assets on a winding up: *Popat v Shonchhatra* [1997] 1 WLR 1367, 1372, CA. A claim as a member of a partnership does not give rise to a claim to a particular partnership asset or a share in a particular partnership asset, such as the flat in issue in the Possession Proceedings (even had it been proved to be a partnership asset).

90. In the circumstances, it is clear to me that England, although a *possible* forum, is not "clearly or distinctly the most appropriate forum". The jurisdiction with which this partnership claim has "the most real and substantial connection" is Pakistan. If the partnership were established, the claim would have to take account of partnership property situated in Pakistan. Most of the partnership records would no doubt be found there. The most appropriate forum is obviously Pakistan. There is no evidence demonstrating special circumstances such as an inability to obtain justice in Pakistan. Indeed, Vaqar has himself already chosen to litigate there. Nor is there any evidence of any injustice that might be caused by the imposition of time bars or other procedural problems. In my judgment, if the English court *did* have jurisdiction over Iftikhar in relation to the 2019 English Partnership Claim, it would nevertheless be inappropriate to exercise it, and therefore the court should stay the claim.

Strike-out/reverse summary judgment

91. Iftikhar's application of 24 January 2025 was mainly concerned to challenge jurisdiction, but, if that challenge failed, then there is an alternative application to strike out the claim or for reverse summary judgment on it. I have held that the jurisdiction challenge succeeds, but I will go on to consider the remainder of the application on the counterfactual basis that it fails. The 2019 English Partnership Claim concerns Vaqar's claims to (i) the flat, and (ii) other assets.

92. As to the first of these claims, it is founded on allegations of a partnership (raised as long ago as 1987) between Vaqar, his parents and his siblings, which partnership is said to have funded the purchase of the flat for the benefit of Vaqar and which is accordingly held on trust for him. These allegations of partnership have not so far been tried in England, nor (so far as I know) anywhere else.

93. However that may be, the 2019 English Partnership Claim cannot now deal with Iftikhar's right to possess the flat, the provenance of the money that was used to buy it, any claim that it was bought for Vaqar's benefit, or that it is held on trust for him. These are issues which have been determined in the Possession Proceedings, and Vaqar is estopped from raising them against Iftikhar in the future. The kind of estoppel concerned is (a) cause of action estoppel in relation to Iftikhar's right to possess the flat, and (b) issue estoppel in relation to the allegations that the flat was bought with family money for Vaqar's benefit, and that Vaqar, rather than Iftikhar, is the beneficial owner: see *Virgin Atlantic Airways Ltd v Zodiac Seats UK Ltd* [2014] AC 60, [17], [22].

94. Vaqar has three arguments in relation to cause of action estoppel. First, he says that the cause of action is now different. In my judgment this is not so. The means by which the cause of action *arises* may be different, but the cause of action itself, that is, relying on a right to possess the flat, is exactly the same. It was up to Vaqar, when sued for possession, to raise the partnership argument as a reason why Iftikhar did not have the right to possess it: see *Henderson v Henderson* (1843) 3 Hare 100. But he did not do this. Instead, he pleaded that the flat had been bought for, and belonged beneficially to, him, or alternatively that he was entitled to it by adverse possession. Secondly, Vaqar

says that the parties to the different proceedings are different. However, as long as Vaqar and Iftikhar were parties to the decision in question, it is irrelevant that other persons were also parties. The earlier decision is binding in the later case as between Vaqar and Iftikhar. Thirdly, Vaqar says that the partnership claim has not been determined. This is true, but irrelevant.

95. Vaqar's claims to assets other than the flat are to (i) contractual rights arising before 2010, (ii) a share in the inheritance to his mother's interest in the partnership, and (iii) a share in the inheritance to his father's interest in the partnership. So far as (i) and (ii) are concerned, even if he had such rights, all such assets will have vested in Vaqar's trustee in bankruptcy under the Insolvency Act 1986, section 306, when he was declared bankrupt in 2010. This means he no longer has any title to such assets and cannot sue in respect of them: see *Heath v Tang* [1993] 1 WLR 1421, 1423C, per Hoffmann LJ. Moreover, they did not revert to him on his discharge from bankruptcy: *Re Oraki* [2019] EWHC 1515 (Ch), [8].

96. So far as (iii) is concerned (and also (ii) if they had not vested in the trustee in bankruptcy) all such assets, even if under Pakistani law they would vest in heirs directly (for example under Sharia law), can be the subject of litigation in England only if there is a properly constituted personal representative of the deceased father before the English court. In *Viegas v Cutrale* [2025] 1 WLR 267, Newey LJ (with whom Lewis and Nugee LJJ agreed) said:

> "141. I agree with [the judge] that the heirs cannot pursue their claims in the absence of grants of representation in this jurisdiction and further consider that she was entitled to conclude that the appropriate course was to strike out such claims rather than giving the heirs a further opportunity to apply for letters of administration and to make applications under CPR 17.4(4)."

97. Accordingly, Vaqar has no title to make any claim in respect of (i) and (ii), and, even if he is an heir of his father under Pakistani law, has no grant of representation under English law, and therefore no standing to make any claim before the English court in respect of (ii) and (iii). The claims in respect of those assets are an abuse of process and must also be struck out.

98. It is also clear that the 2019 English Partnership Claim was effectively "warehoused". In *Asturion Foundation v Alibrahim* [2020] 1 WLR 1627, Arnold LJ (with whom the Senior President of Tribunals and Leggatt LJ agreed) said:

> "61. In my judgment, the decisions in *Grovit*, *Arbuthnot*, *Realkredit* and *Braunstein* show that a unilateral decision by a claimant not to pursue its claim for a substantial period of time, while maintaining an intention to pursue it at a later juncture, may well constitute an abuse of process, but does not necessarily do so. It depends on the reason why the claimant decided to put the proceedings on hold, and on the strength of that reason, objectively considered, having regard to the length of the period in question. A claimant who wishes to obtain a stay of proceedings for a period of time should seek the defendant's consent or, failing that, apply to

> the court; but it is not the law that a failure to obtain the consent of the other party or the approval of the court to putting the claim on hold automatically renders the claimant's conduct abusive no matter how good its reason may be or the length of the delay."

99. The 2019 Partnership Claim was launched by Vaqar at a time when he was defending the 2018 Possession Proceedings, and was intended to cover much the same issues. But it was then left in abeyance, rather than prosecuted, until Vaqar found it convenient to resuscitate it. I have no doubt, on the facts of the present case, that this warehousing of the 2019 English Partnership Claim was an abuse of the process fully justifying its being struck out.

The remaining applications

100. I have now dealt with the first two and the last of the five applications listed before me. The third, Vaqar's application dated 26 January 2025 for a stay of the second application pending the decision in the first, is no longer effective, in light of my determination of the first two applications. The only application left is the fourth, Vaqar's application dated 11 March 2025 in the 1987 English Partnership Action. This seeks an order lifting the automatic stay of that action imposed by CPR PD 51A, paragraph 19(1).

101. There are a number of problems with this application. The first is that Vaqar has no standing to make it. The 1987 claim concerns rights which he says he enjoyed prior to 2010, when he became bankrupt. But his bankruptcy means that any such rights would have vested in his trustee in bankruptcy, and he no longer has them. The second problem is that the 1987 claim is no longer properly constituted, since two of the defendants (Vaqar's parents Bilal and Taj) are dead, and Vaqar has made no proposal as to how it should be properly constituted for the future.

102. Thirdly, the 1987 claim cannot now deal with Iftikhar's right to possess the flat, the provenance of the money that was used to buy it, any claim that it was bought for Vaqar's benefit, or that it is held on trust for him. These are issues which have been determined in the Possession Proceedings, and Vaqar is estopped from raising them against Iftikhar in the future. To the extent that lifting the stay is intended to facilitate the litigation of those issues in the 1987 claim, it is accordingly pointless. Fourthly, there have been no active steps taken in these proceedings since 1988, except the attempt by Iftikhar to lift the stay in 2011 and 2012, *which Vaqar successfully resisted*. In the interim, important witnesses such as Bilal and Taj have died, and documents may well have been lost.

103. In summary, the claim is not properly constituted, Vaqar is not entitled to make this application (which in any event seems to be purely tactical), he has ignored the claim for nearly 40 years, there is no benefit in acceding to it, and therefore I decline to do so. Vaqar's application of 26 January 2025 in the 1987 English Partnership Action is accordingly dismissed.

Conclusion

104. For the reasons given above,

(1) the application by notice dated 9 December 2024 is allowed, and time is extended as sought;

(2) the application by notice dated 24 January 2025 is allowed, and I will declare that the English court has no jurisdiction over Iftikhar in relation to the 2019 English Partnership Claim;

(3) the application by notice dated 26 January 2025 concerning the first two applications falls away and is not determined;

(4) the application by notice dated 26 January 2025 concerning the 1987 Action is dismissed;

(5) the application by notice dated 6 May 2025 is allowed, and the automatic stay is lifted to enable the first two applications to be made.

105. The result therefore is that (i) the claim form in the 2019 English Partnership Claim has never been served during its currency on Iftikhar and his siblings, and has now expired, and (ii) the 1987 English Partnership Action remains subject to stay. In effect, the Partnership Proceedings are at an end. I should be grateful to receive a minute of order, preferably agreed, giving effect to this judgment.