



Birbal v. Baha Mar Ltd. et al

2018 | Cited 0 times | E.D. New York | April 2, 2018

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

-----X TREAGAN BIRBAL, Plaintiff,

16-CV-2207 (SJ) (RLM) -against-

MEMORANDUM AND ORDER BAHAMAR LTD., Defendant.

-----X APPEARANCES DRUMMOND & CRAWFORD, PLLC 175-61 Hillside Avenue Suite 205 Jamaica, NY 11432 By: Joann Squillace Stephen L. Drummond Attorneys for Plaintiff Treagan Birbal MINTZER SAROWTIZ ZERIS LEDVA & MEYERS 17 West John Street Suite 100 Hicksville, NY 11801 By: Marc D. Sloane Attorneys for Defendant Baha Mar Ltd. JOHNSON, Senior District Judge:

motion to dismiss for lack of jurisdiction that was filed on October 31, 2016. (See

Dkt. Nos. 17, 18 & 19.) At issue is whether this Court is required to give comity to a litigation stay issued by a Bahamian court, barred. For the following reasons,

BACKGROUND On or about May 29, 2015, Plaintiff slipped and fell on an exterior stairway while he was a guest at the Melia Hotel in Nassau, Bahamas. In May and June 2015, Defendant, the owner of the Melia Hotel, filed bankruptcy petitions in the Bahamas and District of Delaware. The Bahamian court issued a litigation stay that prohibited the commencement of legal proceedings against Defendant without prior approval of the Bahamian court. (See Dkt. No. 17-2.) On September 15, 2015, the court in the Delaware action dismissed the chapter 11 petition as to the Bahamian companies in order to allow the Bahamian petition to proceed unhindered. See *In re Northshore Mainland Servs., Inc.*, 537 B.R. 192 (Bankr. D. Del. 2015). On May 3, 2016, Plaintiff filed the instant action seeking compensation and damages for injuries alleged negligence. (See Dkt. No. 1.) Plaintiff did not seek leave of the Bahamian court prior to the filing of this action. (See Dkt. No. 17.) On September 30, 2016, the Bahamian court issued a final order of liquidation and Defendant was dissolved. (See Dkt. No. 19-1.)

DISCUSSION The Second Circuit has frequently emphasized the importance of judicial deference to foreign bankruptcy proceedings so that the foreign proceedings are *Maxwell Com n Corp. v. Société Générale*, 93 F.3d 1036,

1048 (2d Cir.1996) (quotation and citation omitted). Where a foreign bankruptcy foreign proceedings



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are procedurally fair and . . . do not contravene the laws or

public policy of the United JP Morgan Chase Bank v. Altos Hornos de México, S.A. de C.V., 412 F.3d 418, 424 (2d Cir. 2005).

Here, the considerations of comity support enforcing the litigation stay in place in the Bahamian proceeding. Plaintiff has offered no evidence that the Bahamian proceeding was procedurally unfair or in contravention to the public policy of the United States. And, like the Delaware court, this Court finds that there is no evidence that the Bahamian laws that govern insolvency proceedings are procedurally unfair or contravene United States public policy. See *In re Northshore Mainland Servs., Inc.*, 537 B.R. at 207 08. 1

CONCLUSION in without merit. The Court of the Clerk is directed to enter judgment in accordance with this order and close this case.

SO ORDERED. Dated: March 28, 2018 _____/s/_____ Brooklyn, New York
Sterling Johnson, Jr. U.S.D.J.

1 Furthermore, the liquidation of Defendant was complete as of September 30, 2016, rendering this action moot. (See Dkt. No. 19-1.)

