

# Simon Hale succeeds in the Commercial Court on USD 32.2M Performance Bond Call

[Shapoorji Pallonji & Company Private Ltd v Yumn Ltd & Standard Chartered Bank](#) [2021] EWHC 862 (Comm)

**Simon Hale** has successfully resisted an injunction in the Commercial Court to restrain a USD 32.2M bond call pending ICC Emergency Arbitration proceedings, instructed by Fladgate LLP.

The underlying energy project is a USD 214M power station in Rwanda, East Africa.

The Contractor argued that a different test and lower threshold for interim injunctive relief should be applied by the High Court where the application was made under section 44 of the Arbitration Act 1996, in support of an ICC arbitration seated in Singapore (which would be the curial law).

The Commercial Court accepted that elements of the legal framework were different where the application was made in support of arbitration, as opposed to an application made under section 37 of the Supreme Courts Act. However, it dismissed the Contractor's application, upholding Simon's case that applying English law principles governing the enforcement of demand bonds, none of the exceptions justifying intervention had been made out.

Simon also acts on the parallel ICC Emergency Arbitration and full ICC Arbitration proceedings between the parties.