



Mr Justice Lam PJ:

1. The Plaintiff claimed by way of a representative action for and on behalf of itself and its current and former officers, employees and agents, including its legal representatives for relief against the Defendant based on the common law tort of harassment.

2. On 31 May 2023, Deputy High Court Judge H. Au-Yeung, as he then was (“the Judge”) determined under Order 14A of the Rules of the High Court, Cap 4A (“the RHC”) that the Plaintiff as a corporate entity could not pursue a claim for harassment and did not have the same interest as the persons whom it purported to represent (“the Representees”) under Order 15 Rule 12 (“the Points of Law”). The Judge dismissed the action.

3. On appeal, the Court of Appeal did not decide whether a corporate entity could pursue a claim for harassment. Instead it held that such a claim was reasonably arguable and that in any event the action and the interim injunctive relief could be maintained on the basis of what it called a “free-standing injunction” based on the principles discussed by the U.K. Supreme Court in *Wolverhampton City Council v London Gypsies and Travellers*<sup>1</sup>. It therefore held that the Points of Law should not be determined under Order 14A at this stage and the action should be restored.

4. The Defendant applied to this Court for leave to appeal against the decision of the Court of Appeal.

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<sup>1</sup> [2024] AC 983.

5.           Though the matter comes before us at an interlocutory stage, the issues raised are not confined to procedural ones. There is room for examining whether the Court of Appeal was correct in holding that the Plaintiff could maintain the action by pursuing a “free-standing injunction” even if it actually had no cause of action in respect of the tort of harassment. The holding of the Court of Appeal, if correct, arguably extends the power of the court to grant injunctive relief beyond the principles affirmed in *Wolverhampton City Council v London Gypsies and Travellers*. It is a point of great general or public importance as such extension could have ramifications for the grant of injunctive relief in other areas of law as well.

6.           The Points of Law determined by the Judge are questions of great general or public importance and this Court may usefully provide guidance on the development of the tort of harassment in light of the first instance judgments in this jurisdiction.

7.           We are satisfied that the result of the appeal would turn on the answers to these questions and those answers could make significant contributions to the just disposal of the litigation.

8.           We therefore grant leave to appeal on the following questions:

Question 1

Whether a “free-standing” injunction can be granted to a corporate plaintiff if it could not pursue a claim for the tort of harassment as a matter of law?

Question 2

Can a corporate entity bring an action on its own based on the common law tort of harassment?

Question 3

In a representative action commenced pursuant to Order 15 Rule 12 of the RHC for the common law tort of harassment, if the representative plaintiff is a corporate entity, does it have the “same interest” as the individual representees under Rule 12(1)?

9. The Defendant raised some other questions in her Form B. However, the procedure by which the Representees’ claim for damages are to be determined is a matter of case management and it is not appropriate for this Court to pre-empt the course taken by the lower courts in this appeal. If the Court of Appeal were correct in setting aside the determination of the Judge under Order 14A, it is not reasonably arguable that there would still be any issue on *res judicata*.

10. The appeal will be heard on 20 November 2025.

(M H Lam)  
Permanent Judge

(Kemal Bokhary)  
Non-Permanent Judge

(Patrick Chan)  
Non-Permanent Judge

Mr Lavesh Kirpalani, instructed by GPS Legal LLP, and Mr Sonny Payne,  
Solicitor Advocate of GPS Legal LLP, for the Applicant

Ms Queenie Lau SC and Mr Keith Chan, instructed by Simmons & Simmons, for  
the Respondent