



23 AUG 2019

Intended Action No 137 /2019

HCA / 2019

IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
ACTION NO _____ OF 2019

BETWEEN

MTR CORPORATION LIMITED

Plaintiff

and

PERSONS UNLAWFULLY AND WILFULLY
OBSTRUCTING OR INTERFERING WITH
THE PROPER USE AND OPERATION OF
THE RAILWAY AS DEFINED IN THE MASS
TRANSIT RAILWAY ORDINANCE (CAP 556)

1st Defendants

PERSONS UNLAWFULLY AND WILFULLY
DAMAGING ANY PROPERTY AT ANY STATION
OF THE RAILWAY AS DEFINED IN THE MASS
TRANSIT RAILWAY ORDINANCE (CAP 556)

2nd Defendants

PERSONS UNLAWFULLY AND WILFULLY
CAUSING DISTURBANCES AT ANY STATION
OF THE RAILWAY AS DEFINED IN THE MASS
TRANSIT RAILWAY ORDINANCE (CAP 556)

3rd Defendants

PENAL NOTICE

If you, the above-named 1st Defendants, namely PERSONS UNLAWFULLY AND WILFULLY OBSTRUCTING OR INTERFERING WITH THE PROPER USE AND OPERATION OF THE RAILWAY AS DEFINED IN THE MASS TRANSIT RAILWAY ORDINANCE (CAP 556); the above-named 2nd Defendants, namely PERSONS UNLAWFULLY AND WILFULLY DAMAGING ANY PROPERTY AT ANY STATION OF THE RAILWAY AS DEFINED IN THE MASS TRANSIT RAILWAY ORDINANCE (CAP 556); and the above-named 3rd Defendants, namely PERSONS UNLAWFULLY AND WILFULLY CAUSING DISTURBANCES AT ANY STATION OF THE RAILWAY AS DEFINED IN THE MASS TRANSIT RAILWAY ORDINANCE (CAP 556), neglect to obey or comply with the Orders set out below, you may be held in contempt of Court and you may be sent to prison or fined or liable to process of execution to compel you to obey the Orders. Any person who assists any of the above-named Defendants in breaching the Orders set out below may also be held in contempt of Court and may be sent to prison or fined.

IMPORTANT NOTICE TO THE DEFENDANTS

這是法律文件，忽視它可帶來嚴重的後果。

This is a legal document. The consequences of ignoring are serious.

如有疑問，請儘早向發出文件的法庭登記處 (香港金鐘道 38 號高等法院大樓低層一樓 LG1) 查詢。

If in doubt, you should enquire as soon as possible at the Registry of the Court issuing the document, namely LG1, High Court Building, 38 Queensway, Hong Kong.

你亦應考慮聽取律師的意見或是申請法律援助。

You should also consider taking the advice of a solicitor or applying for legal aid.

BEFORE THE HONOURABLE MR JUSTICE CHOW IN CHAMBERS

ORDER

An application is made on the 23rd day of August 2019 by Leading Counsel for the Plaintiff in this action to the Judge who read the documents listed in Schedule 1 and accepted the undertakings in Schedule 2 at the end of this Order. After hearing this application, the Judge made the following Order:

IT IS ORDERED THAT:-

1. The 1st Defendants and each of them whether acting on his/her own or together with other person(s) be restrained from doing any of the following acts:-
 - (a) unlawfully and wilfully obstructing or interfering with the proper use and operation of the railway as defined in the Mass Transit Railway Ordinance (Cap 556) (“MTR”) which, for the avoidance of doubt, includes the Airport Express;
 - (b) unlawfully and wilfully interfering with any doors or gates including any train doors, platform screen doors and automatic platform gates at any MTR station;

- (c) improperly activating any emergency or safety device on any train or at any MTR station without authorization by the Plaintiff;
- (d) improperly interfering with the passage of any train at any MTR station;
- (e) conducting himself on any train or in any part of any MTR station so as to cause a nuisance or annoyance to other passengers;
- (f) deliberately failing or refusing to comply with reasonable directions and requests of any official of the Plaintiff, including in particular a direction or request to vacate a train or an MTR station;
- (g) interfering with the proper use of any automatic gate and/or any mechanical, electrical, electronic, telecommunications and/or other appliance owned by or under the control of the Plaintiff at any MTR station without the Plaintiff's authorization;
- (h) obstructing or interfering with any staff of the Plaintiff in preventing or restraining or attempting to prevent or restrain to (a), (b), (c), (d), (e), (f), and/or (g) above;
- (i) inciting and/or aiding and/or abetting any person to do any of the acts identified in (a), (b), (c), (d), (e), (f), (g), and/or (h) above.

2. The 2nd Defendants and each of them whether acting on his/her own or together with other person(s) be restrained from doing any of the following acts:-

- (a) damaging any property at any MTR station;
- (b) painting, writing, drawing or affixing any word, representation or character upon any part of any MTR station;

- (c) damaging any train (including any part thereof) at any MTR station;
- (d) improperly use, meddle or damage any machine or equipment at any MTR station, including but not limited to fire hose, fire extinguishers, newspapers dispensers, recycling bins and/or litter bins;
- (e) obstructing or interfering with any staff of the Plaintiff in preventing or restraining or attempting to prevent or restrain to (a), (b), (c) and/or (d) above;
- (f) inciting and/or aiding and/or abetting any person to do any of the acts identified in (a), (b), (c), (d) and/or (e) above.

3. The 3rd Defendants and each of them whether acting on his/her own or together with other person(s) be restrained from doing any of the following acts:-

- (a) using any threatening, abusive, obscene or offensive language, or behave in a riotous, disorderly, indecent or offensive manner at any MTR station;
- (b) wilfully interfering with the comfort or convenience of any person at any MTR station including but not limited to staff of the Plaintiff;
- (c) loitering in any part of any MTR station;
- (d) obstructing or interfering with any staff of the Plaintiff in preventing or restraining or attempting to prevent or restrain (a), (b) and/or (c) above;
- (e) inciting and/or aiding and/or abetting any person to do any of the acts identified in (a), (b), (c) and/or (d) above.

4. The bailiff do take all and any reasonable and necessary steps to assist the Plaintiff and its agents to effect the clearance and removal of any obstructions or interference provided for in paragraphs 1 to 3 of this Order.
5. The bailiff be authorized and directed to request the assistance of the Police where necessary.
6. Any police officer be authorized to arrest and remove any person who the police officer reasonably believes or suspects to be obstructing or interfering any bailiff carrying out his or her duties in enforcing the terms of this Order, provided that the person to be arrested has been informed of the gist of the terms of this Order and that his action is likely to constitute a breach of the Order and obstruction of the administration of justice, and that he may be arrested if he does not desist.
7. Without prejudice to the provisions of the Police Force Ordinance (Cap 232) (including sections 51 and 52 thereof), any person so arrested by the Police shall be brought before the Court, under lawful arrest or legal processes, as soon as practicable for further directions.
8. Leave to the Plaintiff to serve and execute this Order within Hong Kong on a Sunday or a public holiday.
9. Leave to the Plaintiff to serve the Writ of Summons and this Order on the Defendants by way of substituted service by:-
 - (a) fixing a copy of the Writ of Summons and this Order securely in conspicuous places at all MTR stations;
 - (b) posting a copy of the Writ of Summons and this Order on the website <https://www.mtr.com.hk>;

- (c) publishing a copy of the Writ of Summons and this Order in one English newspaper and one Chinese newspaper in Hong Kong for 3 consecutive days.
10. This Order will remain in force up to and including Friday, 30 August 2019 (“**the Return Date**”) unless before then it is varied or discharged by a further Order of the Court. The application in which this Order is made shall come back to the Court for further hearing on the Return Date.
11. Anyone who may be affected by and/or opposing this Order shall within 3 days from the date hereof notify the Plaintiff’s solicitors and provide his/her name and address for service, upon receipt of which the Plaintiff’s solicitors shall forthwith serve a copy of the Writ of Summons, this Order, the Plaintiff’s Skeleton Submissions, the supporting Affirmations filed in support of this Order, and the Inter Partes Summons for the Return Date on him/her.
12. Liberty to apply.
13. Costs be reserved.

Dated this 23rd day of August 2019.

Registrar

SCHEDULE 1

The Judge read the following documents before making this Order:

- (1) Draft Writ of Summons with Indorsement of Claim
- (2) Draft Order
- (3) Draft Affirmation of Wong, Kwan Wai Sammy with exhibits
- (4) Skeleton submissions and authorities of the Plaintiff's Counsel

SCHEDULE 2

Undertaking given to the Court by the Plaintiff

1. If the Court later finds that this Order has caused loss to the Defendants or to anyone of them or to any other party and decides that the Defendants or that other party should be compensated for that loss, the Plaintiff will comply with any order the Court may make.
2. The Plaintiff shall as soon as practicable issue and serve the writ and this Order in accordance with paragraph 9 of this Order.

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3rd Defendants

ORDER

Dated this 23rd day of August 2019.

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