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B E225 AAE  
COURT-FEER R'R'R'

88 P  
KUALA LUMPUR, APRIL 8 (BERNAMA) -- THE HIGH COURT HERE TODAY REJECTED AN APPLICATION BY THE FAR EASTERN ECONOMIC REVIEW AND ITS EDITOR TO INCLUDE THE HOME MINISTER AND THE GOVERNMENT AS THIRD PARTIES TO A LIBEL SUIT FILED AGAINST THEM BY PRIME MINISTER DATUK SERI DR MAHATHIR MOHAMAD.

JUSTICE AJAIB SINGH RULED THAT THE TWO DEFENDANTS' APPLICATION WAS CLEARLY AN ATTEMPT TO EMBARRASS THE PRIME MINISTER AND PREJUDICE THE FAIR TRIAL OF HIS SUIT.

+THE THIRD PARTY PROCEDURE INVOKED BY THE DEFENDANTS IS MISCONCEIVED. IT IS AN ABUSE OF THE PROCESS OF THE COURT AND CANNOT BE SUSTAINED,+ HE ADDED.

JUSTICE AJAIB SINGH SAID THE HOME MINISTER AND THE GOVERNMENT COULD NOT BE BROUGHT IN AS THIRD PARTIES AS THERE WAS NO NEXUS BETWEEN THEM AND DATUK SERI DR MAHATHIR.

+THERE IS ALSO NO REASONABLE CAUSE OF ACTION WHICH DATUK SERI DR MAHATHIR OR THE DEFENDANTS CAN MAINTAIN AGAINST THE HOME MINISTER AND THE GOVERNMENT,+ HE ADDED.

THE JUDGE, WHO HEARD THE APPLICATION BY THE MAGAZINE AND ITS EDITOR DEREK DAVIES LAST WEEK, HAD DEFERRED JUDGMENT TO TODAY. -- MORE

1817MST 08 04 88

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B E233 AAE  
COURT-FEER 2 KUALA LUMPUR R'R'R'

THE MAGAZINE AND ENCIK DAVIES ARE BEING SUED BY DATUK SERI DR MAHATHIR OVER AN ARTICLE ON LIMBANG THAT APPEARED IN ITS MAY 21 ISSUE LAST YEAR.

DATUK SERI DR MAHATHIR IS ALSO SEEKING UNSPECIFIED DAMAGES FOR ALLEGED LIBEL CONTAINED IN AN APOLOGY AND RETRACTION RELATING TO THE ARTICLE PUBLISHED BY THE MAGAZINE LAST JUNE 4.

JUSTICE DATUK AJAIB SINGH SAID THE FIRST ARTICLE UNDER THE +INTELLIGENCE+ COLUMN OF THE MAGAZINE REFERRED TO THE TWO-DAY VISIT OF THE PRIME MINISTER TO BRUNEI DARUSSALAM IN MARCH LAST YEAR.

+IT SUGGESTED THAT THE MAIN REASON FOR THE VISIT WAS NOT THE OSTENSIBLE ONE OF IMPROVING TRANSPORT LINKS WITH BRUNEI BUT THAT, AS UNDERSTOOD BY THE MAGAZINE, FOREMOST ON THE AGENDA WAS A PROPOSAL TO SELL LIMBANG, IN THE FIFTH DIVISION OF SARAWAK, TO BRUNEI AT A STARTING PRICE OF US\$6 BILLION,+ HE SAID.

THE SECOND ARTICLE, THE JUDGE SAID, WAS A PROMINENT RETRACTION AND APOLOGY. IT RETRACTED ITS EARLIER REPORT AND OFFERED SINCERE APOLOGIES AND SAID THAT THE EARLIER REPORT WAS PUBLISHED IN GOOD FAITH FROM SOURCES WHICH IN THE PAST HAD PROVED TO BE BOTH WELL-INFORMED AND RELIABLE. -- MORE

1844MST 08 04 88

D698

B E239 AAE  
COURT-FEER 3 KUALA LUMPUR R'R'R'

ON THE APPLICATION TO INCLUDE THE HOME MINISTER AND THE GOVERNMENT AS THIRD PARTIES, JUSTICE DATUK AJAIB SINGH SAID THE DEFENDANTS HAD CONTENDED THAT IF THE COURT DECIDED THE LIBEL SUIT IN FAVOUR OF THE PRIME MINISTER AND AWARD HIM DAMAGES, THEY WOULD WANT CONTRIBUTION OR INDEMNITY FROM THE TWO.

THE JUDGE SAID THEY HAD CONTENDED THAT THIS WAS BECAUSE THE TWO PUBLICATIONS (THE TWO ARTICLES) WERE RELEASED FOR DISTRIBUTION WITH THE CONSENT AND ACQUIESCENCE OF THE HOME MINISTER AND THE GOVERNMENT AND/OR BY THE NEGLIGENT ACTS AND OMISSIONS OF THEIR OFFICERS.

JUSTICE DATUK AJAIB SINGH SAID COUNSEL FOR THE DEFENDANTS, ENCIK MUHAMMAD SHAFEE ABDULLAH, HAD REFERRED TO SECTION 9 OF THE PRINTING PRESSES AND PUBLICATIONS ACT AND CONTENDED THAT THE AUTHORISED SENIOR OFFICERS WERE NEGLIGENT AND IN BREACH OF THEIR STATUTORY DUTIES FOR NOT INQUIRING AND INVESTIGATING INTO THE ARTICLES TO SEE THAT THEY WERE NOT LIBELLOUS.

SECTION 9 OF THE ACT WAS DESIGNED TO PROHIBIT THE IMPORTATION OF UNDESIRABLE PUBLICATIONS INTO THE COUNTRY.

ENCIK MUHAMMAD SHAFEE HAD SUBMITTED THAT UNDER THE ACT THE SENIOR AUTHORISED OFFICERS NOT ONLY HAD THE POWER TO STOP THE DISTRIBUTION OF THE ARTICLES OR DELETE THE OBJECTIONABLE PARTS BUT HAD THE DUTY TO INQUIRE WHETHER THE ARTICLES CONTRAVENED ANY LAW INCLUDING THE LAW OF DEFAMATION.

+WITH RESPECT, I CANNOT AGREE WITH ENCIK MUHAMMAD SHAFEE'S SUBMISSION. HIS INTERPRETATION OF SECTION 9 IS, IN MY VIEW, ALTOGETHER FALLACIOUS,+ THE JUDGE SAID. -- MORE  
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D699

B E240 AAE  
COURT-FEER 4 KUALA LUMPUR R'R'R'

HE SAID IT WAS NOT THE DUTY OF ANY SENIOR AUTHORISED OFFICER TO INQUIRE INTO OR INVESTIGATE AN ARTICLE WHICH DID NOT APPEAR TO CONTRAVENE SECTION 9 OF THE ACT AND WHICH WAS NOT ON THE FACE OF IT CONTRARY TO ANY LAW. THERE WAS NOTHING IN THE TWO ARTICLES PUBLISHED IN THE MAGAZINE TO INDICATE THAT THEIR CONTENTS CONTRAVENED SECTION 9.

+ANYONE READING THESE ARTICLES MAY WELL THINK THAT THE CONTENTS ARE TRUE. AND IF THE CONTENTS ARE NOT TRUE AND ARE LIBELLOUS THEN IT WOULD BE LEFT TO THE PERSON AGGRIEVED TO TAKE SUCH ACTION AS HE MAY DEEM FIT TO VINDICATE HIS POSITION -- AS THE PRIME MINISTER HAS NOW DONE BY BRINGING THE LIBEL SUIT AGAINST THE FAR EASTERN ECONOMIC REVIEW AND ITS EDITOR,+ HE SAID.

FOR THESE REASONS TOO, JUSTICE DATUK AJAIB SINGH ADDED, IT COULD NOT THEREFORE BE SAID THAT THE HOME MINISTER AND THE GOVERNMENT CONSENTED TO THE PUBLICATION THROUGH THE ACTS AND OMISSIONS OF THEIR OFFICERS.

ON THE OTHER HAND, HE SAID, IF IN FACT THE PUBLICATION DID PRIMA FACIE CONTRAVENED SECTION 9, THEN THE SENIOR AUTHORISED OFFICER NEED NOT INQUIRE OR INVESTIGATE INTO THE MATTER BECAUSE HE IS EMPOWERED, UNDER THE SECTION, TO STOP THE PUBLICATION FROM BEING DISTRIBUTED OR DELETE THE OBJECTIONABLE PARTS. -- MORE

1920MST 08 04 88

B E243 AAE  
COURT-FEER 5 KUALA LUMPUR R'R'R'

JUSTICE DATUK AJAIB SINGH LATER GRANTED LEAVE TO THE DEFENDANTS TO APPEAL TO THE SUPREME COURT.

HE WILL HEAR NEXT THURSDAY AN APPLICATION BY THE PRIME MINISTER TO GET THE DEFENDANTS TO SPECIFY THE NAME OF THE SOURCE OR SOURCES WHICH THEY CLAIMED IN THEIR DEFENCE HAD PROVED IN THE PAST TO BE WELL-INFORMED AND RELIABLE.

IN THE SUIT, DATUK SERI DR MAHATHIR, AMONG OTHER THINGS, CLAIMED THAT THE WORDS IN THE ARTICLE CONCERNING HIM IN THE WAY OF HIS OFFICE AS PRIME MINISTER, IN THEIR ORDINARY MEANING, ARE UNDERSTOOD TO MEAN HE WAS ENGAGED IN AN UNCONSTITUTIONAL AND SURREPTITIOUS ATTEMPT TO SELL TO BRUNEI A PART OF THE TERRITORY OF SARAWAK WHICH IS A COMPONENT OF MALAYSIA.

HE SAID BECAUSE OF THE PUBLICATION OF THE SAID WORDS, HE HAD BEEN DAMAGED IN HIS CHARACTER AS PRIME MINISTER AND HAD BEEN BROUGHT INTO PUBLIC SCANDAL, ODIUM AND CONTEMPT.

THE MAGAZINE AND ITS EDITOR, IN THEIR DEFENCE, DENIED THAT THE ARTICLE WAS MEANT TO DEFAME THE PRIME MINISTER, ADDING THAT IF THE WORDS WERE DEFAMATORY, THEY WERE PUBLISHED WITH QUALIFIED PRIVILEGE AS DATUK SERI DR MAHATHIR IS A PUBLIC FIGURE KNOWN IN MALAYSIA AND THE WORLD. -- BERNAMA

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