

11/12/1998

Karpal: High Court Judge has no power to transfer case

KUALA LUMPUR, Thurs. - Lawyer Karpal Singh submitted today that a High Court Judge did not have the authority to direct the transfer of Datuk Seri Anwar Ibrahim's suit against Prime Minister Datuk Seri Dr Mahathir and the Government to another court.

Karpal said Judge Datuk Mohd Saari Yusof had "fallen foul" of Section 20 of the Court of Judicature Act 1964 as only the Chief Judge of the High Court of Malaya had the absolute power to do so.

He said the letter dated Nov 17, sent by the Deputy Registrar of Civil High Court One to the Deputy Registrar High Court Five for the suit to be transferred to High Court One on the directive of Mohd Saari, was invalid.

Karpal was submitting on a preliminary issue raised in the hearing of Anwar's suit seeking a declaration that his dismissal as Deputy Prime Minister and Finance Minister on Sept 2 was unconstitutional.

The suit was being heard before Mohd Saari, the High Court Judge who is presiding in Court One of the Civil High Court located in Denmark House, Jalan Ampang.

Anwar was also represented by Jagdeep Singh Deo and Gobind Singh Deo while the Attorney-General's Chambers was represented by Senior Federal Counsel Datuk Zaitun Zawiyah Puteh and Abu Bakar Jais.

Karpal submitted that when the originating summons of the suit was filed on Nov 17, the judge designated to hear the case was Datuk James Foong, the High Court Judge presiding in Court Five.

He said the transfer raises a legal issue under section 20 of the Act which states that only the Chief Judge could direct the distribution of business among the Judges of the High Court.

In reference to the *Air Molek Rubber Co Bhd & Ors v Insas Bhd & Anor*, 2MLJ (1995), Karpal said a strong stand was made against choosing a judge and the indiscriminate transfer of courts.

Mohd Saari adjourned hearing to Dec 21 to allow the A-G's Chambers more time to prepare submissions in reply.

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