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Court-Anwar

MAY 20 DECISION ON BID TO DISPOSE OF ANWAR'S RM100 MILLION SUIT AGAINST SUN

KUALA LUMPUR, May 7 (Bernama) -- The High Court here will deliver on May 20 judgment in an application by Sun Media Corporation Sdn Bhd to dispose of a RM100 million suit brought by Datuk Seri Anwar Ibrahim against the company.

Justice Datuk R. K. Nathan deferred decision after hearing submissions from Anwar's counsel, Karpal Singhar, and Datuk V. K. Linggam, for Sun Media, on preliminary issues relating to the suit.

However, after both parties completed their submissions, Nathan, who found some of their arguments "very interesting", ordered them to make further submissions on certain matters.

"I want further research on firstly, the degree of malice (on the part of the publisher as contended by Anwar in his affidavit-in-reply to the publisher's statement of defence) and secondly, the question of whether a company can act maliciously by itself and if not, can it act through its director or agents and should this be pleaded in the reply," he said.

Nathan wanted both parties to give him written submissions on the matter by Monday because he needed about 10 days to go through all the documents before making his decision.

Sun Media, the publisher of "The Sun" newspaper, in its summons-in-chambers, sought a court ruling on several issues relating to the question of qualified privilege as pleaded in its defence against Anwar's suit.

The summon-in-chambers was supported by the affidavit of Sun Media director Tan Sri Abdul Rahim Din who said it was appropriate for the court to try the issues as preliminary issues in the interest of justice, judicial expediency and considering the costs involved.

In his affidavit-in-reply Gobind Singh Deo, the former deputy prime minister's other counsel, said the prayers sought by Sun Media in the application were misconceived and it would not be appropriate for them to resolve the matter as preliminary issues.

Gobind Singh said Anwar was entitled to a full trial, having regard to his contention that defence of qualified privilege was not open to Sun Media.

Anwar, 51, is suing Sun Media for alleged libel by publishing an article under the heading "Anwar's behaviour is despicable: PM" on Sept 23 last year. He claimed that Sun Media had published the defamatory words against him without verifying the facts with him before publication.

He said the Sun had re-published the said words on Jan 28, 1999, under the heading "Report On Sodomy and Masturbation" after the issue of the writ, thereby, making profit from the sale.

In his suit, Anwar is also seeking an injunction to restrain Sun Media, formerly known as Sun Media Group Sdn Bhd, by its directors, servants, and/or agents from further publishing the said or any similar libel on him.

Anwar is also seeking interest, costs, and any other relief deem fit and proper by the court.

Sun Media, in its statement of defence, admitted publishing the words but contended that it did so upon an occasion of qualified privilege.

The company said it was its legal, moral and social duty to publish the said words to readers of its newspaper, The Sun, who had a legitimate interest to receive the information.

The statement of defence also included the full text of what Prime

Minister Datuk Seri Dr Mahathir Mohamad had said at a news conference held on Sept 22 last year and also questions he was asked by journalists.

The company claimed that it was Dr Mahathir's public duty to explain to the general public the dismissal of Anwar from his post and it was the duty of the media to convey the explanation to the general public as the general public had a corresponding interest to hear the explanation.

In his reply, Anwar claimed that Sun Media had failed to exercise reasonable caution in publishing the words despite his earlier denial of any sexual misconduct.

He said the plea of qualified privilege was not open to Sun Media.

Alternatively, Anwar said the plea of qualified privilege must fail because Sun Media was "actuated by malice" when publishing the offending words.

Today, Linggam submitted that this was a proper case to be tried as a preliminary issue as it would save costs and the court's time.

In his submission, Karpal Singh contended that this was not a proper case to be tried as a preliminary issue because Anwar had raised the issue of malice in his reply to the publisher's defence.

Therefore, he said, Anwar should be allowed to have his day in court to adduce evidence.

"What ought to be done Yang Arif, is to put the case on trial so that the matter could be resolved once and for all," Karpal Singh said, urging the court to dismiss the application.

After hearing Karpal Singh's argument, the judge said he was very concerned on the issue of malice as raised by Anwar.

In reply, Linggam said that even if Anwar was relying on malice, no particulars of malice were pleaded in his statement of claim and to show malice, oral evidence was not needed.

He said this alleged libel was very straightforward and it was also reported in other media but only the Sun was sued by Anwar.

At this juncture, Karpal Singh said the other media only reported the gist or the summary of what Dr Mahathir said but the Sun reported it in detail.

Linggam replied that the prime minister did not deny what was published by the Sun and furthermore, it had become public record since it was on journalists' tapes and transcripts but only the Sun reported the whole news conference.

On Karpal Singh's contention that this application would only make the court hear the matter twice, Linggam said that if Sun Media succeeded in this application, it would be the end of Anwar's suit but if it failed, the matter would go on trial.

However, he said, even if the court ruled that the publisher had qualified privilege when publishing the said defamatory words, its defence could still be defeated if Anwar could show that there was malice.

-- BERNAMA

SBB JK