

Application to stop swearing-in struck out

STAR

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KOTA KINABALU A legal obstacle to block the swearing in of Datuk Chong Kah Kiatt as the next Sabah chief minister under the Barisan Nasional's rotation system was removed yesterday.

The High Court struck out an application for an interim injunction to stop the Yang di Pertua Negeri Tun Sakaran Dandai from swearing in the Liberal Democratic Party president and Kudat assemblyman at Istana Negeri on Tuesday.

Justice Datuk Richard Malanjun dismissed the application with costs after a two-hour hearing in chambers.

He said the three businessmen from Kota Belud — Kaiman Buan, Abdul Rajik Arin and D Ismail D Jamlang — who applied for the injunction had no right to do so as they had no *locus standi*.

The judge said their application was also defective for failing to comply with the statutory requirements under the Rules of the High Court.

On March 16 Chong was named by Prime Minister Datuk Seri Dr Mahathir Mohamad as the next chief minister to replace Datuk Osu Sukam of Sabah Umno under the rotation system.

The three businessmen were represented by lawyer Datuk James Ghani who described the outcome of their application as a temporary setback.

He added that they would pursue the original suit.

We will ask for an early date for the hearing, he said.

Sakaran and the state government named as first and second defendants were represented by acting state Attorney General Halimah Nawab Khan and senior counsel Asmat Hassan while lawyers Rodrique Fernandez, Richard Barnes and Lee Chun Wan represented Chong.

Rotated chief ministers Datuk Yong Teck Lee and Tan Sri Ber-

nard Dompok were also named as third and fourth defendants respectively in the suit filed on Thursday.

In their suit the three are seeking a declaration that the TYT acted *ultra vires* the Sabah Constitution by appointing Yong of Sabah Progressive Party and Dompok of United Pasok Momogon Kadazan Dusun Murut Organisation as chief ministers on Dec 28 1996 and May 28 1998 respectively.

They are also seeking a declaration that all administrative acts, policies and decisions made by them during their respective terms of office as chief ministers were illegal, null and void.

The three also sought an injunction to restrain the Yang di Pertua Negeri from appointing Chong as the next chief minister until the disposal of the suit as well as costs and other relief.

In their supporting affidavit the three said that Yong and Dompok were appointed as chief ministers in line with the purported rotation system announced by Dr Mahathir sometime during the 1994 state elections.

They said they believed that the rotation system was not provided for in the Sabah Constitution.

They said the state Constitution also did not provide for the two-year term of the chief minister and that the chief minister must be from one of the three races — Muslim bumiputras, non-Muslim bumiputras and Chinese.

The appointment of the chief minister made under this purported rotation system was not proper and lawful, they claimed.

Under clause 3 of Article 6 of the state Constitution the Yang di Pertua Negeri shall appoint as chief minister a member of the legislative assembly who in his judgment is likely to command the confidence of the majority of the members of the assembly.