

Ex-Hindraf duo get leave to re-initiate defamation suit

Malaysiakini.com

October 12, 2011

By Hafiz Yatim

Two former Hindu Rights Action Force leaders were allowed leave (permission) by the Federal Court to re-initiate their RM100 million defamation suit which was struck out by the Kuala Lumpur High Court and upheld by the Court of Appeal.

manoharan and uthayakumar sue government 091210The two leaders are Kota Alam Shah assemblyperson M Manoharan (right in photo) and P Uthayakumar (on the left), who were detained under the Internal Security Act for 514 days.

The three-member panel chaired by Chief Judge of Sabah and Sarawak Justice Richard Malanjum granted them leave to raise a question of law to be addressed by the court.

The question is “whether a writ of summons of the applicants can be struck out without a full trial based on section 8b and 8c of the Internal Security Act (ISA) 1960, which restricts the application for judicial review to only questions of compliance with any procedure required in the Act”.

The other two judges were Federal Court judges James Foong and Abdull Hamid Embong, who were unanimous in allowing leave and fixed a hearing of the application to a date to be fixed.

Uthayakumar submitted that he and Manoharan be given the right of hearing as this was allowed with other former ISA detainees in the cases of Abdul Malik Hussin and Gurcharan Singh.

Manoharan and Uthayakumar filed the suit on Dec 9 last year, claiming their arrests, detention and restriction orders were unlawful, as they had not at any time done anything that was deemed to be a security threat to the country.

Najib and Abdullah among defendants

Besides naming Prime Minister Najib Abdul Razak, the two also named former prime minister Abdullah Ahmad Badawi, Home Minister Hishammuddin Hussein, former inspector-general of police Musa Hassan, the Taiping detention centre superintendent and the government as defendants.

The Court of Appeal in upholding the High Court decision said this was a plain and obvious case to be struck out.

Uthayakumar and Manoharan said they were arrested by the police on Dec 13, 2007, and were each served a two-year detention order at Kamunting. They were released on May 9, 2009, after serving 514 days in detention.

Earlier, Manoharan and Uthayakumar urged the court to reinstate their civil suit and that they be given a day in the court to ventilate on the merits of their detention.

“We were detained for 514 days for reasons best known to them, but we want to know the reasons,” he submitted.

He said they could file a civil suit to challenge the grounds of their detention because they could not do so in their habeas corpus applications to seek their release from detention, which were on the procedure of non-compliance.

Copyright © 1999-2007 Mkini Dotcom Sdn. Bhd
<http://www.malaysiakini.com/news/178468>