

## **Bersih to test assembly law for constitutionality**

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**By Hafiz Yatim**

Bersih co-chairperson Ambiga Sreenevasan said the electoral reform coalition's legal team is prepared to challenge the constitutionality of the Peaceful Assembly Act 2012 (PAA), which was gazetted prior to the Bersih 3.0 rally on April 28.

Ambiga (right), who is one of 10 individuals that the government is suing for RM122,000, said this would be an interesting test case.

"That is why we are prepared to go on with the trial and let all things go through it. We are not applying to strike out the suit," she said today when the matter came up for case management at the Kuala Lumpur High Court.

Judge Prasad Sandosham Abraham fixed July 18 for further case management. This is for the plaintiff and defendants to file their pleadings on the case.

Ambiga had filed her defence and counter-claim last week. Five others have done so as well.

Senior lawyer Tommy Thomas is representing Ambiga, Maria Chin Abdullah and Zaid Kamauddin.

Gopal Sreenevasan is appearing for S Arul Prakkash, Dr Ahmad Farouk Musa and Toh Kim Woon.

Edmund Bon and Syahredzan Johan are representing K Arumugam and Andrew Khoo, while Ang Hean Leng is acting for Wong Chin Huat.

Haris Fathillah Mohamed is represented by R Thipati. Harris is currently not a member of the Bersih 2.0 steering committee.

Senior federal counsel Azizan Md Arshad is representing the government.

The government on May 15 filed a claim for RM122,000 against Ambiga and nine others for alleged damages to 15 police vehicles during the protest.

Ambiga's defence and counter-claim

Ambiga in her defence filed by the firm of Tommy Thomas says the PAA is unconstitutional and void as it violates her rights to freedom of speech and expression, and to assemble peacefully.

Besides this, the law is also a violation of her right to be part of an association and her personal liberty, her right to move freely throughout Kuala Lumpur, her right to vote at general elections

and also her personal liberty under Article 5 and equality under Article 8 of the Federal Constitution.

Besides wanting the court deem the PAA as unconstitutional, she contends that Section 6(2)(g) of the Act does not expressly say the government can initiate legal action to recover damages.

Ambiga also states that Bersih and she are not vicariously liable for the actions of thousands of people who attended the rally as they are free agents who wanted to attend it for their own reasons or purposes.

Police behaviour in Kuala Lumpur should be contrasted with the conduct of their counterparts elsewhere in Malaysia on the same day, as the assemblies and/or sit-ins held at other venues that day were conducted peacefully.

Ambiga wants the PAA or Section 6 of the Act to be declared unconstitutional and she is also seeking general and aggravated damages in her counter-claim.

Most of the Bersih 2.0 steering committee members were present during the proceeding in a show of solidarity against the government action.