

In Dr M's suit, court rejects Najib's bid for stay to file defence

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Prime Minister Najib Abdul Razak has failed to obtain a stay to file his defence for a suit accusing him of misfeasance in public office and breach of fiduciary duty filed by Dr Mahathir Mohamad and two others.

This morning, Kuala Lumpur High Court Justice Abu Bakar Jais dismissed the prime minister's application.

In his decision, Justice Abu Bakar said looking at the affidavit, in my view there is no assertion of the reason with respect of a stay.

“The assertion in the affidavit (by Najib) is with respect of his application to strike out the suit. The argument by the defendant (Najib) that they did not allude to the facts regarding a stay with regards to the questions of law.

“However, there are no questions of law posed as what is related is to the striking out (of the suit). It does not relate to stay. Hence, the court is ordering the defence to be filed,” the judge said.

Following this, he ordered Najib to file his defence on June 9, which is a one-week extension from the earlier date of June 2 fixed for the prime minister to file his defence.

Justice Abu Bakar is the [new judge](#) appointed to hear the case after Justice Rosnaini Saub was transferred to the Shah Alam High Court.

He had earlier heard submissions from both parties. Najib was represented by lead counsel Cecil Abraham as well as lawyers Rishwant Singh and Mohd Hafarizam Harun.

Mohd Haniff Khatri Abdulla led the legal team for Mahathir.

Mahathir, along with former Batu Kawan Umno vice-chief Khairuddin Abu Hassan and former Langkawi Umno member Anina Saadudin [filed](#) the suit in March.

Justice Abu Bakar also fixed June 23 to hear the plaintiff's application to call Najib to answer certain portions of his affidavit.

It was previously reported on May 10, that Mahathir, Khairuddin and Anina had sought for Najib [to testify](#) in court over conflicting portions in his affidavit.

Conflicting statements

The statements in dispute included:

In the seventh and eighth paragraphs of the affidavit, Najib said he is filing the application to strike out in his capacity as prime minister, finance minister, chairperson of BN and Umno president and not as a civil servant or government officer.

However, the lawyers pointed out that in paragraph 25, Najib admitted he is a civil servant and pleaded that the tort of misfeasance in public office and breach of fiduciary duty was just an effort to remove him from public office.

In paragraph 24 of Najib's affidavit, he denied the allegations in the statement of claim that he had a role in dismissing his former deputy, Muhyiddin Yassin and Shafie Apdal from being members of the cabinet and the fact that four of the Public Accounts Committee members have been appointed as minister and deputy minister in the cabinet reshuffle last July.

Mahathir, Khairuddin and Anina, are part of the Citizens' Declaration movement to remove Najib as prime minister.

In their statement of claim, the plaintiffs said that due to Najib's position as the "numero uno" of Malaysia, he controls, commands and instructs or insists on omissions within the powers of each and every government machinery.

This includes, among others, ministries, ministers, parliamentary office (including the Public Accounts Committee) and legal enforcement agencies such as the Attorney-General's Chambers, the police, the Malaysian Anti-Corruption Commission (MACC) and the Malaysian Communications and Multimedia Commission (MCMC).

They further claimed that Najib had acted in bad faith to undermine, or cause to compromise various respective institutions involved in the probe of 1MDB scandals related

to the remittance of RM2.6 billion and RM42 million or any other amount into the PM's personal bank accounts.

The plaintiffs claimed that 1MDB was set up in 2009 but between 2010 and 2013, there were various reports on allegations of serious financial impropriety concerning 1MDB. They are seeking a total of RM2.64 billion in damages.

The trio had also filed a [mareva injunction](#) application to freeze Najib's assets of RM2.64 billion and another order of discovery for Najib to list out or itemise his assets.

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