

High Court dismisses Mahathir's application to cross-examine Najib
MalaysiaKini.com
July 27th, 2016
Hafiz Yatim

The High Court in Kuala Lumpur today dismissed an application by Dr Mahathir Mohamad and two others to cross-examine Prime Minister Najib Abdul Razak in their RM2.6 billion suit.

However, judge Abu Bakar Jais ruled that their application can be re-submitted after [Najib's own application](#) to strike out the suit is heard.

Mahathir's lawyers had wanted to [cross-examine Najib](#) on his status as a public officer, following alleged contradictions found in his own affidavit.

But Justice Abu Bakar, who made the decision in chambers today, said he did not think it was wise to allow the cross-examination at this stage.

"I find again that this issue should be decided after the application for striking out is heard. There is no hindrance for the plaintiffs to bring this issue when the same is argued," he said in his 26-page judgment.

Justice Abu Bakar said he was rejecting the application because cross-examining Najib was not necessary at this point.

This is because Najib's assertions in the affidavit are clear, he said.

Najib's statement 'clear as daylight'

Najib had said in paragraphs seven and eight of his affidavit that he is neither a public servant or public officer.

But in paragraph 25, he said the plaintiffs in the lawsuit were trying to drive him out of public office.

Mahathir's lawyers had argued that Najib was contradicting himself in those paragraphs.

But Justice Abu Bakar said today, "It is clear as daylight what he has said pertaining to these paragraphs of his affidavit.

"Hence there is no need to cross-examine the defendant (Najib) further on this issue at this stage. If there is a cross-examination, the defendant will not be able to explain more than what he has already affirmed."

The judge added that he believed the court's refusal to grant the application today would not affect the plaintiffs' position if they were to resubmit their application.

Lawyer Mohd Haniff Khatri Abdulla, who is acting on behalf of the prime minister, said that despite today's decision, the court was leaving the matter open.

"We will seek instructions from our client on whether to file an appeal and get back to court on Aug 4 to inform the judge of our decision," he said.

Najib's lawyer, Mohd Hafarizam Harun, confirmed the decision and said it meant his client need not yet appear in court to be cross-examined.

Mahathir, along with former Umno members Khairuddin Abu Hassan and Anina Saadudin, **[filed their RM2.64 billion](#)** suit last March against Najib for misfeasance in public office and breach of fiduciary duty and abuse of power.