

Najib: Ex-AG, govt trying to block open-court hearing against me

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Najib Abdul Razak has claimed that former attorney-general Tommy Thomas and the government are attempting to block the court from hearing about the alleged wrongdoings perpetrated against him.

The former prime minister claimed this motivated the application by Thomas and the government to strike out his wrongful prosecution lawsuit.

In a media statement, Najib shared his contention in an affidavit filed today in response to Thomas' previous affidavit backing the striking-out bid.

"Today, Jan 20, 2022, I filed an affidavit responding to Tommy's and the government's affidavits. The move to strike out my claim is an attempt to prevent the wrongdoings against me from being aired out in open court," Najib contended.

Previously, in an affidavit in support of the striking-out application, Thomas claimed that Najib's suit was politically motivated due to the lead-up to the Malacca state election as well as the upcoming 15th general election.

Thomas had also contended that as then attorney-general and public prosecutor, his discretion to institute or discontinue criminal proceedings is non-justiciable, or not a matter that can be challenged in court, courtesy of Article 145 (3) of the Federal Constitution.

In today's media statement, Najib claimed that Thomas' contention regarding prosecutorial discretion violated the former's fundamental right to equality before the law as stipulated in the Federal Constitution.

"Thomas's particular averment, in his affidavit, is iniquitous. He averred that 'all persons are equal before the law and entitled to equal protection of the law' does not apply to himself as far as the prosecutions against me are concerned.

"Am I not afforded equal protection as other Malaysians too? The facts I rely upon are contained in my affidavit and will be aired out in court," Najib contended.

'Not a rehash'

When contacted this afternoon, Najib's lawyer Yudistra Darma Dorai confirmed that his client filed the affidavit at the High Court in Kuala Lumpur earlier today.

"This suit is not a rehash of the criminal proceedings. Not one bit. It is not an attempt to acquit Najib in the civil courts.

"It is simply based on alleged wrongdoings of Thomas. That is all.

"The facts opposing the application to strike out are in my client's affidavit," the legal practitioner told Malaysiakini.

Yudistra added that the legal action is fixed for further case management before the High Court on March 1.

On Nov 19 last year, it was reported that Thomas and the government filed to strike out Najib's lawsuit on the grounds that it was a collateral attack to derail the former prime minister's criminal court cases.

Media reports quoted excerpts from deputy public prosecutor Ahmad Akram Gharib's affidavit, which contended, among others, that the AG is empowered with discretion to initiate, conduct and discontinue prosecution, per Article 145 of the Federal Constitution and Section 376(1) of the Criminal Procedure Code.

On Oct 22 last year, Najib's legal team filed a suit against Thomas and the government over the former prime minister's alleged wrongful prosecution for several criminal cases.

The plaintiff contended that Thomas had committed misfeasance in public office, malicious process, and negligence.

The former premier claimed that the government is vicariously liable for the alleged acts done by Thomas.

Najib stated that Thomas' alleged acts were in relation to criminal charges levelled against the former in relation to the 1MDB case, the International Petroleum Investment Company (IPIC) case, two cases of alleged abuse of power and money laundering under the MACC Act 2009 (collectively known as the four cases).

The former finance minister, however, stated that it does not involve charges in relation to SRC International Sdn Bhd, a former 1MDB subsidiary that later became wholly owned by the Ministry of Finance Incorporated (MOF Inc).

He claimed that following the emergence of the then Dr Mahathir Mohamad-led Pakatan Harapan administration following the 14th general election in 2018, he

was hit with 35 criminal charges linked to the four cases.

Najib also claimed, among other allegations, that the charges against him had long been planned by Thomas and the then Harapan government.

The plaintiff is seeking, among other reliefs, a declaration that Thomas has committed misfeasance in public office, over RM1.9 million, as well as general and exemplary damages.

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