

Najib and son get a stay on tax arrears suit

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PUTRAJAYA: The Court of Appeal has allowed applications by Datuk Seri Najib Razak and his son, Datuk Mohd Nazifuddin, for an interim stay of the summary judgment obtained by the Inland Revenue Board (LHDN) for them to pay more than RM1.7bil in tax arrears pending their leave to appeal at the Federal Court.

A three-member Court of Appeal bench led by judge Datuk Azizah Nawawi granted the stay after hearing submissions by counsel Tan Sri Muhammad Shafee Abdullah, representing Najib and Mohd Nazifuddin, and LHDN deputy solicitor Dr Hazlina Hussain, reports Bernama.

The other two judges were Justices Datuk M. Gunalan and Datuk Che Mohd Ruzima Ghazali.

"This is our unanimous decision. We find that there are special circumstances that warrant us to exercise our discretion to allow an interim stay of the execution of summary judgment in both applications until the hearing of the leave application in the Federal Court," said Justice Azizah.

Earlier, Muhammad Shafee submitted that there were special cir-

cumstances for a stay to be granted.

He said there would be a trail of repercussions, such as Najib losing his position as an MP and being no longer able to contest in elections, if he was declared bankrupt.

"The execution is now happening because they (LHDN) are pursuing at lightning speed to make my client bankrupt. The enforcement (of the summary judgment) has got to stay to allow my client to go to the leave application as well as the appeal itself," he said.

Muhammad Shafee also argued that it was bad faith on the part of the government to declare Najib bankrupt as there were clear errors in the additional assessments.

He alleged that LHDN had maliciously calculated as income donations received by his client from the late King Abdullah of Saudi Arabia, which had been refunded, the inter-bank transfers within Najib's bank accounts and cancelled cheques, among others.

"This is rather a mala fide (bad faith) eagerness to declare my client bankrupt despite the obvious deformity of assessment," Muhammad Shafee added.

Hazlina said the allegation that LHDN had acted in bad faith in the recovery action was unfounded.

The applicant (Najib) should have come forward and do instalment payments, as it is a common action taken by any judgment creditor," she added.

On Sept 9, the Court of Appeal affirmed the High Court's decision to allow LHDN's applications to enter a summary judgment to recover tax arrears of RM1.69bil from Najib and RM37.6mil from Nazifuddin.

On the same day, a Court of Appeal three-member panel led by Justice Datuk Abdul Karim Abdul Jalil allowed an interim stay application brought by Najib and Mohd Nazifuddin on condition they filed their notice of motion and stay application by this week.

A summary judgment is when the court decides a particular case summarily, without calling witnesses to testify in a trial.

They had appealed to the Court of Appeal against two previous High Court rulings.

On July 22, last year, High Court judge Datuk Ahmad Bache allowed the LHDN's application for a sum-

mmary judgment to be entered against Najib in its suit to recover the RM1.69bil in taxes from the latter for the period between 2011 and 2017.

As for Mohd Nazifuddin, High Court judge Ahmad Zaidi Ibrahim had on July 6 last year ordered him to pay RM37.6mil in unpaid taxes to LHDN after allowing the board's application to enter a summary judgment against him in its tax arrears suit seeking to recover the unpaid amount from him between 2011 and 2017.

On Feb 4 this year, LHDN issued a bankruptcy notice against Najib for his failure to pay the amount as the summary judgment was not stayed, while Mohd Nazifuddin was also served with a bankruptcy notice on April 30 this year over failure to pay the amount as ordered by the High Court.

Najib and Nazifuddin subsequently filed separate notices of motion on Sept 14 this year to the Federal Court seeking leave to appeal against the Court of Appeal's decision in dismissing their appeals.

They sought the Federal Court to determine nine legal questions.