

Government Loses Suit Against Ambiga, 14 Others Over Bersih 3.0 Rally
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KUALA LUMPUR, Jan 30 (Bernama) -- The High Court here Friday dismissed a suit filed by the government against former Bersih co-chairman Datuk S. Ambiga and 14 other fellow committee members over the Bersih 3.0 rally.

The government sued them on May 15, 2012, claiming that Bersih 3.0 rally on April 28, 2012 had caused damage to public property.

In the suit, it seeks special compensation amounting to RM110,543.27 as costs to repair damaged police vehicles, other costs, interests and other relief deemed fit by the court.

It is also seeking a declaration that the defendants, as organisers of the Bersih 3.0 rally, had violated Section 6 (2)(g) of the Peaceful Assembly Act (PAA) 2012 as they had the responsibility, among others, of ensuring that the gathering would not cause damage to public property.

Judge Datuk John Louis O'Hara held that the plaintiff's (government) claim could not be proved on the evidence tendered before him on a balance of probabilities.

He also rejected the government's claim for a declaration, special damages and interest.

"It is clear to this court that the damages occurred only happened after the first defendant (Ambiga) had called off the rally. Moreover, it was not shown to the satisfaction of the court that the damages occurred was actually caused by the legitimate participants of the rally or by independent agents," he said.

"There was also the issue of the acts and omission of the police that invariably contributed to the damage for which the plaintiff now claims," he said.

O'Hara said therefore, to hold the organiser liable would not only be to go beyond the scope and intention of Section 6 (2) (g) of the PAA but would also be against the evidence tendered in court.

He said moreover, under Section 7(a)(v) which stated that participants shall refrain from causing damage to public property, the plaintiff ought to utilize against the actual perpetrators of the damages caused and loss.

The judge also awarded RM21,000 in damages to Bersih former steering committee member Wong Chin Huat for unlawful arrest and detention, assault and battery and breach of his constitutional right after allowing his counter-claim against the government.

O'Hara ordered the government to pay RM30,000 in costs to Wong.

In rejecting the 14 other counter-claims for a declaration that Section 6 was unconstitutional, O'Hara said the defendants did not show how their rights had been affected by the act.

He held that Section 6 was constitutional and it was consistent with various Articles in the Federal Constitution.

The government in its statement of claim said that the gathering around Dataran Merdeka turned unruly when participants broke through police barricades.

It said that on that day, the police were stationed around the area to ensure that rally participants did not violate the order issued by the magistrate's court on April 26, which prohibited a gathering from being held at Dataran Merdeka and for the public not to be present there or to take part in any protest rally between April 28 and May 1, 2012.

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