

PI Bala's widow faces hurdles to restore suit against Najib, Rosmah and 7 others

The Malaysian Insider

Feb 16, 2015

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The widow of private investigator P. Balasubramaniam, who was a witness in the murder trial of Mongolian Altantuya Shaariibuuu, continues to face obstacles to reinstate her RM2 million suit against Prime Minister Datuk Seri Najib Razak, his wife Datin Seri Rosmah Mansor and seven others for losses suffered during the family's five-year exile in India.

The suit is coming up for case management next week in the Court of Appeal, but the widow, A. Santamil Selvi, is being thwarted by objections from the respondents.

The suit would expose the respondents' roles in sending her family into exile following controversies surrounding two statutory declarations by Balasubramaniam involving Altantuya and Najib.

Santamil's lawyer, Americk Sidhu, said one of the lawyers for the nine respondents wanted the widow to file seven records of appeal because seven legal firms were involved in representing the respondents.

The argument is that by filing only one record against all nine respondents, her appeal to the Court of Appeal is defective.

"This is absurd and is an attempt to wear out my client financially because every notice of appeal must be accompanied by RM1,000 in deposit," Americk told The Malaysian Insider.

Americk said he had filed only one notice of appeal against the High Court's December 11 judgment which allowed all the nine to strike out Santamil's suit.

The record of appeal was filed on January 8 and the Court of Appeal has fixed case management on February 24.

"I will raise this issue of filing more than one notice of appeal before the Court of Appeal registrar to ensure her appeal is heard without hindrance."

Apart from Najib and Rosmah, the other defendants who successfully struck out the suit were Najib's brothers, Datuk Ahmad Johari Abdul Razak and Datuk Mohd Nazim Abdul Razak; senior lawyer Tan Sri Cecil Abraham; his son Sunil Abraham; commissioner for oaths Zainal Abidin Muhayat; lawyer M. Arulampalam; and carpet dealer Deepak Jaikshan.

High Court judge Datuk Hasnah Mohamed Hashim said Santamil lacked the capacity to file for action on behalf of the estate of her late husband.

"There is no special circumstance to allow the merits of the suit to be heard because she has no locus standi," Hasnah had said.

Following the court ruling, Santamil would not be able to bring witnesses and tender documentary evidence to prove her case against the nine.

The suit would have allegedly exposed their roles in sending the late private detective, better known as PI Bala, and his wife and three children into forced exile if a trial was allowed.

This would also include why PI Bala was forced to retract his first sworn statement that highlighted Najib's involvement with Altantuya, and why he and his family were forced to leave the country for almost five years in 2008.

Balasubramaniam died of a heart attack on March 15, 2013, weeks after he and his family returned from India.

Santamil and her three children in their affidavits to the court have said that they would be out of time as the six-year deadline to file the action was on July 2 last year.

Santamil, who filed the writ and statement of claim last June 9, also applied to extract the letter of administration to her late husband's estate.

Lawyer Datuk Mohd Hafarizam Harun, who appeared for Najib and Rosmah, and the counsel for the other respondents had said that Santamil lacked the capacity as she has yet to obtain the letter of administration.

In the suit, the family said the defendants had caused PI Bala's second statutory declaration "to be drafted without the instructions of the deceased and further caused the deceased to sign the same under threat and inducement".

PI Bala was a witness in the murder trial of Altantuya. He left Malaysia in a hurry after he signed a second statutory declaration in 2008 to denounce the first one he made in which he implicated Najib in the murder. The second statement purported to clear the prime minister of involvement in the case.

PI Bala came into the limelight after political analyst and Najib's associate, Abdul Razak Baginda, hired him to monitor Altantuya, and when he retracted his first sworn statement about the matter on July 4, 2008.

In the second statutory declaration, PI Bala had said that he wished "to retract the entire contents of my first statutory declaration dated July 1, 2008. I was compelled to affirm the said first statutory declaration under duress".

The Federal Court on January 12 this year sentenced to death two police former commandos – Azilah Hadri and Sirul Azhar Umar – for Altantuya's murder.

Sirul, who fled the country before sentencing, is in Australia and is held in an immigration detention centre following a red notice issued by Interpol for his arrest.

He is expected to fight any attempt by the Malaysian government to have him extradited. However, Australia is unlikely to hand him over because of its policy against the death penalty. – February 16, 2015.

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