

Fair comment, qualified privilege no defence, Najib says in Harakah defamation suit

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Datuk Seri Najib Razak, who is suing PAS organ Harakahdaily for defamation over an article linking the prime minister's stepson to the controversial 1Malaysia Development Berhad (1MDB), has applied to strike out the publication's defence on grounds that it is not relevant.

Lawyer Mohamed Hanipa Mydin said Najib's legal team, in an attempt to get the suit dismissed, contended that the defendants – Harakahdaily portal chief editor Taufek Yahya and managing director Dr Rosli Yaakob – could not rely on the defence of fair comment and qualified privilege.

"They are of the view both are (English) common law defences and these are not provided under the (Malaysian) Defamation Act," he said.

Hanipa, who is representing Taufek, said he would rebut Najib's argument.

A case management was held last Friday before High Court judge Datuk Hue Siew Kheng who instructed Hanipa and lawyer Faiz Fadzil Noor, representing Rosli, to file affidavits by July 1 to rebut Najib's striking out application.

The court will hear Najib's application on July 13.

Hanipa told The Malaysian Insider he believed that the striking-out application was made by Najib in the hope of getting a judgment without the prime minister having to take the stand.

"If the suit goes on trial, Najib will have to give evidence and we will have the chance to cross-examine him."

Hue has also tentatively fixed the trial to be heard for seven days from October 7.

Najib filed the suit against Rosli and Taufek over an article by Rosli on February 19 with the heading "Dana 1MDB biayai syarikat filem Riza Aziz?(Bhg 2)".

In his statement of claim filed on March 18, Najib said the article contained words which implied that he had misused 1MDB funds.

Najib alleged that the publication of the article had damaged his reputation and caused him to be condemned in social media and the mass media.

Najib also alleged that Taufek had failed to practise responsible journalism by not verifying the authenticity of the article before publishing it.

Criticism has been mounting against Najib over the Finance Ministry's wholly owned investment vehicle, 1MDB, established in 2009, which has racked up debts of up to RM42 billion.

Najib has been under pressure from opposition politicians, current and former Umno leaders, including former prime minister Tun Dr Mahathir Mohamad and anti-graft bodies, who have demanded a thorough investigation into the fund.

Dr Mahathir had also demanded that Najib step down over the 1MDB scandal.

Najib, however, has reiterated that he would not step down and would, in fact, fight harder, telling a huge crowd in Kuching early this month not to underestimate him.

Najib has also filed a similar suit against Petaling Jaya Utara MP Tony Pua over comments the lawmaker had allegedly made on the strategic investment fund.

Pua has filed his defence, citing, among others, that as lawmaker he had a duty as the people's representative to raise issues of public interest.

The DAP national publicity chief said the public had the right to receive information on issues which affected them and all facts were verified before they came into public domain.

Pua also questioned Najib's standing to file the suit since he was Pekan MP, prime minister and finance minister.

"His conduct should be subjected to criticism when he is holding public positions," Pua added. – June 29, 2015.

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