

Dr M's suit seen as test of judicial freedom
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Kadir Jasin doubts that Najib's propaganda machine can deal with it.

KUALA LUMPUR: The civil action by former Prime Minister Mahathir Mohamad and two others against Prime Minister Najib Abdul Razak has wide implications, says veteran journalist A Kadir Jasin in his latest blog posting.

He notes that Mahathir and the other two plaintiffs – Khairuddin Abu Hassan and Anina Saaduddin – are claiming that Najib has failed to fulfil his fiduciary duties and has committed tort misfeasance in his position as the holder of a public office.

“An action in tort, in referring to alleged wrongdoing, can result in compensation,” he explains.

“Fiduciary involves a position of trust. If the holder has been found wanting, it means that the people as beneficiaries have been neglected.”

Kadir says the suit will test how far ordinary citizens can go in taking legal action against someone in public office. “It will be a test of the independence of the judiciary and the much vaunted concept of equality under the law.”

“The question also rises whether the Prime Minister can act with impunity.”

The case will also subject the Federal Constitution and administrative procedures to analysis and interpretation, he adds. “If the Court agrees to hear the case, the plaintiffs can try to subpoena as many witnesses as possible, including foreign journalists who have alleged that Najib has indulged in wrongdoing.”

The summons, he stresses, should be read together with the Citizens’ Declaration on March 4 which called for Najib to be expelled from Putrajaya. “All three who filed the case against Najib also signed the Citizens’ Declaration.”

Kadir doubts that Najib’s propaganda machinery and psy-war operatives will be able to deal with the suit. “They won’t be able to distort the case as laid out,” he says.

He notes that the facts of the case include the allegation that Najib, as Prime Minister, Barisan Nasional Chairman and Umno President did, with ill intentions and mala fide, interfere, oppress and throw a spanner in the works on various investigations and inquiries into the 1MDB scandal and the deposit of an estimated USD700 million (RM2.6 billion) in his personal bank accounts.

The plaintiffs also want the court to determine whether Najib abused his position to act against Khairuddin and Anina.

“They are also claiming the RM2.6 billion and compensation amounting to RM42 million,” he says. “The two amounts, it would be noted, are the same figures which entered Najib’s accounts with AmBank Islamic private banking services, i.e. USD700 million and another RM42 million from SRC International.”

In this context, he says, Najib is the trustee as the head of government and the plaintiffs represent the beneficiaries.

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