

Court Dismisses Najib's Appeal to Strike out Harakahdaily's Defence
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PUTRAJAYA, Feb 5 (Bernama) -- The Court of Appeal here today dismissed an appeal by Prime Minister Datuk Seri Najib Tun Razak to strike out two paragraphs on defence of fair comment and qualified privilege by Harakahdaily in its statement of defence over a suit on 1Malaysia Development Berhad (1MDB).

A three-man bench chaired by Justice Datuk Mohd Zawawi Salleh unanimously dismissed the appeal on grounds that there were issues in the defamation suit brought by Najib that should be ventilated in a full trial.

"We are of the opinion that the defence put up by Harakahdaily is not obviously unsustainable.

"This case can be settled by both parties," said Justice Zawawi, who presided on the bench with Court of Appeal judge Datuk Zamani A. Rahim and High Court judge Datuk Hasnah Mohamed Hashim.

The court, he said, would also not decide on the definition of newspapers in the Defamation Act 1957.

Earlier, Najib's counsel, Datuk Mohd Hafarizam Harun, had submitted that the defence of qualified privilege was provided only for newspapers and not online news portals under the Defamation Act.

He also argued that the particulars pleaded in one of the paragraphs were statement of facts and not comments.

Najib was appealing against a Kuala Lumpur High Court decision on July 23 last year which rejected his application to strike out paragraph 10 and paragraph 11 in the statement of defence of the PAS run Portal.

The Prime Minister sued Harakah managing director Dr Rosli Yaakob and Harakahdaily chief editor Taufek Yahya over an article, written by Rosli and published on Feb 19, 2015, that contained words which claimed that he had abused funds belonging to 1MDB.

Najib also claimed that Taufek had failed to practise responsible journalism by not verifying the authenticity of the article before publishing it and that the article was intentionally published to destroy the people's confidence and trust in him.

Meanwhile, lawyer Faiz Fadzil, representing Dr Rosli, said the court should interpret the definition of newspapers in the Defamation Act to include online news portals.

He said there were triable issues in the civil suit that should be heard in a trial and that his client was entitled to plead defence of fair comment and qualified privilege as the words in the paragraphs were comments.

Lawyers Nadzratun Naim Hammad Azizi and Sharifah Nur Asmaa' Syed Azman (rpt Sharifah Nur Asmaa' Syed Azman) represented Taufek.

Outside the court, Hafarizam told reporters that he would seek instructions from Najib whether to appeal the matter to the Federal Court.

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