

## **Najib Not A Public Officer, Cannot Be Sued For Tort Of Misfeasance In Public Office - Lawyer**

KUALA LUMPUR, Feb 20 (Bernama) -- The High Court here today heard that Tun Dr Mahathir Mohamad and two others cannot claim that Prime Minister Datuk Seri Najib Tun Razak in his capacity as a public officer has committed tort of misfeasance in public office pertaining to 1Malaysia Development Berhad (1MDB)'s funds.

Najib's lawyer Datuk Mohd Hafarizam Harun said this was because Najib was a member of the administration and that Article 160 (2) of the Federal Constitution excluded members of the administration to be in the public services.

He told this to the press after Najib's lead counsel Tan Sri Cecil Abraham completed his submissions in chambers before Judge Abu Bakar Jais.

The court today heard submissions on Najib's application to strike out the lawsuit against him by Dr Mahathir, 90, former Batu Kawan UMNO vice chief Datuk Seri Khairuddin Abu Hassan, 54, and former Langkawi Wanita UMNO member Anina Saadudin, 41.

Mohd Hafarizam said the defendant's argument was that there was a difference between public services, public office, public servants and members of administration.

"Tan Sri Cecil argued that Article 160 (2) of the Federal Constitution excluded members of administration to be in the public services. Who are members of the administration? They are ministers, deputy ministers, political secretaries and therefore includes the Prime Minister and Deputy Prime Minister," said Mohd Hafarizam.

The lawyer said Cecil had also submitted that by reading the statement of claim, the defendant's lawyer could not find any ingredients that Najib was a public officer, that he had committed an act that had caused injury and that the act by Najib was done with malice.

"Tan Sri Cecil argued that that is his first argument meaning that the ingredients of the tort of misfeasance are absent," he said.

Mohd Hafarizam said the plaintiffs in their claim had failed to particularise how Najib had used his power to cause injury to them (Dr Mahathir, Khairuddin and Anina).

He said the court reserved its judgment to a date to be fixed.

The trio's lawyer, Mohamed Haniff Khatri Abdulla told reporters that he had argued that this suit was not a proper case to be struck out at this stage and urged the court to decide the case by way of full trial.

-- BERNAMA

© 2017 BERNAMA. All Rights Reserved. [Disclaimer](#) | [Privacy Policy](#) | [Security Policy](#)

Source: <http://www.bernama.com/bernama/v8/newsindex.php?id=1330937>