

Legal Protection for Wives Regarding Disputed Joint Property Issues in Divorce Lawsuits

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Abstract

The purpose of this counseling is to understand the recognition of disputed joint property in divorce lawsuits and how the system of dividing contested joint property works in divorce lawsuits. It serves as input for readers, academics, and government authorities. The research method used is normative empirical legal research. The filing of joint property lawsuits can be done simultaneously with divorce lawsuits, child custody, child support, and spousal support (consolidated lawsuits) or separately after the divorce lawsuit is finalized. Both the husband and wife can file consolidated lawsuits. The wife can file more lawsuits than the husband, particularly in cases of spousal support (iddah and mut'ah), while if the husband files a lawsuit for spousal support, it becomes problematic because spousal support is the husband's obligation. The wife is entitled to iddah support. The common obstacle in seeking legal protection through joint property lawsuits in divorce cases is the wife's limited legal knowledge, which can affect outcomes that do not meet expectations.

Keywords: joint Property, lawsuit, divorce

INTRODUCTION

Marriage is bond born inner between a man with a woman as husband wife with objective form happy and eternal family based on The Almighty ¹Godhead. Good cooperation between husband and wife in matter operate The rights and obligations of each party are very necessary in realize objective from something marriage. Rights are something that should be accepted somebody after He fulfil obligations, meanwhile obligation is something that should be carried out by someone For get rights. Husband and wife must each other loyal and loving, respectful, and mutual give help in a way inner and outer ². Husband obliged protect and fulfill needs life House ladder in accordance with his abilities. Likewise with wife, mandatory arrange affairs House ladder the best. Rights and obligations wife husband can separated into two groups as following:

- 1) Rights and obligations in the form of material, that is dowry and living.
 - a. Husband obliged give support for his wife, that is that husband fulfil need wife covers food , clothes , place stay and needs House stairs in general.
 - b. Husband as head House stairs.

In relationships husband wife so husband as head House stairs and wife obliged For look after House ladder everyday life and education child. However, This No means husband can Act free without care rights wife . If matter This happen so wife entitled For ignore it .

- c. Wife must arrange House ladder as good as maybe .
- 2) Rights and obligations that are not material includes :
 - a. Husband obliged treat wife with well , that is that husband must honor wife , treat him with should and get along with him in a way good .
 - b. Husband obliged guard wife with well , that is that husband must guard wife including guard price self wife , uphold glory wife and keep her away from slander.
 - c. Husband obliged give living inner to wife .
 - d. Husband obliged behave patient and always build morals wife , that is that husband must For behave weak gentle to his wife and must behave firm when see his wife do violating act _ religious provisions . Attitude be firm here intended For educate and build morals wife .
 - e. Wife must serve husband with well , that is that a wife must obey desire her husband during desire the No contradictory with religious law .
 - f. Wife must look after self and property husband , that is wife must truly guard yourself so you don't become the person's attention that results in slander.
 - g. A the wife is also mandatory guard treasure owned by husband , with No spend it For things that don't important ³.

Apart from rights and obligations husband wife , inside something marriage also exists position husband wife in general is same , fine his position as man nor in his position in function family ⁴. The purpose of chapter the is so that it doesn't There is domination in House ladder between husband wife , fine in build House ladder or in build and shape descendants .

¹ “Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan”, Pasal 1

²Ibid., Pasal 33 dan Pasal 34

³Junaedi, Dedi., “Bimbingan Perkawinan”, Akademik Presindo, Jakarta, 2000

⁴ Ibid., Pasal 31 ayat (1)

Based on description above can said that For can create A harmonious family expected for husband wife For examine more deep and applied in life a day day meaning from A marriage , incl rights and obligations husband wife . With exists bond legal marriage so expected formed institution House ladder or family will become point reject achieved happiness , will but in reality No all marriage walk with good and emerging problems include is about treasure together .

In accordance law positive that applies in Indonesia, wealth together shared with balanced between husband and wife . This thing if No done agreement marriage about separate assets by the spouse husband the wife did before and after ongoing marriage contract . Related with matter the that is Where power husband on treasure together is very broad , then law positive give protection law in the form of laying confiscate guarantee to treasure together If worried party husband do cheating , like divert part big treasure together to party third with Meaning when divorce has happen , treasure with what you get the party doing it fraud the will more Lots than it should be . Confiscate collateral to treasure together the known with term marital confiscation that can placed on acquired assets either each or husband wife in a way together during bond marriage taking place called treasure together , without question registered on Name anyone . So at the moment happen problem connection with treasure together , the party who feels disadvantaged Good husband nor wife Still can maintain treasure together the from non - use responsible answer Because all treasure Can frozen with method put marital confiscation .

Marital confiscation is used For give protection law to second split party on wholeness treasure together so as not to move hand to party third . Confiscate this marriage arranged clear in the law Number 1 of 1974 concerning Arranged marriage in Article 95 paragraph (1) and paragraph (20). Marital confiscation is possible submitted by the wife , if husband own habit more Lots use up riches together For dangerous waste treasure marriage . Middle pair facing the divorce process , okay wife nor husband can submit marital confiscation until decided distribution treasure with justice For second split party . The goal is For avoid rudeness of one immediate party sell a number of treasure on name and transfer to party third , so when divorce has happen , treasure with what you get will more Lots than it should be obtained . The term marital confiscation (*marital beslag*) in law which is special applies in environment Religious Courts are capable give protection in life public specifically for facing society problem dispute treasure together in matter lawsuit treasure together in case divorce . Confiscate this marriage is alternative for public searcher effortful justice the law need taken in a way special with expectations of the divorce process between husband wife can walk with Good without harm second split party .

Beside marital confiscation as one effort protection on treasure together with the disputed , there is another way , namely with submit lawsuit treasure together which are compiled with case lawsuit divorce or use sue return (*reconventie*). The only one governing provisions about cumulation sue , merge a number of lawsuit become one , is Chapter 86 paragraph (1) of the Law Number 7 of 1989 as changed with Constitution Number 3 of 2003 Concerning Religious Courts . However so , because practice justice really needs it , then cumulation sue This it has been implemented for a long time and already become jurisprudence

fixed . The purpose of implementing it cumulation sue is For simplify the process and avoid mutual decisions contradictory ⁵. Simplification of this process for no other purpose For realize principle simple , fast and cost- effective justice light ⁶. However so , if then the parties utilise effort appellate law or cassation even review back to what's involved cumulation lawsuit treasure together and things divorce , then the resulting consequences is solution case divorce to follow for a long time effort laws used by parties who do not satisfied on distribution treasure together that . With thereby problem divorce become carried away by the article that allows it

In 2007 there were case about cumulation lawsuit treasure together in case divorce at the Semarang Religious Court with Number Case : 1031/ Pdt.G /2007 / PA.Sm. Case the is cumulation lawsuit consisting from lawsuit treasure together , lawsuit divorce , lawsuit right foster child , lawsuit living wife and lawsuit living child. The result is lawsuit treasure together granted For in part , lawsuit divorced granted , lawsuit right foster child granted , lawsuit living wife No granted and lawsuit living child granted For partly. That case become object in study this is related with protection law to wife in connection with cumulation sue, esp lawsuit treasure together in case divorce.

RESEARCH METHODS

Method used in counseling law This is method talk and ask questions answer. Presented first by the team instructor Then next with discussion / Q &A with participant related counseling with treasure together in dispute in lawsuit divorce.

Evaluation can held before, during and after activity counseling implemented, stated with method comparison the method implemented with questionnaire method then the result analyzed in a way qualitative. reject he measured includes, among other things comparison invitation presence and seriousness in follow activity counseling Then Power absorb seen in put forward questions / opinions liveliness from the participants counseling

RESULT AND DISCUSSION

Protection law to wife on problem disputed assets in lawsuit treasure together in case divorce in the Religious Courts

In general couple who will Marry No Once think about problem about treasure each party's baggage as well as treasure together and property acquired property after marriage because at the beginning marriage No There is thinking couple For divorced ⁷. In fact, dependency economy the is one because main happen injustice to party wife ⁸. That thing is possible limitations avoided if wife have adequate knowledge about marriage and everything the consequences it causes. Therefore that , if wife want to litigious so necessary things noticed is things as follows ⁶⁶:

a. Get advice law :

Advice law can obtained from competent parties (lawyers , consultants law or parties who have experienced). This thing For know consequence law on problems faced Because consequence law the is binding and binding force .

b. Get information regarding legal processes , including :

(1) Things that must be done prepared , if represent self Alone in trial ;

⁵ Soepomo, R., "Hukum Acara Perdata Pengadilan Negeri", Pradnya Paramita, Jakarta, 2005, hal 29

⁶ Harahap, Yahya, M., "Hukum Acara Perdata", Sinar Grafika, Jakarta, 2001, hal 104

⁷"Buat Perjanjian Dulu Sebelum mengucapkan "Saya Terima"", Kompas, 27 Juni 2005

⁸"Menggugat Peraturan Hukum tentang Pengaturan Nafkah", Kompas, 14 Februari 2005

- (2) If use service attorney (power of attorney law) in court , how much big matter the will influence the judge's decision ;
 - (3) Costs are required issued , if use service attorney (power of attorney law);
 - (4) Outline the legal process that will occur faced in court ;
 - (5) How long it takes for legal proceedings on case at hand .
- c. Prepare letters important For submitted in lawsuit treasure together with , among other things : the original marriage certificate and its photocopy spiked stamp , photocopy deed birth legalized child , photocopy of KTP, photocopy Card Family , and so on must also be prepared original order at any time desired Already available For avoid things that don't desired in litigious . For case accompanying divorce with problem distribution treasure together , is also necessary prepared related letters with with treasure object marriage like deed buying and selling , certificates , receipts , letters proof ownership and so on . This thing For makes it easier understanding problem the law at hand . After that , you can decided is will use help lawyer or power law as a representative in court, or represent self alone , without accompanied lawyer .
- d. Aid Institute :
- Advice law can obtained from consultant law or lawyer , with freedom choose For accompanied / not accompanied by them in hearing court later . If No have sufficient funds For pay lawyer , there is alternative For use institutions that can requested help with without burdensome excessive costs . Institutions in nature non-commercial , for example the Legal Aid Institute , usually will consider condition , good condition economy nor psychological .
- e. A must prepared before to court :
- (1) If without accompanied Lawyer :
 1. Prepare letter lawsuit ;
 2. Prepare the amount of administration money as set Later court must be paid to part registration lawsuit in court Then proof the payment is in the form of SKUM (Certification Letter For Pay) after pay ;
 3. Prepare desired material presented in court about case at hand ; And
 4. Prepare evidence and witnesses
 - (2) When accompanied Lawyer ⁹:
 1. Sign a Power of Attorney made by a lawyer . The Power of Attorney is letter stating that as giver power give power to lawyer (as recipient power) for represent in management case, start from making letters like letter indictment , proceeding in advance hearing court , facing institution or authorized person in frame management case , ask copy decision court and so on .
 2. Preparing a Lawsuit Letter .
If the Power of Attorney is in place signed , then furthermore attorney (power of attorney law) that will look after preparation of lawsuit letters and letters anything else needed during the legal process walking .
 3. Prepare the amount of administration money set Court , that must be paid to part registration lawsuit in court . Then as proof has do payment will received SKUM (Certification Letter For Pay).
 4. Prepare money for payment lawyer if requested attorney his help is paid lawyer
- f. Things that are also a must noticed are :
- (1) preparation .
 - (2) Attend the judge No late Because can influence the way trial .

⁹Sutrisno, Pengacara di Semarang, Wawancara tanggal 20 Januari 2009

g. In space hearing court ¹⁰:

- (1) Which is possible The judge asked, among other things:
 1. In court Firstly , the judge usually will do effort peace . At the trial this the judge will ask is second parties to the dispute will stage peace / no .
 2. During the examination process , the judge can: ask related problems with lawsuit , whether There is object of the parties / no .
 3. Before decision handed down by the judge, the judge can ask is There is other things you want submitted by the parties .
- (2) The rightful one present at the hearing :
 1. The judge is the one who presides the way hearing , examining , and deciding matter .
 2. Registrar , that is, the person in charge take notes the way trial .
 3. Wife , that is as the submitting party lawsuit , called Plaintiff / Legal representative .
 4. Husband, that is as the party being sued is named Defendant / Attorney .
- (3) Wife's rights as Plaintiff including : ¹¹
 1. Accompanied lawyer as power law in court ;
 2. Ask and answer about development the case Good to power the law , too to the judge;
 3. Get copy letter decision court (can through power the law);
 4. Get the same treatment in advance law , without differentiated based on ethnicity , religion, descent , type gender , beliefs political or social status ;
- (4) How long the process takes :
 1. Court of First Instance
Hearing done not enough more 6 (six) times with period time required maximum 6 (six) months at the level court first .
 2. Court of Appeal and Cassation (at the High Court and Supreme Court)
Time required in solution something case until appeal and cassation levels No same . However in a way general from beginning of court proceedings level First until you can appeal to the Supreme Court eat time 3 to 5 years . As for evidence authentic that somebody has divorce is with its publication deed divorced .

Laying effort proposed marital confiscation simultaneously with lawsuit treasure together in case divorce is through procedure as following ¹²:

1) Application

Application marital confiscation is filed to Chairman Court whose jurisdiction it is covers residence holding party goods object confiscate . First day the judge will be very decisive legitimate or or not application marital confiscation , so can concluded that application confiscate submitted before day First trial . If on the day First lawsuit accepted so foreclosure will continued , vice versa if lawsuit rejected so confiscate will lifted . In practice application marital confiscation in general submitted together with submission lawsuit to court . However matter This No close possibility application confiscate submitted before or in the middle of the inspection process matter . In fact Article 227 paragraph (1) HIR also provides possibility that marital confiscation can requested after exists decision But decision the Not yet can executed. Example application This is in matter has dropped decision verstek , where to decision vertek the defendant Still submit

¹⁰ Hudlrien, Nor, M., Hakim Pengadilan Agama Semarang, Wawancara tanggal 20 Januari 2009

¹¹ *Ibid.*

¹² *Ibid.*

resistance, or in matter has dropped decision contradictoir while the person concerned submit appeal request.

2) Inspection

On confiscation revindicator its nature The examination was very sketchy, respondent confiscate No need heard because basically applicant is owner legitimate on the item requested confiscate that. As the consequences so party respondent No need heard in this process. Meanwhile at confiscation conservatoir, examination more complicated Because involve effort proof element exists reasonable thought that defendant currently Empower effort For remove the goods For avoid lawsuit plaintiff. SEMA Number 5 of 1975 regulates that in every determination confiscate conservatory called the reasons that cause it confiscate conservatory the granted¹³, which means that before issued granting decision confiscate conservatory that, then must held study moreover formerly about There is or not the reasons stated applicant. With exists characteristic summaries on examination application confiscate guarantee, then determination confiscate guarantee is authority judge's discretion. Not easy For give characteristic character standard to indicator granted confiscate guarantee and because That its determination will really depend to case by case. As for effort the law can taken is as following:

a. Resistance Confiscated Party

HIR is the same very No arrange effort law special for party seized For oppose instrument confiscate guarantee (incl marital confiscation therein). Basically confiscate guarantee No addressed For do execution / sales to object confiscate and just forbid seized For do deed law to goods that. However, confiscate guarantee the still can give rise to loss to seized. On the contrary RV precisely load terms and conditions special arrange resistance to confiscate guarantee, Article 724 and Article 725 Rv give chance for seized For submit rebuttal Good with hearing short in front of chairman (court) or in front of trial. Resistance This submitted in something inspection on valid and valuable or or not confiscate guarantee, that is a must held 8 days after confiscate set. Party seized can submit:

- (1) Sue for reconvention to applicant confiscate, sue This containing application to panel of judges for drop interlocutory judgment for lift or change confiscate guarantee said;
- (2) Application to Chairman local District Court For lift or change confiscate that.

b. Resistance Party Third

Basically both HIR, Rbg nor RV No arrange procedure resistance to confiscate guarantee, fine to confiscate conservatory, as well as confiscate revindicator. Draft base from resistance party third is based resistance to right belongs to. Therefore contrarian must can prove that He is owner from goods confiscated, if proven goods the is his, then contrarian the will turned on as true contrarian and confiscate will order For lifted, otherwise, if No proven so contrarian will stated as contrarians who don't honest and confiscated will maintained.

From concept this, then contrarian to confiscate conservatory No will can fulfil criteria resistance as intended in Article 195 paragraph (6) HIR, because clear that resistance the No on base right belongs to. However, in practice, jurisprudence resistance party third as owner confiscated items can accepted, also in matter confiscate conservatory This Not yet approved to confiscate guarantee in nature conservatory can accepted. Based on Article 207 paragraph (1) HIR, resistance submitted to Chairman The court has decide did it confiscation. Inspection to resistance done through regular events, where second split party heard and called in a way proper.

¹³Surat Edaran Mahkamah Agung Nomor 05 Tahun 1975, leip.or.id

c. Compensation

HIR as well as Rbg The same very No arrange mechanism demands change loss to confiscate later guarantee lifted Because court reject principal matter . HIR as well as Neither does RGB requires applicant confiscate guarantee For deliver guarantee as condition granted confiscate guarantee, so practical No there is something ready guarantee executed to seized on possibility possible losses happen consequence confiscate that . Meanwhile HIR and Rbg No arrange mechanism change loss, Rv precisely give chance change make a loss for seized if confiscate guarantee the Then lifted . Article 732 Rv arrange that creditor / applicant confiscate can punished For pay costs, losses and interest If there is reason For that . MA has disconnect that obligation change loss by the creditor / applicant based on concepts deed oppose law and confirms :

- (1) Confiscate collateral only can considered as deed oppose law (PMH) if confiscate the covers things that are firm excluded from confiscate , for example Article 197 paragraph (8) HIR ¹⁴.
- (2) PMH no automatic happen If court Then lift confiscate that ¹⁵.

Protection constraints law to wife on problem disputed property in lawsuit treasure together in case divorce in the Religious Courts

1. Limitations Legal Information

In case research , the plaintiff (wife) did not can show document original (only copy in the form of photocopy) in proof lawsuit treasure together so that become lost chance For obtain part treasure together with the consequences loss to the party wife . Even lack of information about acquisition Joint assets result the plaintiff (wife) stated treasure default husband (who apparently husband has do exchange with party third during marriage taking place without knowledge wife) to in lawsuits also become indication that lack of communication marriage Where wife No know on Name Who just existing assets can caused loss .

In principle maker Constitution mean For maintain and guard interest wife with exists Article 86 paragraph (1) Law - Invite Number 7 of 1989 as changed with Constitution Number 3 of 2003 Concerning Religious Courts , which are open possibility For submit lawsuit treasure together which are compiled with case lawsuit divorce or use sue come back (reconventie). With according to the parties can Utilize Effort appellate law or cassation even review return connection with treasure together beside marital confiscation , because if the wife submitted sue divorced or husband plead divorce divorce , then usually mastery treasure with more dominant is husband . This thing means that in divorce , parties aggrieved wife so that anticipated with opened it accumulation (merging) of lawsuits treasure together with lawsuit divorce or sue come back that .

What's next is necessary is known is in matter letter lawsuit , which was before registered to secretariat court Already signed by the plaintiff , must made in double at least 4 (four), consisting of 1 (one) original and 3 copies ¹⁶. Then registered as case at the clerk's office court with given case register number , after plaintiff pay amount of down payment (*forskot*) costs big thing determined by the Chairman Court (Article 121 paragraph (4) HIR).

¹⁴ Putusan Mahkamah Agung No. 206 K/Sip/1955, 19 Januari 1957

¹⁵ Putusan Mahkamah Agung No. 124 K/Sip/1975, 15 Mei 1975

¹⁶ Azhar, Cholidul., Sekilas tentang Gugatan/ Permohonan Cerai ke Pengadilan Agama (Magetan), 2008, pa-magetan.net

Basically lawsuit made by the Plaintiff in form written , will but if Plaintiff is a blind person letters (no Can read and not Can write letter Latin) then lawsuit can submitted in a way verbally , as arranged in Article 120 HIR which reads :

“If the plaintiff No competent write , then demands can submitted in a way oral to chairman court ; chairman That will take notes demands That or ordered note it down . ”¹⁷

The method taken is plaintiff direct facing Chairman Court or appointed Judge , then plaintiff tell about the problem the thing with clear and conveying things requested / sued for For decided by the court . Chairman Court or appointed Judge the will listen with carefully all explanation plaintiff and record it in form Notes Formulated oral lawsuit with systematic certain and then Notes Lawsuit the marked handled by the Chairman Court /Judge appointed . Notes Signed lawsuit handled by the Chairman Court or appointed Judge the works as replacement lawsuit written for Blind plaintiff letters ¹⁸.

Claim letter must made with clear about status and relationships law between Plaintiff and Defendant and include events about things that happen and cause mastery rights by the Defendant , as well facts the law spells out about exists right for Plaintiff or connection the law becomes base he submitted lawsuit .

If letter lawsuit made with descriptions that are rambling and not relate with the matters that are contested , then lawsuit the Can become No clear or blurry (*obscur libel*) , as a result of which the judge will drop decision that lawsuit ” no can accepted ” (*niet onvankelijk verklaard*). Therefore in order for the letter sue not “ fuzzy ” , strictly speaking general letter lawsuit use systematic as following ¹⁹:

(1) Identity :

that is loading section name , age , religion, occupation , and address plaintiff and defendant as clearly as possible ;

(2) Posita or Fundamentum Petendi :

that is part letter sue that contains description about the plaintiff's status and relationship with defendant , the events that have occurred happens that becomes because or background exists things will sued , as well about the law becomes base exists right for plaintiff and/ or become base made lawsuit .

(3) Petitum :

that is part the lawsuit contains in a way concrete matters sued / demanded by the plaintiff . Sentences in petitum arranged like that appearance with the intention of the court drop decision like that . All thing displayed in petitum must have connection or base clear description in posita . Something petitum which is not There is description the position , then lawsuit Can to be ” blurred / not clear ” (*obscur libel*) ⁷⁹ . In case research , on the lawsuit treasure together party plaintiff (wife) no can explain in a way detailed about object lawsuit in the form of land boundaries , so considered blurred / not clear .

Basically divorce divorce is divorce imposed by the husband to wife , meanwhile divorced sue is divorce issued by the wife to husband . A person's divorce statement husband to his wife must legalized in advance court . After the divorce statement legalized in advance court Then court provide Formal Legal, ie giving letter legitimate on divorce request from husband . This formal legal grant refers to the reasons divorce according to law Marriage . In this formal legal granting process , the judge grants period time to husband For think about return statement husband For impose divorce. Basically the

¹⁷“Het Herziene indonesisch Reglement”, legalitas.org

¹⁸ *Op.Cit.*, Hudlrien.

¹⁹ *Loc. Cip.*, Azhar, Cholidul .

statement of divorce is not can spoken at the time atmosphere heart covered emotion. Therefore That since issuance of a Circular Letter from Supreme Court (SEMA) Number 1 of 2002 Religious Courts are required give means mediate and optimize institution mediation the for partner husband the wife will divorced ²⁰.

2. The fall Iddah and Mut'ah livelihood

In case research , lawsuit divorce filed by deep wife his demands among other things, wants fulfillment living mutah and livelihood iddah become fall , because livelihood the can obtained only if the person submits it divorce divorce is husband . Such thing is constraint for wife who tries look for justice after condition marriage as the wronged party , however Still No get right on living post divorce that .

Basically if the person submits it lawsuit divorced is wife so right get *mut'ah* and *iddah livelihood* become fall . What is meant with *mut'ah livelihood* is maintenance provided by (former) husband as present final For wife , yes in the form of money or objects / jewellery ; whereas *iddah livelihood* is living in the form of money given by (ex) husband to wife after divorced , that is for 3 months consecutive after divorced . This mut'ah and iddah livelihood obtained a (former) wife from her (ex) husband if the person sues divorced is husband .

3. Completion Time It drags on

It's allowed cumulation lawsuit is profitable in one side , but on the other side if it turns out if parties who do not satisfied with the decision handed down the panel of judges can result it drags on solution divorce . That thing because use effort appellate law , cassation or review return in case lawsuit divorce (with or without cumulation with treasure together), so with thereby decision powerful divorce law still become longer . Circumstances thereby can misused by interested parties bad , for example postpone divorce for the sake of getting in the way interest party others , like conjecture the other party will Marry over and over again , though court No Can follow mix and make efforts law still can be used⁸⁹. Although in reality , the goal enforced cumulation sue to achieve it benefit simplification of the process so inspection case become short , fast and economical more tend felt if accumulated lawsuits That regarding with materiality. However If cumulation sue That regarding problem divorce with treasure together, often precisely solution case the divorce is long and tends give rise to impact social very serious negative ⁹⁰ . In between impact social happening consequence forever solution case among other things, the occurrence of under marriage hand . Impact This happen because of the parties No can quick carry out marriage in a way legitimate Because must wait decision lawsuit treasure together together with lawsuit his divorce . It happened marriage below hand before exists decision divorced This result happen illegal polygamy which gives rise to social problems new, or more bad is if marriage below hand This done by the wife with other men matter has happen polyandry because in a way law Still bound by marriage with her old husband . Wedding thereby is violation serious law especially Islamic law .

Husband and wife at home the stairs No worthy Again maintained and both Already want divorce , forced Not yet quick Can end bond his marriage . This thing happen Because dispute treasure together which are compiled with sue divorced Still in inspection level cassation even No close possibility until level review back . That thing due to the large number things that must be done resolved by the Supreme Court , so often solution case cassation eat time long enough .

²⁰ *Op. Cit ., Hudlrien .*

To overcome solution protracted matter _ This The Supreme Court in particular environment religious courts have set policy For give priority solution related matter divorce , however Thus , the parties litigious Still feel forever solution case because of the case process Already started since level first . If counted in a way rough with a (relatively) fast inspection process , for example at the level First estimated for two months , then process and examination at the appeal level for four month and process as well level inspection cassation during One year , then elapsed time Already during One half year . Time one half year This for the parties to the divorce No caused by interference party third , maybe felt No too long, however for the parties to the divorce caused exists disturbance party third , time thereby will feels like a long time. Such a case will more increase if solution the thing eat time longer.

Apart from giving priority to solution related matters with divorce , Supreme Court at Meeting National Work in Makasar 2007 through commission in charge religious courts have formulate a number of agreement For look for solution on protracted solution case cumulated divorce with treasure together . In letter A number 2 states :

“ For avoid protracted resolution process case divorce , so that matters divorce No always compiled with treasure together as intended in provision Article 86 of the Law Number 7 of 1989 which has been changed and added with Constitution Number 3 of 2006 concerning Religious Courts , then on assets together the can placed confiscate ”

²¹.

4. Conflicts in Practice Having an event

Implementation cumulation lawsuits also give rise problem in practice The procedures (procedural law) include :

- a) Lawsuit divorce done in hearing closed , meanwhile case material (property together) with hearing open ;
- b) Proof witness in lawsuit dominated divorce reason *shiqaq* (divorce caused by disputes between the parties difficult reconciled) requires testimony family or close people with second party , temporary such testimony For proof treasure together contradictory with Article 145 HIR/ Article 172 RBg ;
- c) Case process disconnected with *verstek* (Defendant No Once present , and have been called with method legal and proper), then announcement No to personal / *in person* but through the Lurah / Village Head , then as a result that is calculation chance For submit *verzet* (resistance) or a period of strength law fixed (BHT) different between case divorce with case treasure together , divorce considered happen counted since decision Court obtain strength law remains (Article 81 paragraph (2) Law Number 7 of 1989 as follows changed with Law Number 3 of 2006) namely 14 (four twelve) days since he informed fill decision to parties who do not present (Article 188 paragraph (1) HIR / Article 199 paragraph (1) RBg) while law material (property together) for submit *verzet* (resistance) still open when will do execution that is until 8th (eighth) day after *aanmaning* / reprimand (Article 129 paragraph (2) HIR / 153 paragraph (2) RBg) ⁹⁸ . things thereby is constraint Because although cumulation lawsuit treasure together with case divorce is relate closely (principle connectivity fulfilled), but in practice event still using two different procedures. Beside that's the difference period time is not The same For submission *Verzet* is very affecting forever strong decision _ law fixed , so contradictory with vision Religious Court.

²¹Hasil Rapat Kerja Nasional Mahkamah Agung Republik Indonesia, Makassar, 2007, hal 3-4

5. Methods Used by Judges for How to Judge

Like has stated, no There is governing law about cumulation sue except Constitution Number 7 of 1989. Implemented cumulation sue before birth Constitution the because exists need in practice judiciary , no based to existing rules. See reality so , then Constitution the accommodate it through chapter separately as stated in Article 66 paragraph (5) and Article 86 paragraph (1). Therefore That can said that procedural law in the environment more religious justice proceed compared existing civil procedural law. Arrangement cumulation sue the is method submission cumulation sue ie allowed submit sue divorce with lawsuit else , no method judge . As for method put him on trial , whether must disconnected in a way simultaneously or can in a way separated Constitution the No arrange it . With No exists governing provisions , then based on rule the law that states “ *if No There is command and No There is prohibition means okay* ”, I guess No There is obstacle when the judge can choose which one is more Good between judge in a way simultaneously with judge in a way separate . Ability This No means that the judge may reject or No judge case filed . Permanent judge must judge him only about The method No must in a way simultaneously . Responding No exists governing law this , then Already become obligation for the judge to find the law .

CONCLUSION

Completion dispute distribution treasure together for Muslims it is authority from Religious Court . Protection efforts law on problem treasure together can taken with method put marital confiscation and lawsuit treasure together . The goal is to prevent happen abuse treasure jointly by the parties husband , so No harm family . How to submit lawsuit treasure together can done simultaneously with lawsuit divorce, rights foster children , living children and living wife (*comm lawsuit*) or submitted in a way separated after lawsuit divorce disconnected. Husband or wife can submit cumulation lawsuit . Wife can submit lawsuit more Lots from husband that is in matter living wife (iddah and mut'ah), whereas if husband submit lawsuit living wife so become odd Because living wife is obligation husband . Wife must given living iddah and livelihood mutah if the person submits it divorce divorce is husband , meanwhile if the person submits it lawsuit divorced is wife , then second living the No can given . About proof on dispute treasure together must done in trial , so that you can is known that treasure the No treasure origin or treasure default . On p Thus , the judge decided case in a way *casuistry* , It means seen from conditions per case so that achieved justice is not siding .

Frequent obstacles arise in effort protection the law adopted through lawsuit treasure together in case divorce is limitations knowledge law wife , so in litigious can influence no decision in accordance hope . Beside That 's allowed cumulation treasure together with lawsuit Divorce also causes Lots problem in practice the procedures (procedural law) are mutual contradictory and consuming a long time . Furthermore about provision in matter wife sue divorced husband so that No get living mutah and iddah livelihood , and are still burdened cost matter. That thing is something constraint for intended wife look for justice but No have sufficient funds.

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