

Pembagian Harta Warisan Terhadap Harta Bersama Dalam Perkawinan Poligami (Studi Putusan Pengadilan Tinggi Agama Nomor 39/PDT.G/2020/PTA.MTR.) = Distribution of Inherited Assets to Internal Joint Assets Polygamous Marriage (Study of Decision of the Second-level Religious High Court Number 39/PDT.G/2020/PTA.MTR.)

Rahimah Syamsi, author

Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=9999920528984&lokasi=lokal>

Abstrak

Salah satu permasalahan dalam perkawinan poligami adalah apabila suami yang meninggal pernah melakukan perceraian pada salah satu istrinya, namun harta bersamanya belum dibagi. Hal ini disebabkan, banyak masyarakat belum mengetahui cara pembagian harta warisan terhadap harta bersama pada perkawinan poligami terutama dalam syariat Islam. Dalam kasus Putusan Pengadilan Tinggi Agama Mataram Nomor 39/Pdt.G/2020/PTA.Mtr, terdapat perbedaan pendapat Majelis Hakim pada tingkat agama dan tingkat banding. Pada putusan pengadilan tingkat agama, Hakim hanya membagi harta bersama sebagai harta warisan tanpa melibatkan istri pertama. Sedangkan, menurut Majelis Hakim tingkat banding pembagian harta tersebut harus melibatkan istri pertama, lalu setelah itu baru dapat dibagikan kepada ahli waris yang berhak. Jika tidak melibatkan istri pertama, bisa dianggap tidak adil karena hanya mengungkapkan harta bersama dari salah seorang istri saja. Metode penelitian yang digunakan secara yuridis normatif berdasarkan data sekunder. Alat pengumpulan data yang digunakan dengan studi kepustakaan. Hasil penelitiannya adalah untuk pembagian harta bersama dalam perkawinan poligami harus melibatkan para istri, setelah itu harta warisan baru dapat dibagikan kepada para ahli waris yang berhak. Cara pembagian harta bersama dalam perkawinan poligami dapat merujuk pada Pedoman Pelaksanaan Tugas dan Administrasi Peradilan Agama Buku II dan menurut pendapat Neng Djubaedah yaitu dengan equal method dan ratio method.

.....One of the problems in a polygamous marriage is if the deceased husband has divorced one of his wives, but the joint assets have not been divided. This is because many people do not know how to divide inheritance into joint assets in polygamous marriages, especially in Islamic law. In the case of the Decision of the Mataram Religious High Court Number 39/Pdt.G/2020/PTA.Mtr, there was a difference of opinion of the Panel of Judges at the first-level religious court and the second-level religious high court. In the decision of the first-level religious court, the judge only divided the joint assets as inheritance without involving the first wife. Meanwhile, according to the second-level religious high court, the distribution of assets must involve the first wife, and only then can it be distributed to the rightful heirs. If it doesn't involve the first wife, it could be considered unfair because it only discloses the joint assets of one of the wives. The research method used is normative juridical based on secondary data. Data collection tool used with literature study. The results of his research are that the distribution of joint assets in a polygamous marriage must involve the wives, after which the new inheritance can be distributed to the rightful heirs. The method for dividing joint assets in polygamous marriages can refer to the Guidelines for the Implementation of Duties and Administration of the Religious Courts Book II and according to Neng Djubaedah's opinion, namely the equal method and the ratio method.