

ABSTRAK

ANALISIS YURIDIS DALAM PEMBERIAN IZIN POLIGAMI ATAS DASAR NIKAH SIRI PASCA BERLAKUNYA SURAT EDARAN MAHKAMAH AGUNG NOMOR 3 TAHUN 2018

**(Studi Putusan Pengadilan Agama Tanjung Karang Nomor:
1117/Pdt.G/2022/Pa.Tnk)**

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Persoalan permohonan poligami atas dasar nikah siri menjadi fenomena yang sering terjadi di masyarakat Indonesia. Pernikahan yang dimohonkan disertai dengan poligami dapat diartikan sebagai pihak suami sebelumnya sudah menikah secara sah dan tercatat dengan pasangan yang lain, sehingga memerlukan status hukum melalui Pengadilan Agama berupa penolakan atau pengabulan dalam suatu putusan. Permasalahan penelitian ini adalah analisis yuridis pemberian izin poligami atas dasar nikah siri pasca berlakunya Surat Edaran Mahkamah Agung Nomor 3 Tahun 2018, dan pertimbangan hakim mengenai dikabulkannya izin poligami pada Putusan Perkara Nomor: 1117/Pdt.G/2022/Pa.Tnk.

Poligami juga dapat diartikan perkawinan antara seseorang dengan dua orang atau lebih dengan syarat pokok adalah persetujuan istri pertama berdasarkan Undang-Undang Nomor 1 tahun 1974 tentang perkawinan. Lebih lanjut dalam Kompilasi Hukum Islam Pasal 5 ayat 1 bahwa suami diperbolehkan mempunyai istri lebih dari seorang, namun hanya sampai empat orang istri saja.

Penelitian ini menggunakan pendekatan yuridis normatif yang mengacu pada peraturan perundang-undangan, serta pendekatan empiris disertai studi kepustakaan dalam buku-buku, jurnal, dan lainnya yang relevan dengan topik penelitian. Analisis penelitian menggunakan deskriptif kualitatif untuk mengkaji persoalan hukum dengan pemaparan mengenai fenomena hukum yang terjadi.

Hasil penelitian menunjukkan bahwa perbedaan izin poligami atas dasar nikah siri antara Buku II dan yurisprudensi Nomor 46/PUU-VIII/2010 dengan Sema Nomor 3 Tahun 2018 tidaklah mengikat hakim dalam memutus perkara, sebaliknya hanya sebagai pilihan acuan pertimbangan disertai fakta-fakta hukum lainnya. Dalam Putusan Perkara Nomor: 1117/Pdt.G/2022/Pa.Tnk. bahwa dikabulkannya izin poligami atas dasar nikah siri didasari Putusan MK Nomor 46/PUU-VIII/2010 dikarenakan mendapatkan persetujuan istri dan suami dapat berlaku adil.

Kata Kunci : Nikah Siri, Poligami, Sema

ABSTRACT**JURIDICAL ANALYSIS IN GRANTING PERMIT FOR POLYGAMY ON THE BASIS OF SIRI MARRIAGE POST THE APPLICATION OF THE SUPREME COURT CIRCULAR NUMBER 3 OF 2018****(Study of the Decision of the Tanjung Karang Religious Court Number: 1117/Pdt.G/2022/Pa.Tnk)****By****Sultan Alvaro Dwiyanto**

The issue of requests for polygamy on the basis of unregistered marriage is a phenomenon that often occurs in Indonesian society. The marriage being applied for accompanied by polygamy can be interpreted as the previous husband being legally married and registered with another partner, so that it requires legal status through the Religious Court in the form of rejection or acceptance in a decision. The problem of this research is the juridical analysis of granting polygamy permits on the basis of unregistered marriage after the entry into force of the Supreme Court Circular Letter Number 3 of 2018, and the judge's considerations regarding the granting of polygamy permits in Case Decision Number: 1117/Pdt.G/2022/Pa.Tnk.

Polygamy can also be interpreted as a marriage between a person and two or more people with the basic condition being the consent of the first wife based on Law Number 1 of 1974 concerning marriage. Furthermore, in the Compilation of Islamic Law Article 5 paragraph 1 that a husband is allowed to have more than one wife, but only up to four wives.

This research uses a normative juridical approach that refers to laws and regulations, as well as an empirical approach accompanied by literature studies in books, journals, and others that are relevant to the research topic. The research analysis uses descriptive qualitative to examine legal issues with an explanation of the legal phenomena that occur.

The results of the study show that the differences in permission for polygamy on the basis of unregistered marriage between Book II and jurisprudence Number 46/PUU-VIII/2010 and Sema Number 3 of 2018 are not binding on judges in deciding cases, on the contrary only as a reference choice for consideration accompanied by other legal facts. In the Decision on Case Number: 1117/Pdt.G/2022/Pa.Tnk. that the granting of permission for polygamy on the basis of unregistered marriage based on the Constitutional Court Decision Number 46/PUU-VIII/2010 was due to obtaining the consent of the wife and husband to be fair.

Keywords: Siri Marriage, Polygamy, Sema