

Position Permission Divorce for Civil Servants at the Class 1A Religious Court Office in Makassar

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Study This aiming For know and understand mechanism submission permission for Civil servants who carry out divorce at the Class 1A Religious Court Office in Makassar. And for know and understand factor affecting submission permission for Civil servants who carry out divorce at the Class 1A Religious Court Office in Makassar. Research This use method study empirical that is a approach or method knowledge based observation direct , observation , and observation . Research results This show Civil servants who want to submit application permission divorce must with legitimate reasons to official authorized Then official authorized to form team advisory after That call second split party husband wife simultaneously or individually . Officials give advice to be able to harmony Back but if second split party or one of them party want to divorce so both of them must make statement want to divorce . The factors that influence submission permission divorce that is factor internal and external factors external . Recommendations given writer that is Firstly, civil servants at the Class 1A Religious Court in Makassar must own permission If want to carry out divorce . The second one give certainty law and sense of justice in take or emit permit decision letter divorce for civil servants.

INTRODUCTION

Divorce is the opposite from marriage and its ending a marriage . divorce is break up connection husband wife by husband or divorce judge , the judge's decision with carry out the procedures the way trial started from stages Panel of Judges Reads Out lawsuit , Responding party Defendant , Proof from plaintiff and defendant until the judge's decision reaches the Court Syar'iy (MS) provides letter decision divorce , among other things caused by failure husband or wife in operate obligation their respective roles . [1] Divorce understood as the end instability marriage between husband and wife who then life separate and recognized in a way legitimate according to applicable law . [2] Condition divorced done in front hearing religious court in line with provision Islamic law that harm must removed , and derivatives rules If happen clash between benefits and harms , then the interests come first . [3]

This means that the duties and functions of religious court judges are task holy , and in case divorce judge religious court on duty For build return family sakinah , mawaddah , and warahmah . Divorce allowed in Islam because wedding considered as a contract that can decided Good Because will both of them or Because will one of his party . [4] In law Islam the right to divorce only is with the husband , while divorced sue owned by husband and wife . A wife entitled sue divorced her husband with method pay return the dowry that has been given by her husband . [5] Because the right of divorce lies with the husband , the husband must be careful in express words that can result the fall of divorce. Sarcastic words can also be cause the divorce will fall if spoken with intention For divorce his wife . Violence in House ladder often become factor reason the occurrence divorce . Divorce different with termination marriage after farewell table and place sleep in it No there is dispute even There is will Good from husband and wife For termination marriage . divorce always based on the dispute husband wife . [6]

Legal basis divorce can found in the Qur'an there are many the verse that speaks about problem divorce . Among them the verses that become runway law divorce is the word of Allah SWT:

Farah Allah is the Most Gracious Falala Allah is the Most Gracious Allah May Allah Behold Allah is the Most Gracious The Lord Zwiigel ﷻ ﷻ Allah is the Most Gracious Falala Jahan O Allah, O Allah, Oh Yatayyy Ain Allah is the Most Gracious Oh Yakim God is the Most High ﷻ ﷻ He And Gracious Most the is Allah Yabiya Gracious Most the is Allah High Most the is God ﷻ ﷻ is the Most Merciful

meaning : Then If the husband mentality (after the second divorce), then Woman That No again halal for him until he marry with husband others . Then If the other husband divorce her , then No there is a sin for both (former) husband first and wife) for marry return If both of them to argue will can operate God's law . That is the laws of Allah , He explained to them people who (want) to know . [7] Procedures divorce in Constitution Marriage the terms and conditions set up in Article 39 to Article 41 and in PP No. 9 of 1975 articles 14 to 36. [8]

In a marriage if between husband and wife Already No There is compatibility Again For to form a House ladder or happy family both Born and inner can made into as valid reason For submit lawsuit trial to court (Article 19 of the Regulations Government of the Republic of Indonesia Number 9 of 1974 concerning Implementation Constitution Number 1 of 1974 concerning Marriage). In the context of law Islam (which is contained in in KHI), the term divorced sue different with what is there in the UUP and PP 9/175. [9] If the UUP and PP 9/1975 say that lawsuit divorced can submitted by husband or wife , regarding lawsuit divorced according to KHI is lawsuit filed by the wife who is in article 132 paragraph (1) KHI which reads : " lawsuit divorce filed by wife or its authority in the religious court , which is in the area the law territorialize place stay plaintiff except wife leave place residence husband without permission husband . [10] " Lawsuit divorce can accepted by the defendant statement or No attitude Want to Again return to the house residence together (Article 132 paragraph [2] KHI). Legal basis : Law Number 1 of 1974 concerning Marriage Regulation Government Regulation No. 9 of 1975 concerning implementation of Law No. 1 of 1974 concerning Marriage Instructions Presidential Decree No. 1 of 1991 concerning spreader area Complications of Islamic Law. [11]

In KHI Article 136 it is stated about procedure divorced sue in the Religious Court : During ongoing lawsuit divorce on application plaintiff or defendant based on consideration possible danger arising , the Religious Court can allow husband wife the For No stayin One House .

During ongoing lawsuit divorce on application plaintiff or defendant , the Religious Court can determine the sustenance that must be borne by the husband and determines things to do For ensure maintenance items that become right husband or items that become right wife . Lawsuit divorce fall if husband or wife die before existence decision Religious Court regarding lawsuit divorce that , according to with KHI Article 137.

During the process of summoning the parties if place residence defendant No clear or defendant No have place permanent residence , vocation done with method to stick lawsuit on the board announcement at the Religious Court and announce it through One or a number of letter news or other mass media determined by the Religious Court . [12]

Announcement through letter news or mass media is done as many as 2 (two) times with grace period time One month between announcement first and second , with grace period time between calling second and day trial at least lack of three month . If after made a call in a way worthy However the defendant also did not present so lawsuit can accepted without presence defendant except lawsuit the No reasonable inspection lawsuit divorce carried out by the judge no later than 30 (three) days twenty) days after received file or letter lawsuit divorce .

In determining time hearing lawsuit divorce need be noticed grace period time calling and

receiving calling said by the plaintiff and defendant or power they . At the trial inspection lawsuit divorce , husband wife come Alone or represent to his power . However For interest inspection husband or wife representing , the judge can order the person concerned For present myself . Regarding decision lawsuit divorce set up in KHI Article 146 that : Decisions about lawsuit divorce done in hearing open . A divorce considered happen along with the consequences counted since the fall decision Religious Courts that have have strength permanent law .

RESEARCH METHODS

Study in a way general can classified in two types that is study empirical sociological (field) namely research conducted with approach to reality law in society . Research This based on the existence of symptom in the form of gap between hope (the hopes) with reality (das sein) in the field law and research normative that is research conducted with approach to norms or substance law , principle law , theory law , arguments law and comparison law . [13] In the research this , writer do study Empirical with approach Qualitative as mentioned above in A research . Population in research This is all over case divorce for Government employees One year final namely January - December 2022 as many as 131 cases were submitted divorce at the Class 1A Religious Court Office in Makassar. [14] The sample in the study This that is as many as 7 cases filed divorce at the Class 1A Religious Court Office in Makassar. Data collection techniques include technique interview , review libraries and techniques observation . Data analysis techniques used is a data analysis technique that is qualitative deductive .

DISCUSSION

Mechanism Submission Permission for Civil Servants Who Want to Do Divorce

In terms of mechanism Civil servants who want to submit application permission divorce must with legitimate reasons to authorized official Then authorized official to form team health-pen after That call second back party husband and wife simultaneously or individually official giving advice to be able to harmonious return but if second back party or one of them party want to divorce so both of them must make statement want to divorced , Officials are also authorized call other parties concerned with husband and wife For add belief in take decision for officials , according to Circular Letter Number.08/SE/1983 Concerning Permission Marriage and Divorce for Civil Servants . [15]

Condition main For Civil servants who want to do divorce is get permission written from authorized official , statement This in accordance with Article 3 number (1) of the Regulation Government Number 45 of 1990. In order to obtain permission the Government employees must prepare the reasons that will submitted to authorized official , because before give permission official must moreover formerly inspect reasons that can be accepted For give permission to Civil Servants . The reasons referred to in Article 3 is as material consideration for official will give permission or no . Article 19 of the Regulation Government Number 9 of 1975 explains about reasons divorce that is :

One of party commit adultery or become drunkards , addicts , gamblers and so on who are difficult cured . One of the party leave other party for 2 years in succession without permission other parties and without valid reason or Because something else outside his ability . One of party get punishment 5 (five) years imprisonment or more punishment heavy after marriage taking place . One of the party do cruelty or persecution dangerous weight other party . One of party get physical disability or disease with consequence No can operate his obligation as husband wife . Between husband wife Keep going continuously happen disputes and quarrels and no There is hope will life harmonious Again in House ladder . Change of Religion or apostasy that causes absence harmony in House stairs . [16]

Based on interview with one of Government employees can concluded that Lots there is difference in process mechanism to do divorce for Government employees .

Superior picky in emit letter agreement divorce whereas from second the case above Already clear said that one of party Good wife from case First reject For divorced and so on case second husband reject For divorced , but official only give agreement One case just whereas from the same agency .

Personnel Agency and Regent processing divorce pass grace period time from three month For emit agreement permission divorce for Government employees there is difference in grace period time giving agreement permission divorce The first case of the Regional Civil Service Agency processing three month currently the second case more from three month . Even though during the coaching period carried out by the Regional Personnel Agency for the pair husband wife No can united again and there are also many civil servants not enough understand regulation law enforcement invitation about permission applicable marriage and divorce .

third case without to the knowledge of the Regional Personnel Agency and the Regent only There is letter agreement from superior only , and not There is act further carried out by the Regional Personnel Agency and the Regent to Mrs. Evva's case . The Religious Court did not take issue with letter agreement matter the although only from superiors . [16]

Religious Court issued decision agreement divorce said . Application permission For divorce filed to official implemented according to internal processes in the environment / institution / agency and also paying attention to the level existing positions in structure the relevant institution / agency . The reasons put forward in letter request permission divorce and consideration from superior The Civil Servant concerned . If the reasons stated in request permission divorce not enough convincing , then official must request information addition from wife or husband from Civil servants who apply or from the party in question can give convincing information . before taking decision , official try more first " reconciling" back " husband the wife concerned with method call they in a way direct For given advice . [17]

Factors That Cause Issuance Deadline Permission Divorce Pass 3 (three) Months Deadline in Makassar City

Factors that cause grace period time publishing permission divorce pass grace period time three months faced by Civil Servants is not enough he said firmly authorized official in emit letter application permission to Civil servants who do not Can united Again his marriage . Research results to coaching Discipline Civil servants who carry out divorce in Regulation government Number 45 of 1990 concerning change on Regulation Government Number 10 of 1983 concerning permission marriage and divorce for Civil Servants . Based on interview with Head of Sub-Division Coaching so researcher can explain other factors that cause grace period time publishing permission divorce pass grace period time three month is as following :

Internal Factors

Completeness factor file As Government employees required For more understand and comprehend Regulation Legislation that is established government , lack of understanding Government employees to Regulation Legislation especially in the Regulations Government Number 10 of 1983 concerning permission marriage and divorce for Civil Servants Jo . Regulation government Number 45 of 1990 concerning change on Regulation Government Number 10 of 1983 concerning permission marriage and divorce for Civil Servants , then it happened lack file in submit petition permission want to divorce that causes Lots eat time in publishing permission divorce . If the official No Want to emit or Rejection giving permission divorce because , permission For divorce No given by the authorized official , if :



Contrary with religious teachings / rules that are adhered to The Civil Servant concerned .

n't any reason divorce listed in Article (reasons) divorce).

Contrary with regulation applicable laws and regulations .

The reasons given contradictory with reason Healthy .

Factor one party No fulfil Divorce Process Call preceded with taking strong evidence and reasons from second split party For made into base in issuance of Divorce Decree , for get evidence and reasons the done summons in a way written to second split party For poured out in police investigation report or letter statement from parties related . but There is a number of the party that does not come For fulfil calling the until the second and third calls that caused the delay in the divorce process which takes time long time . Before take decision step that 's what officials use , Officials try more formerly reconcile return husband wife the with method call they are good together and individually For given advice , if viewed need , Official can request information from other parties are seen know condition husband the wife concerned . " After stage the done it turns out from one of party No Want to divorce matter the is one of them factor beyond term the time that has passed set the " .

External Factors

Factor one the party that refuses do divorce . Both husband and wife No fulfil calling For get information or description , one of No come because one of them party No Want to divorce which causes the process of giving more permission from three month official must do calling until many times to get information and fostering husband wife . Before take decision , Official try more formerly reconcile return husband wife the with method call they are good together and individually For given advice , if viewed necessary . [18] " Official can request information from other parties are seen know condition husband the wife concerned . after stage the done turns out from one of party No Want to divorce matter the is one of them factor beyond term the time that has been set . "

Factors to Consider Official If business reconcile return husband the wife concerned No successful , then Official take decision on request permission divorce That with consider with carefully : The reasons put forward by the Civil Servant concerned as the in letter request permission divorce and its attachments . Considerations given by superiors The Civil Servant concerned . Information from other parties who are considered know condition husband the wife who filed request permission divorce the .

Every the superior who receives request permission For do divorce or For married more from a must give consideration in a way written to Officials . Considerations That must load things that can used by Officials in take decision , whether request permission That have strong foundation or no . As material in make consideration , the superior concerned can request information from the husband / wife concerned or from other parties are seen can give convincing information . [19] Divorce process Government employees slowed down by officials / superiors Because official assume in three month possibility partner husband wife the can be united or refer back . Considerations made Official in emit letter permission divorce Civil servants who cause Lots use time Based on that . results research conducted can also explained as following : Completeness missing files understanding regulation is one of factor inhibition in coaching Civil Servants , where Civil Servants not enough know conditions that must be met in submit application permission divorced .

One of party No fulfil calling from official For get information or description , thing this is what causes slow giving agreement permission divorce from officials , so that in fostering Civil servants who want to divorce No walk as regulated in Regulation Government . Consideration official in emit

letter agreement permission divorce Where Still existence consideration done existence connection or proximity between holder power with one of the party that does not want to divorced , so For give agreement permission divorced Government employees obstructed .

CONCLUSION

Civil Servants at the Class 1A Religious Court of Makassar must have permission If want to carry out divorce Where permission the must fulfil a number of procedure , then divorce the will legitimate in the eyes of religion and law , in Regulation Government Number 45 of 1990 Amendment on Regulation Government Number 10 of 1983 Concerning Permission marriage and divorce Civil servants who will divorce more first also must request permission written to officials . Giving certainty law and sense of justice in take or emit letter decision permission divorce for Government employees authorized official truly must check and do search what causes husband wife the want to divorce so official need time For do authority mentioned . It should be Authorized official give permission more make it easier Civil servants who request permission For divorce , so as not to There is Civil servants who complained For get permission from officials and not too many exhausting time , if partner husband wife the of course No can united again . It should be Civil servants must also understand about regulation government procedure divorce.

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