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REJECTION OF A WILL IN THE DISTRIBUTION OF INHERITANCE RIGHTS (JURISPRUDENCE DECISION ANALYSIS)

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ABSTRACT This article will provide an analysis of the decision from the first level to the cassation level through legal procedures according to the rules in force in Indonesia. As in the case that occurred in Padang Sidempuan regarding the will to the inheritance left behind caused a dispute between the heirs left behind. The research method used is Normative based on primary legal materials with the Supreme Court decision Number 159 K / AG / 1989 and secondary legal materials from books, journals, and articles related to the research topic. From this decision it can be concluded that in making a will there are rules and legal provisions that apply so that the will can be realized. In this determination it is already in the form of Jurisprudence.

Keywords: Will, Jurisprudence

INTRODUCTION / INTRODUCTION

A will is part of inheritance law. The definition of a will is a statement of will by a person regarding what will be done with his/her property after he/she dies. A will can also be interpreted as advice or words conveyed or desired by a person to be carried out after he/she dies. Such a will is related to the rights of power (responsibilities) that will be carried out after he/she dies, for example a person makes a will to another person to help educate his/her child in the future, pay his/her debts or return items that he/she has borrowed.(Sajuti Thalib, 2000)One of the issues that receives serious attention in jurisprudence is the study of wills.

The issue of inheritance has a sensitive nature, such as matters relating to money, which anyone really needs. Sometimes the person who has a will does not comply with existing rules and sometimes the person who receives the will dares to change the contents of the will or make a fake will. Making a will to heirs can give rise to conflict between the heirs themselves, where the heirs who receive the assets of the will feel they are prioritized, while the party who does not receive a will will feel that they have not received justice. Discriminating between one child and another is prohibited in Islam. As in a hadith the Prophet said: "Equalize gifts among your children (HR Bukhari).

There is one form of will that is less well known among us, namely the will of inheritance division. Basically, to divide the inheritance is the authority of the heirs left behind, when the property becomes their property. However, in certain conditions, parents with good intentions, are allowed to divide their property for each heir, in accordance with the provisions of the law of faraid, and bequeath that the provisions be obeyed by their children after they die. Such a will is what we mean by a will of inheritance division. DR. Musthafa As-Siba'I and DR. Abdurrahman. Among the examples of crosses that occurred in Padang Sidempuan, North Sumatra where the case had been decided at the Padang Sidimpuan Religious Court and then strengthened by the Medan High Religious Court up to the level of the Supreme Court of the Republic of Indonesia with a decision in the form

of Jurisprudence. This article tries to analyze the case of cancellation of a will in the distribution of inheritance rights using a quantitative method based on literature by analyzing several references such as journals, books, articles, laws and decisions that have permanent legal force and are included in jurisprudence. Then this article can be used as a contribution of thought in an effort to enrich the treasury of Islamic jurisprudence among us together.

METHODS / METHODS

Types of research

This type of research is normative legal research, namely legal research conducted by examining library materials or secondary data.(Soerjono Soekanto and Sri Mamuji 2013)Normative research is a process to find legal rules, legal principles, and legal doctrines to answer the legal issues faced. This research is descriptive analysis with the method used in this research, namely normative juridical. The data source is primary legal material originating from several decisions that have permanent legal force and are then stated as Jurisprudence, and secondary legal material comes from books, journals, and articles related to the research topic. The data that has been obtained is analyzed to reach a conclusion.

RESULTS / FINDINGS AND DISCUSSION

A. Will

Wills come from the word Furthermore, it can be found in fiqh books that provide various definitions, namely a practice of giving freely which is realized after the testator dies. The difference with a grant is that in the latter, the realization or transfer of ownership occurs during the lifetime of the person making the gift. The practice of wills is recognized in Islamic law. Among the legal bases is the word of Allah in Surah al-Maidah verse 106 which means; O you who believe, when death approaches one of you, while he is about to make a will, let the will be witnessed by two just men among you. The Messenger of Allah in a hadith qudsy also relates the word of Allah, that there are two things given to the people of Muhammad that were not given to the previous people. First, Allah determines a portion of a person's assets specifically for that person when he dies (by means of a will) to cleanse himself from sin and secondly, a servant's prayer is intended for someone who has died (HR Abdullah bin Humeid in his al-Musnad).

Imam Abu Hanifah defines a will as the granting of ownership rights in a tabarru' (voluntary) manner, the implementation of which is suspended after the death of the person who gave it, whether it is goods or benefits.(Idris Ramulyo, 2003)Meanwhile, according to Imam Malik, a will is an agreement that requires the recipient of the will to obtain the rights to 1/3 of the inheritance of the testator after his death or requires the replacement of the rights to 1/3 of the assets to the recipient of the will after the death of the testator. Imam Syafi'i defines a will as a charity with a right that depends on the condition after death, whether the way of donating is verbal or not.(Abdulrahman Al-Jaziri, 2004)Imam Hambali explains that a will is an order for another person to make an effort after the person who made the will dies.

According to article 171 letter (f) KHI, what is meant by a will is a gift of something to another person or institution that will take effect after death.(A., 1994)The definition according to the KHI means that in order for a will to occur, there must be pillars of a will, namely the testator, the recipient of the will, and the object that is willed. While the will clause is a gift that will only be valid (have permanent legal force) if the giver has died. So, basically a will in the KHI is a gift that is suspended on a certain event, whether the gift is with or without the consent of the giver. In the provisions of fiqh when a person dies, all of his property is transferred to the heirs left behind except for funeral costs to cover debts and a number of assets that he has willed, these three things are sympathy rights that cannot be disturbed by the heirs if you listen to the contents of the hadith qudsi above that being allowed to make a will is a Grace from Allah, meaning that with the death of a person does not mean that his relationship with the results of his hard work during his life is completely cut off even though its use is no longer physical.

By opening the door of a will, it allows someone who has wealth to set aside some of his wealth so that after he dies the amount is not included in the inheritance that will be distributed among the heirs. He has not released the amount while he is still

alive because as a human being he still needs it physically after considering the needs of the heirs, then some of his physical needs are to be transferred to other parties who still need it, such as donating some of his wealth to mosques, educational institutions, orphanages and so on. On the other hand, the party who listens to or receives the will must also be honest because it will greatly determine whether the will is true or not. As in the word of Allah in the Quran, Surah Al-Baqarah 181 which means whoever changes the will after he hears it, then indeed the sin is upon those who change it, indeed Allah is All-Hearing and All-Knowing.

Among the conditions for a person who will receive a will is that it is not the heirs who will receive a distribution of inheritance. This opinion is held by the four schools of thought, Hanafi, Maliki, Syafi'i, and Hanbali. The legal basis is shown by the hadith of the Prophet who emphasized: "There is no will for heirs" (HR Tirmizi). The reason why a will is not permitted to the heirs is easy to understand, because the will is intended to provide relief to close relatives who are not included in the number of heirs who receive distribution of inheritance, to help the du'afa, the poor, or to make donations to the community. worship is also education. Not all relatives will inherit property and they also do not always live in comfort, which can lead to disputes between heirs.

Bequeathing property to some children means opening up the possibility of disputes between them. Making a will to an heir is not permitted, except with the consent of the other heirs, as emphasized in a hadith narrated by Daraquthni. The provisions of this hadith are held by Imam Abu Hanifah, Syafi'i and Ahmad bin Hambal. This conclusion is based on the fact that it is not permissible to make a will to an heir because of considering the rights and feelings of the heirs left behind. Therefore, if the heirs agree to it, then the will is permitted. In contrast to the opinion above, the Malikiyah and Zahiriyah groups are of the opinion that the prohibition on making a will to an heir is not waived with the consent of the other heirs. According to them, such a prohibition is included in the rights of Allah which cannot be waived only with human willingness. Heirs do not have the right to justify something that Allah has forbidden. According to this view, the most important thing in this case is that the property does not only accumulate in the hands of the heirs. Some of the property needs to be distributed to other things that need it.

For the benefit of the heirs left behind, a person only has the right to will a small portion of their assets, this is so that the will does not lead to disaster for the heirs left behind. The amount of one third of assets and only that which is allowed to be willed is the right of someone who is about to die so that he can increase his provisions for the future. In a hadith of Rasulullah, it is said that one day Rasulullah went to see when bin Abi Waqqash was suffering from illness, when bin Abi Waqqash asked for instructions whether he could bequeath all his wealth or at least half of it and Rasulullah SAW said: "not allowed" then the friend asked again "What if I bequeath a third of it", Rasulullah answered "a third is permissible and that is already a lot" continued Rasulullah "Indeed, if you leave your heirs in a state of abundance, lots of wealth will be better than if you leave them in a state of poverty or begging in any way. You spend your wealth to the extent that food for your wife is also considered alms." HR Bukhari and Muslim.

The hadith explicitly prohibits a will of more than one-third of the inheritance and that one-third is considered a lot, meaning that in certain conditions a will of less than one-third of the assets is considered better so that it does not reduce the space of the heirs left behind. The prohibition of making a will of more than one-third of the assets as stated above is to prevent the practice of making a will from causing hardship for the heirs. A person who experiences signs that his death is approaching may be the dominant thought in his mind how to increase good deeds that will lighten the burden of his sins in the hereafter. In such conditions, without any control, he will bequeath all or part of the assets without considering the fate of the family he leaves behind. Therefore, restrictions are made on wills with the intention of protecting the interests of the heirs. So a will of more than one-third of the assets can be recognized if the heirs agree to it.

Differences of opinion occur in the event that a person does not have heirs, according to Abu Hanifah, referring to the opinion of Ali bin Abi Talib and Ibn Mas'ud that in such conditions a person may bequeath more than a third or even all of his assets to Baitul Mal, only if the person who owns the assets does not make a will. all of it. In contrast to this, the opinion which states that the provision of not bequeathing more than one-third of assets remains valid when a person has no heirs as stated by Saad bin Thabit in Sunnah jurisprudence. This conclusion is the opinion of the majority of ulama. According to this view, the remaining 2/3 of assets is absolute. Baitul mal's right to be distributed to the public interest.

A will can also be said to be void according to Abu Yusuf in the book Knitting Family Happiness by Dr. Budi Sunarso, if the person who was given a will kills the person who gave him the will by directly killing someone who is forbidden, then the will is void. According to Sayyid Sabiq, the will can be invalidated if:

1. A person who made a will suffered from a serious mental illness which led to his death.
2. The person who was given a will died before the person who gave the will.
3. If what was bequeathed was a certain item that was damaged before it was received by the person who was bequeathed.

B. Jurisprudence

Jurisprudence is a product of Supreme Court (MA) judges in resolving legal cases whose legal basis is not explained in detail in legislation. The role of jurisprudence makes the judge's task not only to apply the law, but also to interpret, explore and apply legislation in order to uphold justice and human happiness. In one of the legal studies on improving jurisprudence as a source of law conducted by the National Legal Development Agency (BPHN) in 1991/1992, several definitions of jurisprudence have been concluded, namely:(Simanjuntak, 2019)

1. Jurisprudence is permanent justice or judicial law (Purnadi Purbacaraka and Soerjono Soekanto)
2. Jurisprudence is the legal teaching formed and maintained by the courts (Andrea Pockema Dictionary)
3. Jurisprudence is a systematic collection of Supreme Court decisions and High Court decisions followed by other judges in making decisions on the same matter (Andrea Pockema Dictionary)
4. Jurisprudence is defined as legal teachings that are formed and maintained by the Courts (Koenen endepols Dictionary)
5. Jurisprudence is defined as a systematic collection of Supreme Court decisions and High Court decisions (which are recorded) which are followed by judges in giving their decisions on similar matters (Van Dale Dictionary)

Based on the Circular of the Supreme Court (SEMA) No. 2/1972 concerning the Collection of Jurisprudence, it is determined that in order to realize the unity of law, the Supreme Court is the only constitutional institution responsible for collecting jurisprudence that must be followed by judges in trying cases. The existence of jurisprudence greatly helps the community to obtain legal certainty and justice. The role of MA jurisprudence is very important in the development of law in Indonesia including Islamic family law (law of familie). Islamic family law is a law that regulates human relations in the family (husband, wife, children, and siblings) starting from marriage to the distribution of inheritance according to Islamic teachings. So far, many Islamic family law disputes have been resolved through the decisions of MA judges, for example; child custody after divorce, distribution of inheritance rights of children of different religions, the status of the biological relationship of the father to the child out of wedlock, mandatory wills for adopted children, and others.(Priyono et al., 2020)In this case, the author will explain a legal product of jurisprudence in the field of wills with inheritance rights which will be explained based on one of the cases which will be explained as follows:

SITTING OF THE CASE

As stated earlier, several aspects of the above Islamic jurisprudence views will then be used as a reference framework in

analyzing the will case. Jurisprudential Analysis of the will that has been tried and decided by the Padang Sidempuan Religious Court in its decision No. PA.b/12/PTS/25/1988. The will case is intended to occur between the Plaintiff Mangaraja Madin bin h. Afdollah, aged 62 years, against the Defendant Basyariah Boru Regar, aged 47 years, whose case is as follows: The Plaintiff has filed his lawsuit on January 12, 1986, registered in case number 25/1988. The Plaintiff's lawsuit is that the Plaintiff's parents named Haji Afdollah have passed away on December 2, 1983. During his life he was married to Siti Abiba (who passed away after the death of H. Afdollah). The two husband and wife left six children, two boys and four girls, namely:

1. Mangaraja Madin (Plaintiff)
2. Siti Abiba
3. Abdul Wahhab
4. Nurillah
5. Jaaru
6. Lady Khalijah.

That Abdul Wahab, the biological son of H. Afdollah, also passed away in 1986, leaving behind a wife, Basyariah Boru Regar (as the defendant), and five children. In addition to leaving behind children, the late H. Afdollah also left behind assets including:

a. A plot of coconut grove
b. A pile of rice fields measuring 3 1/2 lungguk including the mainland
c. A piece of land measuring 1 1/2 lungguk.

Neither during the lifetime of the Plaintiff's parents nor after their death did all the assets left behind be divided between their children as heirs. The problem is that without the Plaintiff's knowledge, it turns out that the Defendant kept a will between the late H. Afdollah and the Defendant's husband, Abdul Wahab, which was made on 20 October 1982, which stated that the assets mentioned above were willed as part of his son, Abdul Wahab.

The plaintiff sued that the will was invalid on the grounds, among other things, that the will was not made in the presence of the heirs and was not with their approval, and that the will was addressed to the heirs in cases where bequeathing to the heirs was not permitted, and the assets bequeathed were already more than from one third of the inherited assets even though the will cannot be more than one third of the assets left behind. Apart from that, the fingerprints on the will cannot be recognized as H. Afdollah's fingerprints because they violate applicable regulations. On this basis, the Plaintiff asked the Padang Sidempuan Religious Court to declare the will null and void. The Defendant in his response stated the following: Confirming that Haji Afdollah had died on 2 September 1983, leaving behind six children, and confirming that Abdul Wahhab had died on 17 July 1986, leaving behind a wife named Basyariah Boru Regar and five children.

Furthermore, the Defendant stated that it was true that on October 20, 1982, Afdollah had made a will to divide his assets to his son Abdul Wahhab, namely three and a half lungguk of rice fields, one and a half lungguk of dry land, and a coconut plantation. According to the Defendant, all of the deceased's assets had been divided by will to all of his sons and daughters as follows: Manggaraja Madin received three and a half lungguk of dry land and three lungguk of coconut plantation in Aek Bayur Village. Abdul Wahab received three and a half lungguk of rice fields, one and a half lungguk of dry land, and a piece of coconut plantation. Siti Khalijah received a coconut plantation and a coffee plantation. The three-door house in the Losung Padangsidempuan village became the share of Siti Abibah, Nurillah, and Jaaru.

From the above matters, the Defendant sued to decide this case, to reject the Plaintiff's lawsuit and to state that it strengthens the will made by the late H. Afdollah dated October 20, 1982. After going through the trial process, the Padang Sidempuan Religious Court decided to cancel the will held by the defendant. After an appeal, this decision was strengthened by the Medan High Religious Court and then by the Supreme Court of the Republic of Indonesia.

The Decision of the Padang Sidempuan Religious Court:(Decision of the Padang Sidempuan Religious Court 1988)

TO JUDGE

1. Granting the plaintiff's claim in part
2. Declare that the will of property dated 20 October 1982 in Kampung Losung between Haji Afdollah and his son

Abdul Wahab which is held by the ACCUSED (Basyariah Boru Regar) is invalid
3. Canceling Afdollah's will of property to his son Abdul Wahab as mentioned in number 2 (two) above
4. Ordering the PLAINTIFF to pay all costs arising in this case amounting to Rp. 29,500.- (twenty nine thousand five hundred rupiah)

Thus this Decision was handed down in Padang Sidempuan on Thursday, March 31, 1988 AD, coinciding with the 13th of Sya'ban, 1408 H, by Drs. Syahron Nasution as Chairman of the Panel and Drs. Kosim AR. Nasution and Adam Saleh Parinduri as Member Judges, which Decision on that day was also pronounced at a trial open to the public by the Panel attended by Awaluddin Nasution as Substitute Clerk and the PLAINTIFF without the presence of the DEFENDANT.

Furthermore, the Medan High Religious Court, which tried the civil case of the cancellation of a will at the appeal level, in the Panel's trial issued a decision with the following legal considerations:

1. Considering that this case falls within the authority of the Religious Court;
2. Considering that the appeal application has been submitted within the time limit permitted by the applicable statutory regulations, and has fulfilled the other appeal requirements, this appeal application can therefore be accepted;
3. Considering that the will of H. Afdollah (deceased) to his son Abd. Wahab (aim) which he made at Halijah's house in front of the hatobangon and harajaon contained the division of property to Abd. Wahab as mentioned in the will letter of Kampung Losung dated October 20, 1982, is clearly a will addressed to the heirs, namely the will of H. Afdollah (deceased) addressed to his son Abd. Wahab.
4. Considering the fact that a will to an heir is like that, when it concerns the issue of inheritance, it is invalid according to law, in accordance with the Hadith of Rasulullah SAW (Vide Buku Fiqhus Sunnah Juz page 595) which means: Verily, Allah SWT has given to everyone who has what rights. which is his right and remember that a will is not valid for heirs
5. Considering that the will in question, although made in the presence of several heirs including the Respondent at Halijah's house in Losung Village and in front of the hotabangon and harajaon, there is no evidence of the agreement of the heirs of the late H. Afdollah including the Respondent himself; and that the silence of the heirs at that time cannot be interpreted as an agreement from them;
6. Considering that if there were also other wills from H. Afdollah to other heirs in a form similar to the defendant's will as stated by the Appellant, then the will in question is not related to and is not relevant to be considered in this case, by because the claim of the Appellee Mangaraja Madin (as the original Plaintiff) in this case only concerns H. Afdullah's will to Abd. Just wow
7. Considering that based on the matters described above, the Medan High Religious Court is of the opinion that the will of H. Afdollah to Abd. Wahab made in Losung Village on October 20, 1982 containing the division of assets that became Abd. Wahab's share is invalid, and needs to be canceled, because the division of assets for heirs already has legal provisions from Allah SWT, as stated in Surah An Nisa' verse 7; "For men there is a portion of their rights from the inheritance of their parents and relatives, and for women (also) also a portion of their rights from the inheritance of their parents and relatives, whether small or large which is a portion that has been determined.
8. Considering that therefore, the Decision of the Padang Sidempuan Religious Court is considered correct, and needs to be strengthened, and because the High Religious Court Panel is of the opinion that the wording of the Decision is not quite right, then for that reason the Panel needs to correct it.
9. Considering that because the Appellant is the losing party, the costs arising in this case at all levels are borne by him;

The verdict of the Medan High Religious Court: (Medan High Court Decision nd)

1. Accepting the Appellant's appeal.
2. Strengthening the Decision of the Padang Sidempuan Religious Court dated March 31, 1988 M/13 Sya'ban 1408 H No. PA.b/12/PTS/25/1988 by correcting the wording of the Decision so that it reads as follows:
   - Granting the Plaintiff's claim in part, and rejecting the rest
   - Canceling H. Afdollah's will to Abd. Wahab which was carried out in Losung Village, Padangsidempuan District on October 20 1982
   - Stating the Will of H. Afdollah to Abd. Wahab dated Kampung Losung 20 October 1982 has no binding force
3. Ordering the Appellant to pay the costs incurred in this case at the first level amounting to Rp. 29,500,- (Twenty nine thousand five hundred rupiah), and those incurred at the appeal level amounting to Rp. 16,000,- (Sixteen Thousand Rupiah).

Thus it was decided on Tuesday, March 14, 1989 M/6 Sya' ban 1409 H. and the Decision was pronounced in an open session for the public on Thursday, June 22, 1989 M/18 Zulqaidah 1409 H. by us M. Saleh Rasyid, SH as the Chairman of the Panel, accompanied by H. Amaluddin and H. Adnan Benawi, SH each as Member Judges, and assisted by Drs. ABO. Halim Ibrahim as Substitute Registrar at the Medan High Religious Court, without being attended by the parties to the case. Furthermore, examining at the cassation level, a decision was made which at the appeal level on the Defendant's application had been strengthened with improvements by the Medan High Religious Court with its decision dated June 22, 1989, M. Coinciding with the date of 18 Zulqaidah 1409 H. with decision No. 30/PTS/ 1988/PTA-Mdn. Furthermore, after this final decision was notified to the Defendant/Appellant on July 27, 1989, the Defendant/Appellant then submitted a request for an oral cassation examination on August 5, 1989 as is evident from the statement letter No. 01-KS/30-PTA/25-PA-PSP/1989 made by the Clerk of the Padang Sidempuan Religious Court, which request was then followed by a cassation memorandum containing the reasons received at the clerk's office of the Religious Court on August 22, 1989 that after that the Plaintiff and Appellant who on August 23, 1989 had been informed about the cassation memorandum from the Defendant/Appellant submitted a response to the cassation memorandum which was received at the clerk's office of the Padang Sidempuan Religious Court on September 5, 1989.

Considering, that with the enactment of Law No. 14 of 1985 concerning the Supreme Court, the cassation application against the decision or determination of the Appellate Court or the final level in the Religious Court Environment and the receipt of the cassation memorandum containing the reasons, as well as the receipt of the response letter to the cassation memorandum must be based on the time limit as stipulated in the Supreme Court Law. Considering that the reasons for the cassation application were only received at the Religious Court clerk's office on August 22, 1989, while the cassation application was received on August 5, 1989, thus the receipt of the cassation memorandum has exceeded the time limit stipulated in Article 47 paragraph (1) of the Indonesian Supreme Court Law, therefore the cassation application must be declared inadmissible. Considering the relevant articles of Law No. 14 of 1970, Law No. 14 of 1985 and Law No. 7 of 1989.

Supreme Court Ruling:(Great 1890)

TO JUDGE

1. Declaring that the cassation application from the cassation applicant by Basyariah Boru Regar Binti, cannot be accepted;
2. Sentencing the cassation applicant to pay the court costs at this cassation level is set at Rp. 20,000,- (Twenty thousand rupiah)

Thus it was decided in the Supreme Court deliberation meeting on Wednesday, May 30, 1990, with Prof. H. Busthanul Arifin, SH. as the Deputy Chief Justice appointed by the Chief Justice as the Chief Justice of the trial, H. Amiroeddin Noer, SH. and H. Masrani Basran, SH. as Member Judges and pronounced in an open session on Saturday, July 14, 1990, by the Chief Justice. In the presence of H. Amiroeddin Noer. SH. and H. Masrani Basran, SH. Member Judges and Ahmad Djunaeni, SH. Substitute Clerk, with

both parties to the case not being present at the trial without any clear reason.

After following the case and considerations of the Padang Sidiempuan religious court rules, why the defendant was defeated, there are several things that the author pays attention to analyze, namely the following:

First, in the plaintiff's reason it is stated that the will was not drafted in front of the heirs and did not have the consent of the heirs. This reason has also been strengthened by the Padang Sidempuan Religious Court in number 8 in considering the law, stating as follows: "considering that in addition to the matters that have been stated in the will addressed to the heirs themselves, similar to those not approved by the other heirs, which in this case is illegal in accordance with the hadith of the Messenger of Allah sallallaahu 'alaihi wasallam. which reads:

(Therapist Rooster) Lora theLord of the worlds

Like what has been stated previously that the right to testamentary property for a person is only given when the will is made to other than the heirs and the will is made to some of the heirs. Its validity depends on the agreement of the other heirs. This conclusion is held by the dominant ulama, and this opinion also seems to be held by the plaintiff and the Padang Sidempuan religious court in this case. However, what needs to be underlined in this case is that those who have the right to declare a unanimous decision or disagree mean all the heirs left by Haji Abdullah, which in this case means the plaintiffs themselves, Siti Abibah, Nurillah, Jaaru and Siti Khadijah. In this case, the plaintiff's position is not explained whether he is suing on his own behalf or on behalf of all the heirs mentioned above. The ambiguity of the plaintiff's position in the above case gives the impression that only one person among the many heirs, namely Mangaraja Madin, disagrees with the will. If this impression is valid, it means that the other 4 heirs did not sue or agreed to use the will in the provisions of fiqh as stated previously, if some of the heirs reject it and some others agree, then the will to the heirs that is considered invalid is only at the level of the rights of the heirs who reject it, while at the level of the heirs who agree, the will is claimed to be legal or can be recognized using this as the plaintiff's reason that the will is not legal because without the approval of the heirs it is only relevant at the level of Mangaraja's own rights and does not apply to the other heirs. The author has not been able to know perfectly that the Padang Sidempuan religious court in this case has never questioned this matter.

Second, one fundamental thing in this case that cannot be ignored is knowing the form of the will that is being contested by listening to the facts of the case, it can be seen that the disputed will is not a form of will to the heirs that results in the heirs getting double benefits, namely the willed assets and the inheritance distribution assets. The will in this case is a will in a special form, namely the will of the defendant's inheritance distribution in his statement said that it was true that the late Haji Abdullah on October 20, 1982 had made a will to distribute his assets to his son Abdullah Wahab and it is true that all the assets of the late Haji Abdullah have been divided by way of a will to all his children and daughters. That is also what the plaintiff has sued from that it is true that the conclusion that the disputed will is a will to distribute inheritance assets in this form of will is like what has been stated previously, each heir gets a distribution of assets as they should be as heirs. This kind of will according to the defendant that has been recognized by Haji Abdullah during his lifetime, its validity depends on the certainty of the exact distribution of the provisions of the law of faraid. The rejection then came from the heirs because the heirs were not willing. If the inheritance is divided by faraid or it is known that there is an untrustworthy intention from some of the heirs, it does not reduce the validity of the will. is the heirs must carry out the will from their parents, the will of their parents so that children always obey the provisions of the sharia must be implemented and its validity does not depend on the approval of their children. What needs to be approved is the discourse on the fairness of the distribution or the exact matter according to the provisions of faraid.

by understanding that the will in question is a will for the division of inheritance, then the relevance of the discussion of the will is more than one third needs to be questioned among the reasons the plaintiff why the will is called void is because the will is more than 1/3 of the amount

of Abdullah's assets that much, so the plaintiff's reason violates the provisions of sharia because a person is only allowed to bequeath one third of his inheritance. This reason was also strengthened by the Padang Sidempuan religious court where the case was tried and this consideration is among the considerations of the rules why the defendant was defeated, but from the author's observation, the plaintiff put forward this reason because it was not obvious to him the disparity between the will to the heirs which made the heirs receive a double portion as previously stated using the will for the division of inheritance.

The discourse of the will whether more than one third or not is only relevant when faced with the first form of will, namely the one that causes double profit, this kind of discussion is not relevant when faced with the second form of will, namely the will of the division of inheritance. In the last claimed will, it is similar to the question of whether the division is fair or has been in accordance with the provisions of faraid or there are still parties who are harmed. If it is unfair or not in line with the provisions of sharia, the heirs have the right to sue and correct it as it should be from the illustration above, then the reason for defeating the defendant because the will is more than one third of the assets has no power whatsoever. The fundamental problem in the author's opinion is the plaintiff's lawsuit that the will held by the defendant is fake and the fingerprints listed in the will are not recognized by the initiator as the fingerprints of Haji Abdullah, the defendant's parent because it violates the applicable provisions, but it seems that this lawsuit is not questioned by the party trying it. The existence of MA jurisprudence can uphold Islamic family law, because it can resolve the problems of Islamic family law fairly in society. Justice seekers can accept the judge's decision as expected, even though textually there is jurisprudence that conflicts with Islamic law, but the purpose of the determination is solely to provide legal certainty and protection and welfare.

CONCLUSION / CONCLUSION

A will is a message delivered by someone before dying, according to Islamic law, carrying it out is mandatory for the person who is willed. However, in making a will there are pillars and conditions so that the will can be carried out, such as making a will to the heirs, the assets that are willed exceed the legal provisions, namely 1/3 of the assets left after paying the costs of handling the body, then debts, then the will left behind. A will is not only in the form of assets but can also be in the form of advice or assistance that is needed. By exploring the Supreme Court decision Number 159 K / AG / 1989 concerning the cancellation of a will in the distribution of inheritance rights which has permanent legal force on July 14, 1990. The Supreme Court Jurisprudence Decision can play the role of Islamic family law as the basis for legal considerations for PA judges in resolving the same case. In addition, it is also able to strengthen the strengthening of Islamic family law which does not conflict with the values in the Qur'an'and the Hadith which uphold the values of justice and welfare as the legal ideals of sharia makashid.

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