

**ANALISIS YURIDIS PUTUSAN HAKIM TERKAIT PERKARA CERAI GUGAT
KARENA DITINGGAL SUAMI (STUDI PUTUSAN PERKARA NOMOR
5065/PDT.G/2023/PA.CLP)**

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ABSTRAK

Cerai gugat ialah gugatan yang diajukan oleh suami atau istri atau kuasanya ke pengadilan yang daerah hukumnya meliputi tempat kediaman tergugat. Berdasarkan Pasal 132 Kompilasi Hukum Islam, gugatan perceraian diajukan oleh istri atau kuasanya kepada pengadilan agama setempat, yang daerah hukumnya mewilayahai tempat tinggal penggugat, kecuali istri meninggalkan tempat kediaman tanpa izin suami. Perceraian tidak hanya dapat dilakukan oleh suami yang biasa disebut dengan thalaq, tetapi istri mempunyai hak untuk menggugat cerai. Hak istri dalam menggugat suami, disebut dengan khulu, yaitu istri minta untuk dicerai dengan memberikan kepada suami harta yang diterimanya sebagai maskawin.

Rumusan masalahnya adalah bagaimana pertimbangan hukum hakim dalam memutus perkara tentang cerai gugat karena ditinggal suami dan bagaimana akibat hukum terhadap dikabulkannya permohonan cerai gugat karena ditinggal suami. Penelitian ini menggunakan penelitian yuridis normatif yang kemudian dianalisis secara normatif, sistematis dan logis guna memperoleh penjelasan dari masalah tersebut.

Hasil Penelitian dapat disimpulkan bahwa berdasarkan putusan perkara cerai gugat dengan nomor perkara 5065/Pdt.G/2023/PA.Clp, hakim menjatuhkan talak satu ba'in sughra hal ini didasarkan dalam pertimbangan hakim dengan Pasal 116 huruf (b) Kompilasi Hukum Islam yang menjelaskan mengenai alasan perceraian yakni salah satu pihak meninggalkan pihak lain selama 2 (dua) tahun berturut-turut tanpa izin pihak lain dan tanpa alasan yang sah atau karena hal lain di luar kemampuannya. Menurut peneliti, hakim dapat mendasarkan dengan Pasal 116 huruf (f) Kompilasi Hukum Islam mengenai alasan perceraian yaitu antara suami dan istri terus menerus terjadi perselisihan dan pertengkaran dan tidak ada harapan akan hidup rukun lagi dalam rumah tangga dan Pasal 34 ayat (1) Undang-Undang Nomor 1 Tahun 1974 mengenai kewajiban suami melindungi dan memberi nafkah terhadap istri. Akibat dari dikabulkannya permohonan ini yaitu berakibat kepada hak asuh anak, hubungan antara suami istri, dan harta bersma. Mengenai hak asuh anak, tidak dapat dipastikan karena usia anak tidak disebutkan dalam putusan, namun biaya pemeliharaan dibebankan kepada ayah hingga anak menikah atau mandiri, dengan ibu membantu jika diperlukan. Terkait hubungan antara suami istri, Hakim memutus talak satu ba'in sughra, mengakhiri hak dan kewajiban suami istri, dan penggugat berhak atas mut'ah dan nafkah iddah. Terkait harta bersama, Penggugat berhak atas harta yang dibagi seperdua dengan Tergugat.

Kata Kunci: Cerai Gugat, Nafkah, Rumah Tangga

Juridical Analysis of The Judge's Ruling Regarding The Case of Divorce Lawsuit Due To Being Left By Husband (Study of Case Decision Number 5065/Pdt.G/PA.Clp)

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ABSTRACT

Divorce is a lawsuit filed by a husband or wife or their attorney to a court whose jurisdiction includes the defendant's residence. Based on Article 132 of the Compilation of Islamic Law, a divorce lawsuit is filed by the wife or her proxy to the local religious court, whose jurisdiction is the area where the plaintiff lives, unless the wife leaves the residence without the husband's permission. Divorce can not only be carried out by the husband, usually called thalaq, but the wife has the right to sue for divorce. The wife's right to sue her husband is called khulu, that is, the wife asks for a divorce by giving the husband the property he received as a dowry.

The formulation of the problem is what the judge's legal considerations are in deciding a case regarding contested divorce due to the abandonment of the husband and what are the legal consequences of granting the petition for a contested divorce due to the abandonment of the husband. This research uses normative juridical research which is then analyzed normatively, systematically and logically in order to obtain an explanation of the problem.

The results of the research can be concluded that based on the decision in the contested divorce case with case number 5065/Pdt.G/2023/PA.Clp, the judge handed down one ba'in sughra talaq. This was based on the judge's considerations with Article 116 letter (b) of the Compilation of Islamic Law which explains the reasons for divorce, namely that one party left the other party for 2 (two) consecutive years without the permission of the other party and without a valid reason or for other reasons beyond his or her ability. According to researchers, judges can base it on Article 116 letter (f) of the Compilation of Islamic Law regarding the reasons for divorce, namely that between husband and wife there are continuous disputes and quarrels and there is no hope of living in harmony again in the household and Article 34 paragraph (1) of Law Number 1 of 1974 concerning the husband's obligation to protect and provide support for his wife. The consequence of granting this petition, namely regarding child custody, cannot be ascertained because the child's age is not stated in the decision, but maintenance costs are borne by the father until the child is married or independent, with the mother helping if necessary. Regarding the relationship between husband and wife, the judge decided on one ba'in sughra talaq, ending the rights and obligations of husband and wife, and the plaintiff was entitled to mut'ah and iddah living. Regarding joint assets, the Plaintiff is entitled to share the assets in half with the Defendant.

Keywords: Divorce, Livelihood, Household