

**UPAYA HUKUM BANDING YANG DIKABULKAN OLEH MAHKAMAH  
AGUNG ATAS PUTUSAN ARBITRASE**  
**(Studi Putusan Mahkamah Agung Nomor 142 B/Pdt.Sus-Arbt/2019)**

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**ABSTRAK**

Arbitrase merupakan alternatif penyelesaian sengketa yang putusannya bersifat final dan mengikat. Putusan arbitrase agar dapat dieksekusi harus didaftarkan ke Kepaniteraan Pengadilan Negeri domisili termohon sebagaimana ditentukan oleh Pasal 62 Undang-Undang Nomor 30 Tahun 1999 tentang Arbitrase dan Alternatif Penyelesaian Sengketa (UU AAPS). Pihak yang keberatan dengan putusan arbitrase dapat mengajukan permohonan pembatalan putusan arbitrase melalui Pengadilan Negeri domisili termohon dengan alasan yang tercantum dalam Pasal 70 UU AAPS. Pihak yang keberatan dengan putusan pembatalan putusan arbitrase yang dijatuhan oleh Pengadilan Negeri sesuai Pasal 72 ayat (4) UU AAPS dapat mengajukan permohonan banding ke Mahkamah Agung. Penelitian ini berdasarkan pada Putusan Mahkamah Agung Nomor 142 B/Pdt.Sus-Arbt/2019 yang akan menganalisis bagaimana pertimbangan Majelis Hakim Mahkamah Agung yang menerima dan mengabulkan permohonan banding dan akibat hukum dengan dikabulkannya permohonan banding tersebut. Penelitian ini menggunakan tipe penelitian yuridis normatif dengan metode pendekatan perundang-undangan. Hasil penelitian: 1) Pertimbangan Majelis Hakim Mahkamah Agung yang menerima dan mengabulkan permohonan banding tentang perkara pembatalan arbitrase dalam Putusan Mahkamah Agung Nomor 142 B/Pdt.Sus-Arbt/2019 adalah karena permohonan banding telah memenuhi syarat formil dan syarat materil, yaitu *judex facti* telah salah menerapkan ketentuan Pasal 70 huruf c UU AAPS dan telah melanggar ketentuan Pasal 11 ayat (2) UU AAPS 2) Akibat hukum dengan dikabulkannya permohonan banding dalam Putusan Nomor 142 B/Pdt.Sus-Arbt/2019 adalah Putusan Pengadilan Negeri Samarinda Nomor 145/Pdt.Sus-Arb/2017/PN. Smr dinyatakan batal sehingga tidak mempunyai kekuatan hukum yang mengikat dan Putusan Arbitrase BANI Nomor 806/II/ARB-BANI/2016 tetap berlaku, mengikat kedua belah pihak dan mempunyai kekuatan eksekutorial.

Kata Kunci : **Arbitrase, Banding, Pertimbangan Hukum**

**THE APPEAL THAT GRANTED BY SUPREME COURT ON  
ARBITRATION AWARD**  
**(Study of Supreme Court Decision Number 142 B/Pdt.Sus-Arbt/2019)**

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**ABSTRACT**

Arbitration is an alternative dispute resolution whose decision is final and binding. In order for the arbitration award to be executed, it must be registered at the Registrar's Office of the District Court where the defendant resides as determined by Article 62 of Law Number 30 Year 1999 concerning Arbitration and Alternative Dispute Resolution (AADR Law). Parties who object to the arbitration award can submit a request for cancellation of the arbitration award through the defendant's domicile District Court for the reasons listed in Article 70 of the AAPS Law. Parties who object to the decision to cancel the arbitration award handed down by the District Court in accordance with Article 72 paragraph (4) of the AAPS Law can submit an appeal to the Supreme Court. This research is based on the Supreme Court Decision Number 142 B/Pdt.Sus-Arbt/2019 which will analyze the considerations of the Supreme Court Judges who accept and grant the appeal and the legal consequences with the grant of the appeal petition. This study uses a normative juridical research type with a statutory approach method. The results of the research: 1) The consideration of the Supreme Court Judges who received and granted the appeal regarding the case of arbitration cancellation in the Supreme Court Decision Number 142 B/Pdt.Sus-Arbt/2019 is because the appeal has met the formal and material requirements, namely *judex facti*. has incorrectly applied the provisions of Article 70 letter c of the AADR Law and has violated the provisions of Article 11 paragraph (2) of the AADR Law 2) The legal consequence of the grant of appeal in Decision Number 142 B/Pdt.Sus-Arbt/2019 is the Judgment of the Samarinda District Court Number 145/Pdt.Sus-Arb/2017/PN. SMR is declared null and void so that it does not have binding legal force and the BANI Arbitration Award Number 806/II /ARB-BANI/2016 is still valid, binding both parties and having executorial power.

Keywords: **Arbitration, Appeal, Legal Considerations**