

ABSTRAK

Masalah yang seringkali timbul setelah adanya perceraian adalah soal pembagian harta bersama. Dalam rumah tangga muslim yang berkewajiban mencari nafkah keluarga adalah seorang suami, apabila istri ikut bekerja maka sifatnya hanya membantu.

Harta yang diperoleh keduanya selama pernikahan dihitung sebagai harta bersama, kecuali hadiah atau warisan dari masing-masing suami atau istri, sepanjang tidak ditentukan lain. Umumnya pembagian harta bersama akan dibagi secara merata atau seimbang yaitu 50:50 meskipun hanya suami yang bekerja untuk memperoleh harta bersama tersebut dan istri dirumah saja. Namun bagaimana jika justru istri yang lebih dominan dalam mencari nafkah dibandingkan suami? Apakah harta bersama tersebut akan adil jika dibagi merata 50:50? Ataupun ada ketentuan lain guna menciptakan keadilan baru bagi istri maupun suami?

Hasil penelitian pada salah satu putusan di Pengadilan Agama Semarang menunjukkan istri mendapatkan bagian 60% dari harta bersama dan suami hanya 40%, sebab istri lebih dominan dalam mencari nafkah dan memperoleh harta bersama tersebut.

Kata Kunci: Perkawinan, Harta Bersama

ABSTRACT

The problem that often arises after a divorce is the distribution of assets together. In a Muslim household who is obliged to earn a living for the family is a husband, if the wife is involved in the work, it is only helping. Assets acquired by both of them during the marriage are counted as joint assets, except for gifts or inheritance from each husband or wife, as long as they are not determined otherwise. Generally, the distribution of joint assets will be divided evenly or equally, namely 50:50 even though only the husband works to acquire the joint assets and the wife is at home only. But what if the wife is more dominant in earning a living than the husband? Will the joint property be fair if it is divided evenly 50:50? Or are there other provisions to create new justice for both wives and husbands? The results of research on one of the decisions at the Semarang Religious Court showed that the wife received 60% of the joint assets and the husband only 40%, because the wife was more dominant in earning a living and obtaining the joint assets. Keywords: Marriage, Collective Property