

## LEGAL PROTECTION FOR THE DIVISION OF JOINT PROPERTY LOCATED ON ANOTHER PERSON'S LAND (ANALYSIS OF DELEGATION NUMBER 180/PDT.G/2023/PA.PYB)

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### ABSTRACT

*Based on the principles of land law in Indonesia which adheres to the principle of horizontal separation, this allows for differences in ownership of land and buildings and plants on it. So it should be mutually understood that the landowner cannot automatically control the rights to the building or plants located on it. It turns out that not everyone understands this kind of legal principle, and in practice, disputes over joint property often occur. This kind of dispute also occurred between two people who were previously a husband and wife with the plaintiff (Nilda Yanti Binti Ardansyah) and the defendant (Nasrun Bin Sahril). As for the case that the Plaintiff disputed the joint property which was on land belonging to the Defendant's parents, this case arose when the Defendant did not share the proceeds of the joint property with the Plaintiff. For this reason, the researcher took this case to be examined in depth so that the Defendant would share the proceeds of the joint assets with the Plaintiff. What is formulated in this research is how to protect the Plaintiff's rights so that he can enjoy the proceeds of the joint assets? The research method used is a type of normative juridical research where a law is conceptualized the same as that stated in statutory regulations (law in books). This research approach is a statutory approach. Meanwhile, the legal material includes primary sources, namely national legal rules which are ordered based on a hierarchy starting from the 1945 Constitution, Laws, Government Regulations, and other rules under the law. In the provisions that have been regulated in the Marriage Law No. 1 of 1974, namely regarding joint property in marriage which is contained in Chapter VII which is regulated in 3 articles, namely Article 35, Article 36, Article 37. Article 35 paragraph (1) states that property obtained during marriage becomes joint property. And paragraph (2) states that property brought by each husband and wife and property obtained by each as a gift or in inheritance is under the control of each as long as the parties do not determine otherwise. And secondary sources are those found from text books, journals, opinions of figures and scholars related to joint property cases in the case studied. The results of this research show that there is indeed joint property, and the defendant was found not to share the proceeds with the plaintiff, so that a trial from the Religious Court was needed.*

**Keywords:** *Division, Ownership, Principle of Horizontal Separation.*

## INTRODUCTION

The reality of life is that we must be full of calculations to be able to move forward on the path of truth and eliminate or at least minimize the occurrence of disputes. Indeed In fact, in this whole life, what is called disputes cannot be eliminated, but disputes can be resolved. minimized<sup>1</sup> and one way to minimizing it is as the author just mentioned efforts to avoid disputes can be done in various ways, such as: Establishing open communication: Open communication can help avoid misunderstandings that trigger disputes. Checking the authenticity of documents: In the case of land disputes, it is important to check the authenticity of land certificates. Conducting deliberations: Deliberations can help resolve disputes. Implementing preventive measures: Preventive measures are preventive measures to prevent violations of applicable norms, namely calculating everything first before moving forward. However, what the author will examine in this study is

also a dispute, namely a dispute over two people who were previously a husband and wife with the object of the dispute being joint property. This case arose when the two separated and the Defendant was found not to have divided the proceeds of the joint property with the Plaintiff.

Etymologically, according to the KBBI (Big Indonesian Dictionary), property /har-ta/ is goods in the form of money and other things which are wealth owned by individuals or groups.<sup>2</sup> In Arabic, wealth is called al-mal, which means leaning, inclined and slanted.<sup>3</sup> In terms of terminology, wealth can be understood as Imam Hanafiyah defines wealth as a whole that human instincts gravitate towards, and which can also be stored until the time necessary.<sup>4</sup> Based on this description, we can understand together that property is everything object that can be stored, whereas anything that cannot be stored is not

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<sup>2</sup>Hendi Suhendi, *Fiqh Muamalah*, (Jakarta: Raja Grafindo Persada, 2010), Cet V, h. 9.

<sup>3</sup>Ghufron A. Mas'adi, *Fiqh Mu'amalah Kontekstual*, (Jakarta: Raja Grafindo Persada, 2002), Cet. 1, h. 10.

<sup>4</sup>Titi Martini Harahap, Muhammad Aripal Ahsar, "Tinjauan Hukum Islam Terhadap Hak Kepemilikan Pohon Durian Diatas Tanah Orang Lain". *Jurnal Islamic Circle*. Vol 3 No 2. Diakses pada 03 Desember 2024. h. 2.

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<sup>1</sup>Soiman, Supriono, Ardiansyah Nasution, dkk., "Implementasi Moderasi Beragama Di Kepluralitasan Desa Manik Maraja, Kecamatan Sidamanik, Kabupaten Simalungun, Provinsi Sumatera Utara". *Journal of Education Research*. Vol. 4 No. 4. Diakses pada 1 Desember 2024., h. 2.

Lihat dalam <https://kbbi.web.id>

included in wealth.<sup>5</sup>The term joint assets in the case being studied is in principle assets acquired by husband and wife while they were still legally married. In fiqh terminology, the term joint property is referred to as *syirkah* (sharing, mixing) of husband and wife so that there is something called mixing of assets from both parties. Property and its characteristics can be *qiyaskan* with *syirkah abdan mufawwadah* (unlimited sharing of energy and partnership). In principle, what is called joint property is obtained based on joint efforts and this is included in *syirkah mufawwadah*, namely a partnership that is unlimited and that includes everything that can be given, carried out and felt together by husband and wife. The concept of property like this has implications for understanding far-reaching issues related to the balance of rights and obligations of husband and wife. The basic thing that must be understood in the concept joint property is that each husband and wife have the right to half of the division of the joint property, this must also be based on the provision that the husband

and wife have fulfilled their obligations and responsibilities properly during their marriage. This provision as stated in Law No. 1 of 1974 concerning marriage, article 35 paragraph (1) states: “Property obtained during marriage becomes joint property”. Then it can also be seen in the compilation of Islamic law, article 1 letter (f) states: “Property in marriage or partnership is property obtained either individually or together by husband and wife during the marriage, hereinafter referred to as joint property, without questioning whether it is registered in anyone’s name”. This provision can also be seen in: Compilation of Islamic Law Article 86 paragraph (1); Compilation of Islamic Law Article 97; Compilation of Islamic Law Article 93 paragraph (2); Civil Code Article 121. In addition, there is also evidence from the Qur’an as follows:

....لِّلرَّجَالِ مِمَّا كَسَبُواْ وَلِلنِّسَاءِ مِمَّا كَسَبْنَ... (النساء: ٣٢):

Meaning: “.... For men there is a share of what they have earned, and for women there is also a share of what they have earnedtry ....” (Qs. **An-Nisa: 32**).

It’s just that if the husband and wife have separated, the plaintiff is the wife and the defendant is the husband this will

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<sup>5</sup>Salsabila Firdausia, Zeehan FuadAttamimi, 2024. “Penerapan Prinsip *Syirkah Abdan* Dalam Pembagian Harta Perkawinan”. *Journal Syntax Idea*. Vol 6 No 2. Diakses pada 12 Desember 2024. h. 6.

raise another problem that must be discussed and resolved regarding the status of joint property, both in the form of ownership rights status and the status of the distribution of profits from joint property. This kind of problem is possible, and in fact often occurs in this life. In fact, this case is also the topic of discussion in the research conducted by the author. Namely in the case faced by the Plaintiff and Defendant, with Decision Number 180 / Pdt.G / 2023 / PA.Pyb.

In fact, the peak of this problem was when the two had divorced, and the results of the joint assets obtained during their marriage, namely a house and palm oil and rubber plantations, turned out to be on land owned by the defendant's parents, so that the defendant did not share the results of the joint assets with the defendant. From that moment on, this case became prominent and required further handling so that Mr. Nasrun Bin Sahril's party would share the results of the joint assets with Mrs. Nilda Yanti Binti Ardansyah.

Seeing the emergence of the joint property issue that is currently being faced, the author then tried to raise this research so that it can be studied further and a solution can also be found this

matter. With the formulation of the research problem, namely: How is the consideration of the Panel of Judges in making a decision on Decision Number 180 / Pdt.G / 2023 / PA.Pyb? and what efforts must be made so that the Plaintiff can receive a portion of the joint property? This study aims for the plaintiff to get a portion of the joint property enjoyed by the defendant. The basic thing that must be understood in the concept of joint property is that each husband and wife have the right to half of the division of the joint property, this must also be based on the provision that the husband and wife have fulfilled their obligations and responsibilities properly during their marriage. This provision as stated in Law No. 1 of 1974 concerning marriage, article 35 paragraph (1) states: "Property obtained during marriage becomes joint property". Then it can also be seen in the compilation of Islamic law, article 1 letter (f) states: "Property in marriage or syirkah is property obtained either individually or together by husband and wife during the marriage, here in after referred to as joint property, without questioning whether it is registered in anyone's name". It should be noted, this method is only specific to joint property or property obtained from efforts during the marriage. Based on the

explanation above, your and your husband's property obtained from joint efforts or one person during the marriage becomes joint property because it has been determined by law. In this case, as long as it is not stipulated otherwise in the marriage agreement, if they divorce, each husband and wife are entitled to half of the joint assets.

## METHOD

The research method used in this research is a type of normative legal research where a law is conceptualized as what is stated in the laws and regulations (law in books) or as is called, a law is conceptualized as a rule or norm that becomes a reference for human actions that are considered appropriate.<sup>6</sup>As for normative legal research in research, it is based on primary and secondary legal materials, namely research whose reference is the norms contained in statutory regulations.<sup>7</sup>Thus, the research approach is statute approach. Meanwhile, the legal material or literature study includes

primary sources taken from national legal regulations that are arranged according to the hierarchy starting from the 1945 Constitution, Laws, Government Regulations, and other regulations under the law. In the provisions that have been regulated in the Marriage Law No. 1 of 1974, namely regarding joint property in marriage which is contained in Chapter VII which is regulated in 3 articles, namely Article 35, Article 36, Article 37. Article 35 paragraph (1) states that property obtained during marriage becomes joint property. And paragraph (2) states that property brought by each husband and wife and property obtained by each as a gift or in inheritance is under the control of each as long as the parties do not determine otherwise. And for secondary sources are those obtained from textbooks, journals, opinions of figures or scholars related to joint property cases in the cases studied here<sup>8</sup>.

## RESULTS AND ANALYSIS

The joint property case being discussed is a case involving two parties,

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<sup>6</sup>Amiruddin, Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: Raja Grafindo Persada Jakarta, 2012), h. 118

<sup>7</sup>Soeryono Soekarto, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 1984), h. 20.

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<sup>8</sup>Johnny Ibrahim, *Toel & Metodologi Penelitian Hukum Normatif* (Malang: Bayu media Publishing, 2012), h. 392.

namely the Plaintiff and the Defendant, through the Panyabungan Religious Court in Decision Number 180/Pdt.G/2023/PA.Pyb. The two of them were initially husband and wife who married according to Islamic law on March 6 2007. However, in 2021 the two of them divorced at the Panyabungan Religious Court. Before divorcing, initially everything that was joint property obtained from both of them was enjoyed together. However, when Allah SWT. Destined for the two of them to separate, then everything related to joint property starts discussed and reached an agreement. It should be based on perkara what happened was that a conclusion was reached about what belonged to joint assets and what did not, and an agreement was also reached that the proceeds from the joint assets would be divided in two.

When the two had divorced, they began to discuss joint assets in order to obtain justice as it should be. Of the many things that the Plaintiff mentioned as joint assets, it turned out that the Defendant was found not to acknowledge that the assets mentioned by the Plaintiff were joint assets and it was also found that the Defendant did not share the results of the joint assets. A

real example is that the Defendant did not share the results of the oil palm plantation with the Defendant. The reason was because the Defendant argued that the plantation was planted from land owned by the Defendant's parents which was lent to them both when they were still husband and wife. That is why the Defendant was reluctant to share the results of the oil palm plantation.

This case had previously been attempted to be reconciled through a Village deliberation, where the Plaintiff had attempted to implement peace through a Village deliberation on January 6, 2023. Based on the results of the deliberation, the defendant acknowledged that part of what the plaintiff referred to as joint property it's true, but parties The defendant on the other hand apparently did not agree with the results of the Village deliberation that the results of the joint property should be divided in two. In the end, the Plaintiff through his attorney has sent a letter of warning to the Defendant, but the Defendant did not heed it, from which the Plaintiff concluded to resolve the joint property case through the Panyabungan Religious Court.

The Plaintiff, as stated in his lawsuit dated May 9, 2023, has also filed a lawsuit for the joint property case and has been registered with the Panyabungan Religious Court clerk's office Number 180/Pdt.G/2023/PA.Pyb, dated May 10, 2023. It should also be mentioned that on the day of the trial, the Plaintiff and Defendant were present and each party received assistance from their attorney. In fact, the Panel of Judges has tried so that the two can reconcile through advice and directing the Plaintiff and Defendant so that the joint property dispute is resolved amicably, only that these efforts failed, therefore the examination of the aquo case has certainly fulfilled what is stated in Article 154 R.Bg. Even efforts have been made by the court so that mediation can be carried out in an effort reconciliation with a Certified mediator, namely Dr. Muhammad Hasan Sebyar, SHI., MH., CM, only then in accordance with the mediator's report received by the court on June 20, 2023, the effort failed. For this reason, the examination of the aquo case has also included the fulfillment of what is intended in Articles 4 and 7 of the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of

2016 concerning Mediation Procedures in Court.

Based on the explanation above, and as stated in the lawsuit letter, it can be concluded that the actual facts of the case are as follows:<sup>9</sup>

- 1 The Plaintiff and Defendant were previously husband and wife and were married on March 6, 2007, then divorced in 2021 in accordance with the decision of the Panyabungan Religious Court;
- 2 During their marriage, the Plaintiff and Defendant had several joint assets, then after the divorce, all the joint assets were controlled and enjoyed by the Defendant and his new wife, while the joint assets between the Plaintiff with the Defendant as stated in Article 35 paragraph 1The Marriage Law states that property acquired during a marriage becomes joint property, and in the event of a divorce, the property acquired during the marriage is divided into two, with the provision that

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<sup>9</sup>Lihat dalam:Putusan Pengadilan Agama Panyabungan Nomor180/Pdt.G/2023/PA.Pyb.h.2-5.

half is given to the ex-husband and half is given to the ex-wife. Some of the joint property mentioned by the Plaintiff are:

A plot of rubber plantation land purchased together from Amir, located in the Border Village (Across the Batang Natal river), Lingga Bayu District, Mandailing Natal Regency; A plot of land with an area of  $\pm 1$  hectare purchased together from Rinda in an empty land condition and now planted with oil palm by the Plaintiff and Defendant before the divorce, located in the Border Village, Lingga Bayu District, Mandailing Natal Regency; A plot of land and a wooden house on it purchased together from M. Nauli in 2016 located in the Border Village, Lingga Bayu District, Mandailing Natal Regency Mandailing Natal;

An oil palm plantation of approximately 60 trees planted on the Defendant's parents' land located in Lembah Desa Batas, Lingga Bayu District, Mandailing Natal Regency with an area of approximately 500 M<sup>2</sup>;

Oil Palm Plantation of around 300 Trees on the Defendant's parents' land located across the Batang Natal River, Border Village, Lingga Bayu District, Mandailing Natal Regency, with an area of 3 hectares; Oil Palm Plantation of around 60 trees in Lubuk Bange, Border Village, Lingga Bayu District, Mandailing Natal Regency, planted on the Defendant's parents' land before the divorce, with a land area of 500 M<sup>2</sup>; A house measuring 9 M<sup>2</sup> x 7 M<sup>2</sup>, built around 2013 on the Defendant's parents' land, located in Border Village, Lingga Bayu District, Mandailing Natal Regency;

- 3 That the Plaintiff's efforts to implement peace were carried out through a Village deliberation held on January 6 2023, but were unsuccessful and then The plaintiff through his attorney has provided kiriman in the form of a letter of warning given to the Defendant but the Defendant did not pay attention to it, therefore the Plaintiff came to the conclusion to resolve this joint property



- problem through the Panyabungan Religious Court;
- 4 That the costs of this case are charged to the Plaintiff and Defendant in a joint and several manner in accordance with applicable legal regulations;
  - 5 Whereas in the provisions of article 97 of the Compilation of Islamic Law.a) Compilation of Islamic Law Article 1 letter (f) states: "Property in marriage or partnership is property that is obtained either individually or jointly by husband and wife during the marriage, hereinafter referred to as joint property, without questioning whether it is registered in anyone's name". b) Compilation of Islamic Law Article 86 paragraph (1), "Basically there is no mixing between husband's and wife's property due to marriage", Article 87 paragraph (1), "Property brought by each husband and wife and property obtained by each as a gift or inheritance is under the control of each, as long as the parties do not determine otherwise in the marriage agreement"; c)

Compilation of Islamic Law Article 97 states: "widow or widower Divorcees each have the right to half of the joint assets throughout not specified otherwise in the marriage agreement d) Compilation of Islamic Law Article 93 paragraph (2) states: "accountability for debts incurred for family interests, are charged to joint assets."It is expressly stated, "divorced widows or widowers each have the right to half of the joint property as long as it is not otherwise stipulated in the marriage agreement", therefore both the Plaintiff and the Defendant each receive the same half share of the said joint property;

- 1 Where all the objects of the joint property above have been controlled by the Defendant and his new wife, the Plaintiff hereby places a security encumbrance on all objects of the joint property of the Plaintiff and the Defendant;
- 2 Where based the whole argument and the reasons

above, therefore, the Chairman of the Panyabungan Religious Court cq. The Panel of Judges of the Panyabungan Religious Court as the party authorized to conduct the examination and trial of this case, is pleased to decide on the date of holding a trial in the case in question by summoning all related parties to be present for the trial.

Looking at the situation, this is a problem that is indeed quite complicated, and indeed must be considered carefully by the Panel of Judges. As the author has mentioned previously, the Defendant does not fully acknowledge that what the Plaintiff claims as joint property is true. For this reason, it must first be ascertained which is actually joint property and which is not. Which will then be discussed in depth regarding the efforts that can be made so that the plaintiff can receive the results of the joint property.

## **RESEARCH RESULT**

In this section, the author will explain several things from the results of the research carried out which are related to the facts of the case. After conducting

research on the existing facts of the case, then based on the results of the research, This can be done as explained below.

The first thing we must know is that the truth of the first case has been agreed upon, namely regarding the status of the truth of the husband and wife relationship between the plaintiff and the defendant who were married on March 6, 2007 and have officially divorced in accordance with the Panyabungan Religious Court Decision Number 492/Pdt.G/2021/PA.Pyb and the Divorce Certificate Number 436/AC/2021/PA.Pyb has been issued. And based on the evidence that has been issued, there is also a pure admission from the Defendant as a former husband and wife who have divorced based on the Panyabungan Religious Court Decision Number 492/Pdt.G/2021/PA.Pyb dated November 23, 2021.

The next thing that must be known together regarding the truth of the case is regarding the status of the truth of the object of the lawsuit in question as joint property, and then there are efforts that can be made so that the Plaintiff can enjoy the results of the joint property.

**Judge's Consideration in the Decision of the Panyabungan Religious Court Number 492/Pdt.G/2021/PA.Pyb Regarding the Object of the Lawsuit**

Legal considerations made by the Panel of Judges in determining the object of the lawsuit, whether true as joint property or not, then this must be based on the provisions that apply to how an asset can be called joint property. And the following are legal norms issued by the Panel of Judges as a benchmark in determining the status of joint property:<sup>10</sup>

What is referred to as joint property is in principle what is acquired by husband and wife since the two of them have been legally bound by marriage. In terms of fiqh terminology, what is meant by joint property is known as *syirkah*, namely property where the acquisition is through *syirkah*, namely a partnership or mixing between husband and wife, resulting in a combination of the assets of the two. Part of the characteristics of joint assets is referred to as *syirkah abdan mufawwadah* with the meaning of unlimited sharing of energy and partnership. In principle, the

acquisition of joint assets is based on the joint efforts of both of them, which is included in *syirkah mufawwaddah*, namely an unlimited partnership that includes everything that can be carried out, and is felt together by the husband and wife the concept of joint property has implications for understanding that is more deeply related to justice between the rights and obligations of husband and wife.

**Efforts That Can Be Made So That The Plaintiff Obtains Joint Property Rights**

The thing that the Plaintiff must pay attention to from the start is to ensure that they have a valid copy of the Religious Court decision, and document all efforts that have been made to prove that the defendant did not carry out the Religious Court decision. Based on the results of the research that has been carried out, the efforts that can be made so that the Plaintiff can enjoy ½ (one half) of the palm oil plantation results as joint property are as explained below:

- a. Official Notification to the Defendant regarding the Plaintiff's Legal Protection in Receiving the Proceeds of Joint Property

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<sup>10</sup>Putusan Pengadilan Agama Panyabungan Nomor 180/Pdt.G/2023/PA.Pyb.h.59-62.

The first step that can be taken is to confirm the notification to the Defendant that there is legal protection for the Plaintiff to be able to receive ½ (one half) of the proceeds from the joint assets, and therefore also to confirm to the Defendant that it is the Defendant's obligation to comply with the ruling of the Religious Court. This can be the initial step before further legal action is taken. The legal provisions as legal protection for the Plaintiff to obtain joint property are based on the provisions of the Compilation of Islamic Law Article 97 which states: "A widow or divorced widower is each entitled to half of the joint property as long as it is not specified otherwise in the marriage agreement". And the legal protection stated in the Al-Qur'an, Surah An-Nisa verse 32 which reads: "... For men there is a share of what they have worked for, for women there is also a share of what they have worked for..." (Qs. An-Nisa: 32)." Ibn Kathir in his interpretation explains that each has a reward for his deeds according to his measure, if it is good, then he will get good things, and if it is bad, then he will get bad things. This is the opinion of Ibn Jarir. It is said that it is related to inheritance. Namely, each gets an inheritance according to his measure. This

was narrated by Al-Walibiy from Ibn Abbas.<sup>11</sup>

#### *a. Submitting an Execution Request*

The plaintiff can file an execution request to the religious court. Execution is the process of implementing a decision a court that has legal force permanent law. In the context of dividing joint property, the court can order the seizure or division of property in accordance with the decision that has been determined. If the decision on joint property has met the principles, namely the decision has permanent legal force, it is not executed, so that it is possible to submit an execution request by the Religious Court that decided the case.<sup>12</sup>

The execution process is carried out by submitting an application to the Head of the Religious Court: The plaintiff can submit an execution application to the Religious Court that issued the decision. The plaintiff must include the identities of the parties

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<sup>11</sup>Lihat pada bagian tafsir Ibnu Katsir, diambil dari <https://tafsirweb.com/1564-surat-an-nisaayat-32.html>. Diakses pada 13 Desember 2024.

<sup>12</sup> Lihat dalam: <https://text-id.123dok.com/document/lzgrwk6q-eksekusi-putusan-pengadilanagama-terhadap-harta-bersama-akibat-perceraian-kajian-putusan-pengadilan-agama-pasuruannomor-1644-pdt-g-2011-pa-pas-1.html>

(applicant and respondent), in addition to containing a description of the facts and legal basis, and also containing the petitum or request submitted. Several other supporting documents are also needed such as a photocopy of the court decision (first level, appeal, or cassation, as needed), then a photocopy of evidence related to the object of the application, a power of attorney if the application is submitted through a legal representative.

*b. Consequences If the Decision is Not Executed*

If the decision of the Religious Court is not carried out properly in accordance with the decision issued, then this has quite severe consequences. The court through the plaintiff can issue an *aanmaning* (warning), if the court decision is still not carried out, the consequences can include real execution, execution of payment of a sum of money, execution of vacating, or even execution of auction, and others. In this case, if the decision is not actually carried out, the consequences can include:

- a. *Aan maning* (Warning): The Head of the Religious Court will issue an order for *aan maning*, which contains an

order to the bailiff to summon the losing party to fulfill the contents of the decision within the specified time. Then if the *aanmaning* time limit is exceeded and the losing party still does not fulfill the execution, then the application can be an execution application without having to submit a re-execution application.

- b. Implementation of Forced Execution: The act of forced execution is an attempt confiscation by a bailiff carried out by force, this can be done if the defendant still does not comply with the rules of the decision that has been set, then the court will order the Bailiff to carry out forced execution and implementation of the division of joint assets, so that the decision that has been enforced by the Religious Court can be carried out as it should be. In the implementation of execution there are several possible executions, namely

real execution (direct implementation of the disputed object), execution of payment of a sum of money, execution of vacating execution, execution of auction execution, and others.

## CONCLUSION

Based on the explanation above, it can be concluded that the Plaintiff receives the rights to joint property, namely as follows:

1. The existence of legal protection for the Plaintiff to receive assets together with  $\frac{1}{2}$  (half) of the part, namely:
  - a) Based on the provisions of the Compilation of Islamic Law, Article 97 states: “divorced widows or widowers each have the right to half of the joint property as long as it is not specified otherwise in the marriage agreement.”
  - b) The argument of Al-Qur’an Surah An-Nisa verse 32 is as follows; It means: “.... For men there is a share in the things they have worked

for, for women there is also a share in the things they have worked for...”(Qs.AnNisa: 32).

2. Submission of Application for Execution of Joint Property: If the decision on joint property has met the principles, namely the decision has permanent legal force, it is not executed. Then the execution process is carried out with the following steps:
  - a) Submitting an application to the Head of the Religious Court: The plaintiff can submit an application for execution to the Religious Court. The religion that issued the decision. The plaintiff must include a copy of the decision that has permanent legal force (inkracht).
  - b) Aanmaning (Reprimand): The Head of the Religious Court will summon the defendant through a warning hearing (aanmaning) to provide a final opportunity for the defendant to voluntarily

carry out the decision.

- c) Forced Execution: If the defendant still does not comply, the court will order the Bailiff to carry out forced execution, such as confiscation of assets and implementation of division of joint property.

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