

## ABSTRACT

Hakim, Fakhriya. 07,210,021. Dissenting Opinion Judg of Marriage Itsbat e In Case No. Lumajang 0314/Pdt.G/2011/PALmj On Religious Court. Thesis. Subject: Al-Al shakhsiyyah ahwal. Faculty: Sharia, Islamic State University Maulana Malik Ibrahim (Maliki) Malang.

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### **Keywords: Dissenting Opinion, Itsbat Marriage**

In Act No. 50 of 2009 on the second amendment of Law No. 7 of 1989 on the absolute authority of the Religious Religious Court, among others, is to receive, examine, try and resolve the matter itsbat marriage for couples who do not have a marriage certificate. in the case of Marriage No. Itsbat this 0314/Pdt.G/2011/PALmj the applicant has been legally married to that recorded in the district KUA Tekung and has got a number of Marriage Act citation: 104/13/V/2008 dated May 14, 2008 but filed itsbat marriage to the rule of law before his son who was born in Deed dated Nikah. In ruling on the request of a difference of opinion arose between the members, causing the judges dissenting opinion. Then the case would be very interesting to study both of substantive law perspective (the Marriage Law, KHI) as well as formal law (procedural law).

From the above, the researcher is interested in knowing some of the issues contained in the formulation of the problem, namely: First, the basic consideration for the judge who agreed (majority opinion) in the case refused itsbat wedlock. Second, the basic consideration of dissenting opinion of judges who break the negative (niet onvankelijke verklaard) in the case itsbat wedlock. Third, the legal consequences for the applicant after the case Itsbat illegitimate application terminated.

Researchers used a kind of normative legal research, the approach to the law (Statute approach). The data collection methods of interviews and documentation. In his analysis, researchers used the descriptive method of analysis. Therefore, the primary legal materials in the form of the judge's ruling and secondary legal materials derived from the literature or reading books that are relevant to the subject. then analyzed to the conclusion that: First, in case number: 0314/Pdt.G/2011/PA.Lmj judge dropped the decision was rejected because the evidence shows there lack sinkronan witnesses so that proof does not meet the threshold requirement of proof. Second, Judge II in his dissenting opinion stated that a formal request for no obvious defects (obscuur libel) and error in persona and the applicant has a valid Certificate of Marriage that is considered unreasonable application of law and must be declared unacceptable (niet onvankelijke verklaard ). Third, the judges ruling stated appeals through the injunction application can not be accepted (niet onvankelijke verklaard) and to date the applicant is no longer submit further legal action is the legal effect of a negative decision is considered to return to its original state, both the marriage of the Petitioners (fixed appropriate legal marriage certificate), the status of the child (still a child born outside of marriage is valid) and merried Act remains a legitimate authentic evidence.