ABSTRACT


Keyword: Obscuur Libel, claim, inheritance.

The inheritance claim is the absolute authority of the Religious court. Writing the claim letter at the religious court is written clearly, distinctly and explicitly. An article of 8 Rv explains about the requirement of claim formal, those are the fundamentumpetendi have to be clear and complete; and petitum have to be clear and definite. The inheritance claim letter which is submitted by the plaintiffs of the case number 1444/Pdt.G/2011/PA.Mlg is obscuur libel because there is mistaken on the writing of second plaintiff identity and the first defendant address and the posita is unclear. However in exception, the defendant is written as one of the obscuur libel factors because the properties case without the third party precense, so that is still include absolute authority of the religious court. In this case, the judges accept the exception of defendant which is still has mistaken on that exception. Those problems above made the researcher is interested to know the steps of finding law by the judges to the obscuur libel inheritance case by the number 1444/Pdt.G/2011/PA.Mlg, then what are considerations of judges to accept exception of defendant.

The researcher uses the normative law type by case approach. The collecting data used documentation method and interview. The researcher uses the descriptive method in analyzing. Therefore, the researcher uses substances of primerry law namely judge decision and the secondary lawsubstances, it comes from literature or the book which is relevant with subject, then it was analyzed to get the conclusion.

This research finding prove the step of finding law to the obscuur libel- inheritance case number 1444/Pdt.G/2011/PA.Mlg is only untill qualification step, because the case investigation is only until the replic and duplic because occured formal mistaken on the claim letter. Then the judge use yudicial judgement. As the exception that is submitted by defendant, it explaint unclear because of obscuur libel cause of error in persona happening, because the second plaintiff is six years old still in custody of his mother and does not have a right to claim the case. The position of second plaintiff as subject of law must be describe textually by mentioning word “represented by his mother”. Seeing that case, judge feel has enought reason to accept exception of defendants, still obscuur libel because of mistaken on address writing of first defendant and posita is unclear not be judgment. This case consequeness some parties are unsatisfied with judge decision and submit appeal to the Hight Religion Court of Surabaya.