

## The Juridical Analysis of Inheritance Rights for Second Class Heirs in Religious Courts

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**Abstract.** *This research aims to know, analyze, and examine the juridical analysis of inheritance rights for heirs of the second class in the Surakarta Religious Court. Approach method in this research used namely normative juridical or called doctrinal law or library research. Named doctrinal legal research because this research is only shown to written regulations so this research is closely related to the library because it will require secondary data from the library the required data includes secondary data obtained from library materials that provide an explanation of primary legal materials such as laws, research results, or legal expert opinions. the method of data analysis uses descriptive normative which provides an overview based on the results of an analysis of inheritance rights for heirs of the second class in the Religious Courts. Based on the results of the research and discussion, it was concluded that the right to inherit for heirs of the second class at the Surakarta Religious Court was based on the judge's considerations in deciding case Number: 228 /P dt.P/2021/PA.Ska in determining the heirs had referred to the Compilation of Islamic Law this is in accordance with the theory of Islamic justice and Pancasila, and the theory of legal protection according to Satjipto Raharjo.*

**Keywords:** Court; Inheritance; Rights.

### 1. Introduction

Inheritance law is a part of civil law as a whole and is the smallest part of family law. Inheritance law is very closely related to the scope of human life. Because all humans will experience death and in someone's death there will be legal consequences, the occurrence of a person's legal event is a matter of how to manage and continue the rights and obligations of someone who dies.

Settlement of rights and obligations as a result of someone's death, is regulated by inheritance law. For the definition of inheritance law, until now, both Indonesian legal experts, there is no description of the definition, so that the term for inheritance law is still diverse. For example, Wirjono Prodjokoro uses the term inheritance law. Hazairin used the term inheritance law and Soepomo called it inheritance law. Inheritance law that applies in Indonesia until now is still not a legal unification. On the basis of the inheritance law map due to or because he is the heir.<sup>1</sup>

Until now, Indonesia does not have national inheritance law, therefore the government in this case still applies three (3) types of inheritance law provisions, namely Islamic inheritance law, customary inheritance law and BW inheritance law (Burgerlijk Wetboek).. If the heir includes Indonesian residents who are Muslim, then in some cases they can use inheritance law regulations based on Islamic inheritance law, or they can choose to use their respective customary inheritance laws.<sup>2</sup>

Islamic inheritance as part of Islamic law and more specifically as part of the muamalah aspect of civil sub-law which cannot be separated from other aspects of Islamic teachings. The Islamic legal system, commonly referred to as faraidh law, is part of the entire Islamic law which specifically regulates and discusses the process of transferring inheritance and the rights and obligations of someone who has died to someone who is still alive. Inheritance law in the Compilation of Islamic Law is regulated in Articles 171 to 193.<sup>3</sup>In book II, Article 171 letter (a) of the Compilation of Islamic Law defines inheritance law as the law governing the transfer of ownership rights to heirs' inherited assets (tirkah), determining who has the right to become heirs and how much each share.<sup>4</sup>

The process of distributing inheritance does not always go smoothly according to the wishes of the heirs and parents who have died. In the community, family commotion often occurs due to disputes over the division of inheritance. Disputes over inheritance disputes can be resolved through the Religious Courts settlement of Islamic inheritance law cases in Indonesia is the absolute authority of the Religious Courts, specifically for those who are Muslim, inheritance disputes are resolved in the Religious Courts, this is in accordance with the provisions of Article 49 of Act No. 7 of 1989 concerning Religious Courts

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<sup>1</sup> Muhammad Ali Ash-Shabuni, (2013), *Hukum Waris Dalam Islam*, Fathan Prima Media, Depok, p.32.

<sup>2</sup>Eman Suparman, (2006), *Intisari Hukum Waris Indonesia*, Mandar Maju, Bandung, p.7

<sup>3</sup>Syarief Husien dan Akhmad Khisni, (2018), "Hukum Waris Islam di Indonesia (Studi Perkembangan Hukum Kewarisan dalam Kompilasi Hukum Islam dan Praktek di Pengadilan Agama", *Jurnal Akta*, No.1, Vol.5, p.79.<http://jurnal.unissula.ac.id/index.php/akta/article/view/2533/1895>

<sup>4</sup>Peni Rinda Listyawati and Wa Dazriani, (2015), "Perbandingan Hukum Kedudukan Ahli Waris Pengganti berdasarkan Hukum Kewarisan Islam dengan Hukum Kewarisan menurut KUHPerdara", *Jurnal Pembaharuan Hukum*, No.3, Vol.II, p.336.<http://jurnal.unissula.ac.id/index.php/PH/issue/view/191> accessed on October 30, 2022 at 20.45 WIB

which has now been amended to Act No. 50 of 2009 concerning Religious Courts.<sup>5</sup>

The court is an institution or body in charge of receiving, examining, adjudicating and settling every case submitted to it. In adjudicating and resolving cases, lies the process of administering justice, which is carried out by judges, both single and assemblies. Therefore, the judge is a very important element in administering justice. The word judiciary when connected with religion will become a religious court which means the process of administering justice in the Religious Courts. The Religious Court is an institution in charge of receiving, examining, adjudicating and resolving cases under its authority.<sup>6</sup>

Based on the problems above, the authors conducted this research aims to know, analyze, and examine the juridical analysis of inheritance rights for heirs of the second class in the Surakarta Religious Court.

## 2. Research Methods

This study uses a normative juridical approach with a statutory approach, a case approach, a comparative approach, and a conceptual approach. The data used includes secondary data. data analysis method using descriptive normative

## 3. Results and Discussion

### 3.1. Juridical analysis of inheritance rights for heirs of the second class at the Surakarta Religious Court

a. Presentation of the Case of Determination of Inheritance Rights for Heirs of the Second Class based on the Decision of the Surakarta Religious Court Number: 228/Pdt.P/2021/PA.Ska

The Surakarta Religious Court which examines and adjudicates certain cases at the first level in the trial of the Panel of Judges has issued the following stipulations in the case P3HP/Determination of heirs filed by:

**-BONDO SUPADMO Bin SUPADMO (Alm)**, 63 years old, Islam, elementary school education, casual daily worker, residing in Sumber Nayu, RT 04 RW 06, Joglo Village, Banjarsari District, Surakarta City, as Petitioner I;

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<sup>5</sup>Law Number 50 of 2009 concerning Religious Courts Article 49

<sup>6</sup>Afif Sachrudin and Peni Rinda Listyawati, (2020), "The View Of Religious Court Judges In Semarang On The Implementation Of E-Court In The Administration And Court Proceedings In Divorce Cases", *Prosiding Konferensi Ilmiah Mahasiswa UNISSULA (KIMU) 4*, p. 582, <http://jurnal.unissula.ac.id/index.php/kimuh/article/view/11963/4798>

**-RATIH SUPADMA WATI Binti SUPADMO (Alm)**, NIK: 3372055202600002, place of birth date: Surabaya, February 12, 1960, age 61, Islam, education: junior high school/equivalent, occupation: Tailor, address Sumber Nayu, RT 04 RW 06, Joglo Village, Banjarsari District, Surakarta City, As Petitioner II;

**-SISWOYO Bin SUPADMO (Alm)**, NIK: 3372052303700001, place of birth date: Surabaya, March 23, 1970, age 51, religion Islam, education: junior high school/equivalent, address Sumber Nayu, RT 04 RW 06, Joglo Village, Banjarsari District, Surakarta City. As Petitioner III;

#### 1. Cases

Considering, that paraApplicantin the mailhis requestdated01 October 2021registered at the Registrar's Office of the Surakarta Religious Court onOctober 14, 2021with the case register No228/Pdt.P/2021/PA.Skaput forward the following reasons:

a. That on May 27, 1948 there was a marriage between T. TUKIMAN Alias BROTO SUDIRO (Alm) Bin SOEKIRAN (Alm) with SUYATMI (Almh) Binti SURO SARDJONO (Alm) as stated in the quote from the marriage certificate number 82/62/1948 dated May 27, 1948 which issued by KUA Banjarsari District, Surakarta City, however T. TUKIMAN Alias BROTO SUDIRO (Alm) Bin SOEKIRAN (Alm) has died according to death certificate Number 474.3/71/86 dated 12 June 1986 and SUYATMI (Almh) Binti SURO SARDJONO (Alm ) passed away according to death certificate Number 400/54/05 dated 13 February 2005 from this marriage, they were blessed with 2 (two) children named:

- SRI WIDODO (Alm)

- MARGONO (Alm)

b. That on March 31, 2017 SRI WIDODO (Alm), older sibling of MARGONO (Alm) died according to death certificate Number 472.12/100/IV/2017 died due to illness. child of T. TUKIMAN Alias BROTO SUDIRO (Alm) and SUYATMI (Almh) Binti SURO SARDJONO (Alm) and does not have a wife and children;

c. Whereas on October 13, 2020, MARGONO (Alm), the younger sibling of SRI WIDODO (Alm), died according to death certificate Number 3372-KM-13102020-0017 dated October 13, 2020, died due to illness. child of T. TUKIMAN Alias BROTO SUDIRO (Alm) and SUYATMI (Almh) Binti SURO SARDJONO (Alm) and does not have a wife and children;

d. That the late SRI WIDODO (Alm) bin T. TUKIMAN Alias BROTO SUDIRO (Alm) and MARGONO (Alm) bin T. TUKIMAN Alias BROTO SUDIRO (Alm) had a biological uncle named SUPADMO (Alm) Bin SURO SARDJONO (Alm) who married KAMIRAH (Alm) Binti Martasuhardjo (Alm) according to the quote from the marriage certificate number 244/1957 dated May 14, 1957 issued by the KUA of Banjarsari District, Surakarta City. However SUPADMO (Alm) Bin SURO SARDJONO (Alm) has died according to death certificate Number 474.3/135/IV/20 dated 10 April 2012 and SUYATMI (Almh) Binti SURO SARDJONO (Alm)

has passed away according to death certificate Number 400/54/05 dated 13 February 2005, from this marriage they were blessed with 5 (five) children named:

- 1) BONDO SUPADMO Bin SUPADMO (Alm) as the cousin of the late MARGONO (Alm)
- 2) RATIH SUPADMA WATI Binti SUPADMO (Alm) as the cousin of the late MARGONO (Alm)
- 3) BROTO SUPADMO (Alm) Bin SUPADMO (Alm) who has passed away according to the death certificate Number 474.3/71/IV/20 dated 12 April 2012 and does not have a wife and children; as cousin of the late MARGONO (Alm)
- 4) SISWOYO Bin SUPADMO (Alm) as cousin of the late MARGONO (Alm)
- 5) SUGENG HARIPURNOMO SUPADMO Bin SUPADMO (Alm) as the cousin of the late MARGONO (Alm);

e. Whereas, the Petitioners are Muslims;

f. That, the intention of the Petitioner to submit this application is to determine who is the Necessary Heir of the late MARGONO (Alm) Bin T. TUKIMAN Alias BROTO SUDIRO (Alm) in accordance with Islamic Inheritance Law;

g. Whereas the Petitioner submitted this Determination of Heirs to be used to administer the distribution of inheritance in the form of land area of ±120 m<sup>2</sup> located in the Kadipiro Village, Banjarsari District, Surakarta in accordance with the certificate of ownership number 21572 in the name of MARGONO and land area of ±197 m<sup>2</sup> located in the Kadipiro Village, Banjarsari District, Surakarta in accordance with the certificate of ownership number 7455 in the name of MARGONO recorded by the Surakarta City Land Office, and for other purposes as appropriate;

h. Whereas based on the reasons mentioned above, the Petitioners request the Chairperson of the Surakarta Religious Court cq. The panel of judges examining this case is pleased to decide asfollowing:

PRIMARY:

1. Granted the petition of the Petitioners.
2. Determined that the late MARGONO (Alm) Bin T. Tukiman Alias BROTO SUDIRO (Alm) passed away on October 13, 2020;
3. Determine the heirs of the late Margono (Alm) Bin T. Tukuman Alias Broto Sudiro are:
  - a. Bondo Supadmo Bin Supadmo (as cousin of the late Margono);
  - b. Ratih Supadma Wati Binti Supadmo (as the cousin of the late Margono);
  - c. Siswoyo Bin Supadmo (as the cousin of the late Margono);
  - d. Sugeng Haripurnomo Supadmo bin Supadmo (as a cousin of the late Margono (Catholic);
  - e. Determine court costs in accordance with applicable legal provisions;

Whereas on the appointed trial day, the Petitioners appeared before the court themselves.

Whereas subsequently the hearing was declared open to the public and the Petitioners' letter of petition was read out, the content and meaning of which was a change in position point 4 letter (c), namely the Petitioner's sibling named BROTO SUPADMO (Alm) was declared abolished/disposed because he had passed away, and was subsequently retained. by the Petitioners.

That in order to strengthen the arguments in their petition, the Petitioners has submitted documentary evidence and witnesses as follows

3. Letter Proof:

- a. Photocopy the family tree on behalf of the Petitioners made by the Petitioners is known to the Joglo Lurah, Banjarsari District, Surakarta City, (P1);
- b. Photocopy of Identity Card in the name of Bondo Supadmo Number: 3372050909580005 dated 1 May 2020 issued by Central Java Province, Surakarta City (P2);
- c. Photocopy of Identity Card in the name of Ratih Supadmawati Number: 33720552002600002 dated 1 May 2020 issued by Central Java Province, Surakarta City (P.3);
- d. Photocopy of Identity Card in the name of Siswoyo, Number: 3372052303700001 dated 1 May 2020 issued by Central Java Province, Surakarta City (P4);
- e. Photocopy of Identity Card in the name of Sugeng Haripurnomo Supadmo, Number: 3372051102750007 dated 1 May 2020 issued by Central Java Province, Surakarta City (P5);
- f. Photocopy of Death Certificate in the name of Suyatmi Number 4 a/54/05 dated 6 February 2005 issued by the City Government of Surakarta, then coded (P.6);
- g. Photocopy of Marriage Registration Book Number: 482/48 dated 18 July 1979 issued by the Religious Affairs Office of Banjarsari District, Surakarta City, coded (P.7);
- h. Photocopy of Marriage Registration Book Number: 244 dated May 4, 1957 issued by the Religious Affairs Office of Banjarsari District, Surakarta City, coded (P.8);
- i. Photocopy of Death Certificate in the name of Broto Supadmo Number: 474.3/137/IV/20 dated 12 April 2012 issued by Kadipuro Village Head, Banjarsari District, Surakarta City, then coded (P.9);
- j. Photocopy of Death Certificate in the name of Brotosudiro Number: 27.3/71/86 dated 2 June 1986 issued by the Kadipuro Village Head, Banjarsari District, Surakarta City, (P.10);

k. Photocopy of Excerpt of Death Deed Number: 3372-KM-13102020-0017 in the name of Margono dated 13 October 2020 (P.11);

l. Photocopy of Death Certificate in the name of Supadmo Number: 474.3/135/IV/20 dated 10 April 2012 issued by Kadipuro Village Head, Banjarsari District, Surakarta City, later (P.12);

m. Photocopy of Certificate of Property Rights Number: 7455 in the name of: Margono issued by the Surakarta City National Land Agency dated March 17, 2014 (P.13);

n. Photocopy of Certificate of Property Rights Number: 21572 in the name of: Margono issued by the Surakarta City National Land Agency on 17 October 2017 (P.14);

4. Witness Evidence:

a. Witness 1, Subekti bin Tugiman, testified under oath, principally as follows:

- Whereas the witness knows the Petitioners because the witness is a neighbor of the Petitioners;
- Whereas the Petitioners have 5 relatives, but one person who died in 2012 was named Broto Supadmo, who has no wife and no children;
- Whereas there is also a brother of the Petitioner named Sugeng Haripurnomo Supadmo who is a Catholic;
- Whereas the Petitioners had a cousin (uncle's child) named the late Margono who died on October 13, 2020 due to illness and during his lifetime had no wife and no children;
- Whereas the late Margono during his lifetime owned residential land in two locations located in the Kadipiro Village with an area of 197 m<sup>2</sup> and the other with an area of 120 m<sup>2</sup> and both locations were certified in the name of the late Margono;
- That both parents of the late Margono had died earlier;
- Whereas the Petitioners were one-time cousins with the late Margono and had no other heirs other than the Petitioners;
- Whereas the purpose of this application for determining the heirs is to manage the administration of buying and selling or other matters relating to the legacy of the late Margono;

b. Witness 2, Suryo Hadi bin Sri Hartono, testified under oath, in essence as follows:

- Whereas the witness knows the Petitioners because the witness is a neighbor of the Petitioners;
- Whereas the Petitioners have 5 relatives, but one person who died in 2012 was named Broto Supadmo, who has no wife and no children;
- Whereas there is also a brother of the Petitioner named Sugeng Haripurnomo Supadmo who is a Catholic;
- Whereas the Petitioners had a cousin (uncle's child) named the late Margono who died on October 13, 2020 due to illness and during his lifetime had no wife and no children;

- Whereas the late Margono during his lifetime owned residential land in two locations located in the Kadapiro Village with an area of 197 m<sup>2</sup> and the other with an area of 120 m<sup>2</sup> and both locations were certified in the name of the late Margono;
- That both parents of the late Margono had died earlier;
- Whereas the Petitioners are one-time cousins with the late Margono and have no other heirs other than the Petitioners;
- Whereas the purpose of this application for determining the heirs is to manage the administration of buying and selling or other matters relating to the legacy of the late Margono;

In the context of this research, to obtain an overview of how inheritance rights are for heirs of the second class in the Surakarta Religious Court, this research will be described and analyzed based on the Surakarta Religious Court Decision Number: 228/Pdt.P/2021/PA.Ska. This decision is a decision in the case of an application for determination of heirs that has permanent legal force (*inkracht*). The subject matter of the application in this case is principally regarding the determination of heirs.

The basis of this case began when the inheritance was in the form of land area of ± 120 m<sup>2</sup> which was located in Kadapiro Village, Banjarsari District, Surakarta in accordance with the certificate of ownership number 21572 in the name of Margono and land area of ±197 m<sup>2</sup> which was located in Kadapiro Village, Banjarsari District, Surakarta according to with the certificate of Property Rights Number 7455 in the name of Margono, the appellant will distribute the inheritance

The intention of the Petitioner in filing the application is to ask for the determination of who is the Necessary Heir of the late Margono Bin T. Tukiman alias Broto Sudiro (late) according to Islamic inheritance law.

The identity of the Petitioners contained in the Decision of the Surakarta Religious Court Number: 228/Pdt.P/2021/PA.Ska is as follows:

1. Bondo Supadmo Bin Supadmo (late), Padmo's successor, hereinafter referred to as Petitioner I;
2. Ratih Supadma Wati Binti Supadmo (late), Padmo's successor, hereinafter referred to as Petitioner II;
3. Siswoyo Bin Supadmo (late), Padmo's successor, hereinafter referred to as Petitioner III;

Furthermore, if analyzed the position of each Petitioner in this case with the late Margono as *muwarrits* was a cousin of the late Margono. Systematically the



position of the Petitioners in this determination with Alm Margono as muwarrits, if presented in table form, is as follows:

**Table 1**

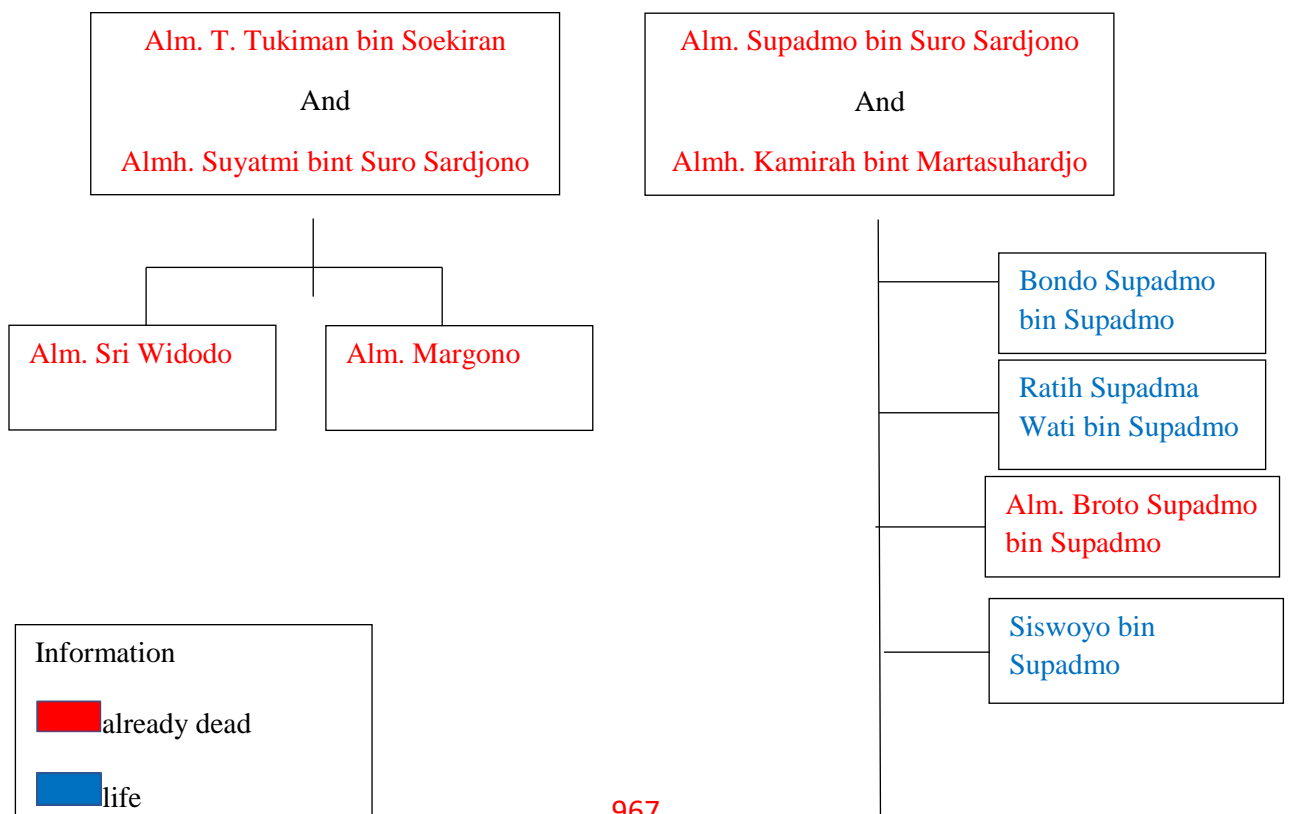
**Position of the Petitioners with the Alm Margono as Muwarrits**

Applicant	Name	Position with Alm. Margono
I	Bondo Supadmo Bin Supadmo (late)	Cousin of the late Margono
II	Ratih Supadma Wati Binti Supadmo (late)	Cousin of the late Margono
III	Siswoyo Bin Supadmo (late)	Cousin of the late Margono

Note: processed from Decision Number: 228/Pdt.P/2021/PA.Ska

Furthermore, the position of the Petitioners with the late. Margono as muwarrits if presented in the form of a diagram or family structure (Family Chart) is as follows.

**Diagram 1**



Sugeng Haripurnomo  
bin Supadmo (non-  
Moslem)

b. Basis for Consideration of Decision Number: 228/Pdt.P/2021/PA.Ska in determining inheritance rights for heirs of the second class

The basis for consideration of the judge's decision at the Surakarta Religious Court in determining the determination of inheritance rights for heirs as contained in Decision Number: 228/Pdt.P/2021/PA.Ska in the case of the application for determination of heirs, can be seen from the legal considerations made by the panel of judges Surakarta Religious Court in this determination. For more details, the author will describe as follows:

1. Authority of the Religious Courts

Whereas based on Article 49 of Act No. 3 of 2006 concerning amendments to Act No. 7 of 1989 there is additional authority for the Religious Courts, one of which is the authority to determine heirs as explained in Article 49 letter (b) of Act No. 3 of 2006 said, that what is meant by inheritance includes the decision of the Court at a person's request regarding the determination of who is the heir, therefore the application for determining the heir submitted by the Petitioners is the authority of the Surakarta Religious Court to examine and adjudicate it.

2. Evidence and witness testimony

To confirm the arguments in their petition, the Petitioners have presented documentary evidence namely P1 to P14 and 2 (two) witnesses named Subekti bin Tugiman and Suryo Hadi bin Sri Hartono;

The panel of judges considered that the proofs P1, P2, P3, P4, and P5 to P.14, after being investigated, turned out to have been issued by an authorized official and sufficiently stamped and postmarked as stipulated in Article 2 paragraph (3) of Act No. 13 of 1985 Concerning Stamp Duty, it has been matched with the original and found to be suitable, then the evidence has met the formal requirements so that it can be considered further.

Whereas based on the P1 evidence, it is the family tree of the Petitioners, which illustrates that all of the Petitioners' positions in this stipulation as cousins with the Heir (Margono) have died earlier and there are no other heirs except for cousins, namely the Petitioners, it is proven that the Petitioners are heir of the late Margono;

Whereas based on evidence P.2, P.3, P.4 and is proof of Identity Card, it has been proven that the Petitioners are domiciled in the Surakarta Region;

Whereas based on evidence P.6 and P.10, it is proven that Suyatmi was the biological mother of the late Margono and P.10 it is proven that the biological father of the late Margono had both passed away before the late Margono;

Whereas based on evidence P.7, it is proven that both parents The late Margono was married on July 18, 1979;

Whereas based on evidence P.8, it is proven that the uncle of the late Margono named Supadmo (deceased) married Kamirah on May 14, 1957;

Whereas based on evidence P.9, it is proven that Broto Supadmo as the uncle of the late Margono had passed away before the late Margono;

Whereas based on evidence P.11, it is proven that the late Margono died on October 13, 2020 in Surakarta due to illness;

Whereas based on evidence P.13 and P.14, it is proven that the late Margono during his lifetime owned residential land that was certified Number: 21572 and number: 7455, thus it deserves consideration;

Whereas the two witnesses presented by the Petitioners have given testimony under oath and there is no reason that could prevent them from becoming witnesses, so that the testimony of both of them can be further considered.

That both the first witness and the second witness knew the late Margono well. and knowing for sure that the late Margono's death was not caused by the persecution of the Petitioners, but that the late Margono died in Surakarta on October 13, 2020 due to illness;

Whereas the two witnesses knew that during the time of the late Margono's life he owned residential land that had been certified Number: 21572 and number: 7455 in Surakarta and the Petitioners proposed determining the heirs for managing the legacy of the late Margono and other needs;

Whereas the witnesses presented by the Petitioners have provided information based on their own knowledge and experience and their statements are in agreement with one another so that they can be accepted as valid evidence.

Whereas based on the statements of the Petitioners and witnesses as well as matters revealed at trial, the Panel of Judges found the legal facts in this case in essence as follows:

- Whereas the Petitioners are one-time cousins with the late Margono and have no other heirs other than the Petitioners;
- That the late Margono passed away in Surakarta on October 13, 2020 due to illness;
- That the late Margono's death was not due to being abused by the Petitioners, but died due to illness;
- That the late Margono's parents both passed away;
- Whereas during the time of the late Margono's life he owned residential land which was certified Number: 21572, and number: 7455 in Surakarta;
- Whereas the Petitioners filed an application for determination of heirs for the management of the legacy of the late Margono and other needs;

### 3. Consideration of inheritance rights of heirs

The Panel of Judges must consider the group of heirs and several things that prevent someone from becoming an heir.

Based on Article 174, the heir groups consist of two groups, namely the blood relationship group, which includes fathers, sons, brothers, uncles and grandfathers, mothers, daughters, sisters and grandmothers, while marital group relations consist of wife or husband.

Judging from the group of heirs mentioned above, the Petitioners are included in the group of heirs of blood relations with the late Margono, namely the children of his uncle or cousin;

Regarding the inhibition or non-obstruction of the Petitioners legally from becoming the heirs of the late Margono, based on Article 173 of the Compilation of Islamic Law, a person is prevented from becoming an heir if by the determination of a judge who has permanent legal force, he is punished for:

- a. Blamed for having killed or attempted to kill or severely maltreated the heir, and;
- b. Blamed for slander has filed a complaint that the testator has committed a crime punishable by 5 (five) years in prison or a more severe sentence.

From the statements of the witnesses of the Petitioners, it turns out that the Petitioners never did the things referred to in Article 173 of the Compilation of

Islamic Law mentioned earlier, because based on the statements of the two witnesses, that the late Margono died in Surakarta on 13 October 2020 due to illness;

Thus there is no single reason whatsoever to prevent the Petitioners from being determined as the heirs of the late Margono, except for one of the Petitioners named Sugeng Haripurnomo Supadmo who is a non-Muslim. the share may not exceed the share of equal rights;

Based on the aforementioned considerations, the petition of the Petitioners to be determined as the heirs of the late Margono can be granted;

Considering based on Article 89 paragraph (1) of Act No. 7 of 1989, as amended by the first amendment by Act No. 3 of 2006 and the second amendment by Act No. 50 of 2009, all costs incurred in this case shall be borne by the Petitioners.

From the presentation of the Case of Determination of Inheritance Rights for Heirs of the Second Class based on the Decision of the Surakarta Religious Court Number: 228/Pdt.P/2021/PA.Ska, then when associated with the Theory of Islamic legal justice and Pancasila Justice, the Principle of justice in Islamic Inheritance law contains value balanced justice which means that there must be a balance between the rights obtained and the inheritance with the obligations or burdens of life that must be borne/carried out among the heirs, therefore the meaning of justice in Islamic inheritance law is not measured by the similarity of levels between heirs, but is determined based on the size of the burden or responsibility assigned to them, in terms of the general situation/human life.

Furthermore, the determination of the heirs given by the judge is *inkracht* or has permanent legal force. Therefore, if it is related to the theory of legal protection according to Satjipto Raharjo, it is appropriate, because he is of the opinion that legal protection is to provide protection for human rights (HAM) that are harmed by other people and that protection is given to the community so that they can enjoy all these rights. provided by law in order to realize protection that is not only adaptive and flexible, but also predictive and anticipatory which aims to prevent disputes from occurring.

#### **4. Conclusion**

Based on the results of the research and discussion analysis above, it can be concluded that the juridical analysis of inheritance rights for heirs of the second class at the Surakarta Religious Court is based on the judge's considerations in deciding Case Number: 228/Pdt.P/2021/PA.Ska in determining the heirs has referred to in the Compilation of Islamic Law Article 174 concerning groups of heirs consisting of two groups, namely groups of blood relations, including

fathers, sons, brothers, uncles and grandfathers, mothers, daughters, sisters and grandmothers, while relations The marital group consists of the wife or husband. Judging from the group of heirs mentioned above, the Petitioners are included in the group of heirs of the blood relationship of the late Margono, namely the children of his uncle or cousin.

## 5. References

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