



## MEASURING THE PRINCIPLE OF ISLAMIC PERSONALITY OF THE RELIGIOUS COURT IN INHERITANCE CASES (Analysis of Decision Number 4256/Pdt.G/2015/PA.Jr)

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### Abstract

The decision of the Jember Religious Court Number 4256/Pdt.G/2015/PA.Jr shows inconsistency in legal logic and religious bias in the settlement of inheritance cases involving Muslims and Non-Muslims, resulting in uncertainty and injustice for justice seekers, especially for Non-Muslim heirs who lose the right to obtain a share of the inheritance from a Non-Muslim Deceased. This is due to the absence of clear rules regarding the authority of the court in handling inheritance cases of different religions, which leads to a conflict of authority between the Religious Court and the State Court. The purpose of this research is to analyze the judges' views on the Principle of Islamic Personality in the Religious Court in inheritance cases and to examine how the Religious Court resolves the case in Decision Number 4256/Pdt.G/2015/PA.Jr. This research uses a descriptive qualitative approach to describe and analyze social phenomena related to the principle of Islamic personality of religious courts in inheritance cases by collecting primary data from analysis of decisions and secondary data from legal materials, as well as conducting interviews, observations, and documentation analyzed using the Miles and Huberman model. The validity of the data is obtained through source triangulation, and the research is carried out in three stages: pre-research, research, and post-research. The research results explain that based on the Principle of Islamic Personality in the Religious Courts Law, the judges at the Jember Religious Court are of the view that they only have the authority to adjudicate inheritance cases involving parties who are Muslim. In decision Number 4256/Pdt.G/2015/PA.Jr, although there is evidence that the deceased was previously Muslim, the judge decided that he was not authorized to receive, examine, adjudicate, and resolve the case because both the plaintiff and the deceased were considered Catholic at the time of death based on their Catholic burial procedures, so it was considered not to be under the authority of the Religious Court according to that principle.

Putusan Pengadilan Agama Jember Nomor 4256/Pdt.G/2015/PA.Jr menunjukkan adanya inkonsistensi logika hukum dan bias keagamaan dalam penyelesaian perkara waris yang melibatkan Muslim dan Non-Muslim, sehingga mengakibatkan ketidakpastian dan ketidakadilan bagi para pencari keadilan, terutama bagi ahli waris Non-Muslim yang kehilangan hak untuk mendapatkan bagian warisan dari Pewaris Non-Muslim. Hal ini disebabkan oleh ketiadaan aturan yang jelas tentang kewenangan pengadilan dalam menangani perkara waris beda agama, yang menimbulkan persinggungan kewenangan antara Pengadilan Agama dan Pengadilan Negeri. Tujuan penelitian ini adalah untuk menganalisis pandangan hakim tentang Asas Personalitas Keislaman di Pengadilan Agama pada perkara waris dan mengkaji bagaimana Pengadilan Agama menyelesaikan perkara pada Putusan Nomor 4256/Pdt.G/2015/PA.Jr. Penelitian ini menggunakan pendekatan kualitatif deskriptif untuk

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menggambarkan dan menganalisis fenomena sosial terkait asas personalitas keislaman pengadilan agama dalam perkara waris dengan mengumpulkan data primer dari analisis putusan dan data sekunder dari bahan hukum, serta melakukan wawancara, observasi, dan dokumentasi yang dianalisis menggunakan model Miles dan Huberman. Keabsahan data diperoleh melalui triangulasi sumber dan penelitian dilakukan dalam tiga tahap, yaitu pra-riset, riset, dan pasca-riset. Hasil penelitian memaparkan bahwa berdasarkan Asas Personalitas Keislaman dalam Undang-Undang Peradilan Agama, para hakim di Pengadilan Agama Jember berpandangan bahwa mereka hanya berwenang mengadili perkara waris yang melibatkan pihak-pihak yang beragama Islam. Dalam putusan Nomor 4256/Pdt.G/2015/PA.Jr, meskipun terdapat bukti bahwa pewaris sebelumnya beragama Islam, hakim memutuskan tidak berwenang menerima, memeriksa, mengadili, dan menyelesaikan perkara tersebut karena baik penggugat maupun pewaris dianggap beragama Katolik pada saat meninggal berdasarkan tata cara pemakamannya, sehingga dianggap tidak menjadi kewenangan Pengadilan Agama sesuai asas tersebut.

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## INTRODUCTION

It would not be excessive to say that inheritance law is one of the overlooked parts of the government's campaign to nationalize law at the beginning of Indonesia's independence. This neglect aligns with the government's attitude towards non-state normative orders at that time, which was not only a result of the national legal ideology rooted in the 1945 Constitution that prioritizes unity, but also because the state seemed to be at a loss on how to deal with the diversity of inheritance traditions within society. (Nafilah, 2021) The issue is not solely about which law and what kind will be used as the main foundation in national inheritance law (whether customary law, Islamic law, or Western Civil law), but more about how to reconcile the practices that have been followed so far. Even Hazairin acknowledges the difficulties caused by the pluralism of various inheritance traditions. (Lukito, 2008)

The national inheritance law plan proposed by Hazairin, written around 1963, honestly acknowledges the differences between the inheritance systems in Muslim and non-Muslim societies. Even when placed under the bilateral-individual concept, both of these traditions still find it difficult to reach common ground. The only possible path for the government is to accept pluralism while gradually adapting these inheritance traditions into the provisions of the national inheritance law established by the state. (Hidayat, 2020)

In the contemporary context, recognition of customary inheritance law up to a certain extent is still subject to the decision of judges in court, while the Dutch inheritance model, as

described in the Burgerlijk Wetboek, is incorporated into the Compilation of Islamic Law (KHI). In the technical arrangement, the state provides differentiation, with the enactment of the Law on Religious Judiciary, where inheritance cases involving Islamic law must be referred to Religious Courts, while cases involving non-Muslim individuals will be handled by General Courts.(Lukito, 2008)

The existence of Religious Courts as a specific judicial body only for Muslims in Indonesian society, which is socio-culturally diverse, cannot avoid issues of ensuring fair legal enforcement for all citizens, regardless of their religious background. This is because diversity, various ethnicities, religions, and cultures result in legal relationships between parties of different faiths (inter-faith) that cannot be avoided, especially in the field of family law. (Nasaruddin, 2020)

In the practice of law enforcement in court, inheritance cases are highly potential to cause jurisdictional disputes between religious courts and state courts when there is a difference in religion among the deceased, plaintiff, and defendant not specified in the lawsuit, thus deemed to defer to customary law, or because inheritance disputes are considered unlawful acts even though the parties are Muslims.(Wahyudi, 2015)

After the enactment of Law No. 7 of 1989, which was amended to Law No. 3 of 2006, there has been an absolute jurisdictional change in district courts regarding inheritance matters. Inheritance cases that can be handled are limited only to non-Muslim inheritance cases, using the Civil Code for parties who submit to it. This is due to the demand for equality among heirs to receive an equal share of the inheritance, without distinguishing religion and gender backgrounds, as still found in customary law and Islamic law.(Gerhastuti et al., 2017)

In the practice of law enforcement in the Religious Court, the religion of the deceased becomes the basis or determining factor for the authority of the Religious Court to examine and adjudicate inheritance cases. This is because the Compilation of Islamic Law (KHI) only adheres to the principle of the same religion between the deceased and the heirs as stated in Article 171 paragraphs b and c.(Wahyudi, 2015) However, in practice, it is found that religious courts handle cases of inheritance interfaith. Wherein the inheritance case involves Muslim and non-Muslim parties in two scenarios. First, a non-Muslim deceased while the heirs consist of Muslims and/or non-Muslims, and; Second, a Muslim deceased while the heirs consist of Muslims and non-Muslims.

In the case under legal scrutiny in this study, namely the Decision of the Jember Religious Court Number 4256/Pdt.G/2015/PA.Jr. In the case's proceedings; That the Plaintiff is the sibling of the deceased XXX, born to parents named: Father: TAN KIM HWAT (deceased) and Mother: ONG DJOENG NIO (deceased). That there are no other heirs besides the Plaintiff and the Defendant. That during XXX's lifetime, before marrying the Defendant, XXX made a marriage agreement witnessed by notary Rina Hartanti Mulyono, S.H. in Surabaya on April 30, 2009. That throughout XXX's life, they were Muslim and remained so until their death.

Based on the judge's consideration, in the inheritance dispute in the aforementioned case, it is known that the deceased was declared no longer Muslim based on the burial procedure, while other authentic evidence states that the deceased passed away as a Muslim. Therefore, it is not within the jurisdiction of the Religious Court as per the principle of the Islamic nature of Religious Judiciary.

According to the legal argumentation constructed by the judge in making that decision, it does not comply with the application of the Principle of Islamic Personality referring to the religion of the deceased, as stipulated in Article 171 letter (b) of the Compilation of Islamic Law which reads: "The deceased is a person who at the time of their death or as declared deceased by a decision of the Islamic Religious Court, leaves heirs and an estate". Also, in the Circular Letter of the Supreme Court of the Republic of Indonesia No. 07 of 2012, in the Religious Chamber section number 10, which states: "The religion of the deceased determines the competent court. A deceased person who is Muslim, the dispute over their inheritance falls under the jurisdiction of religious courts." For the researcher, burial letters, burial photo evidence, cannot be used as evidence that the deceased was non-Muslim because the burial was not the deceased's wish but the family's wish. Therefore, the burial letter has no evidential power, as stated in the Decision of the Supreme Court of the Republic of Indonesia Number 3901 K/Pdt/1985, dated November 29, 1988, which reads: "Documentary evidence which is a mere statement from individuals who provide statements without being examined in court has no evidential power (cannot be equated with testimony)".

Based on the Decision of the Jember Religious Court Number 4256/Pdt.G/2015/PA.Jr above, it shows the narrow scope of justice enforcement, as it is limited only to Muslim parties, disregarding justice for Non-Muslim parties. Specifically, the judge's ruling is not in line with the saying of Prophet Muhammad: "A Muslim does not inherit from a non-Muslim,

and a non-Muslim does not inherit from a Muslim" (H.R. Bukhari and Muslim No. 6764). Even though this hadith has many differences of opinion among scholars in interpreting it.

The inconsistency of this legal logic has shown the religious bias in settling inheritance cases involving Muslims and Non-Muslims. This religious bias leads to injustice for non-Muslim heirs who lose their right to inherit from a non-Muslim deceased, even though they have blood or marital ties with the deceased and share the same religion as the deceased. Resolving inheritance cases involving both Muslim and non-Muslim parties (interfaith inheritance) in reality faces obstacles in terms of access to justice.

The absence of regulations regarding the jurisdiction of courts in handling inheritance cases of different religions has led to jurisdictional conflicts between religious courts and civil courts, which, in turn, create uncertainty and injustice for seekers of justice. In line with the background of the aforementioned issues, the author is interested in conducting a thesis research titled "Assessing the Principle of Islamic Personality in Religious Court's Jurisdiction in Inheritance Cases (Analysis of Decision Number 4256/PDT.G/2015/PA.JR)". The formulation of the problem in this research is as follows:

1. What is the judge's perspective on the Principle of Islamic Personalities in Religious Courts regarding inheritance cases?
2. How does the Religious Court settle cases in Decision Number 4256/Pdt.G/2015/PA.Jr?

## **RESEARCH METHODS**

This research employs a descriptive qualitative approach. Qualitative approach was chosen to depict and analyze the social phenomena related to the Islamic personality principles in religious court cases of inheritance which cannot be examined through quantitative methods. The study begins with data, utilizing theory as an explanatory tool, which then generates new theory. Conducted at the Jember Religious Court, the research subjects are the judges in the court. Primary data sources are obtained through the analysis of relevant verdicts, while secondary data sources include legal materials such as regulations, court judgments, books, journals, and other relevant documents.

Data collection techniques include interviews, observations, and documentation. Data analysis follows the Miles and Huberman model, consisting of data reduction, data presentation, and conclusion drawing. Data validity is ensured through source triangulation by cross-checking data credibility from various sources.(J. Moleong, 2017) The research process is divided into three stages: the pre-research stage to prepare the research plan, the

research stage to collect data according to the plan, and the post-research stage to present and analyze the data, resulting in research findings presented in the form of a scientific paper.(Sugiyono, 2019)

## **DISCUSSION**

### **The Judge's Perspective on the Principle of Islamic Personality in Islamic Courts Regarding Inheritance Cases**

The Principle of Islamic Personality is one of the principles adhered to in Islamic Jurisprudence in Indonesia. This principle serves as the basis for the authority of Religious Courts in adjudicating inheritance cases involving parties who are Muslims.(Rahmawati, 2018) This is regulated in Article 49 of Law Number 50 of 2009 concerning the Second Amendment to Law Number 7 of 1989 concerning Religious Courts, which states that "Religious Courts are tasked and authorized to examine, adjudicate, and settle cases at the first instance among Muslims in the fields of marriage, inheritance, wills, grants, endowments, zakat, alms, and Sharia economics."

In the case of Decision of the Jember Religious Court Number 4256/Pdt.G/2015/PA.Jr, the judge held the opinion that the Religious Court was not authorized to accept, examine, adjudicate, and settle the inheritance case. The judge's reason was that both the Plaintiff and the Decedent were Catholic, while the Religious Court Law adheres to the Principle of Islamic Personal Status for the parties involved in the case.

Based on the provided documents, it can be concluded that there are differences in judges' views in applying the Principle of Islamic Personal Status in Religious Courts regarding inheritance cases. This difference has sparked controversy and debate that leads to uncertainty and injustice for seekers of justice. The following are the judges' views on the Principle of Islamic Personal Status in Religious Courts regarding inheritance cases:

The first view, as seen in the Decision of the Jember Religious Court Number 4256/Pdt.G/2015/PA.Jr, the judge argued that the Religious Court was not authorized to examine and adjudicate the inheritance case because both the Plaintiff and the Decedent were Catholic. The judge referred to Law Number 50 of 2009 concerning the Second Amendment to Law Number 7 of 1989 concerning Religious Courts, which adheres to the Principle of Islamic Personal Status. The judge considered that during the Decedent's lifetime, they had adhered to several religions, and the religion practiced at the time of death and the burial procedure performed indicated that the Decedent died as a Catholic. The judge based this consideration on evidence such as Catholic baptismal certificates, photographs of the burial

of the Decedent in a Christian/Catholic manner, and statements from the Plaintiff stating that they were Catholic.

This view sparked debate because it contradicts Article 171 letter (b) of the Compilation of Islamic Law and Circular Letter of the Supreme Court of the Republic of Indonesia No. 07 of 2012, which states that the religion of the deceased determines the jurisdiction of the Religious Court in adjudicating inheritance cases. In addition, Supreme Court Decision No. 3901 K/Pdt/1985 confirms that documentary evidence, which is merely a statement without being examined in court, lacks probative force.

In its consideration, the judge cited Article 171 letter (b) of the Compilation of Islamic Law, which states that "The heir is a person who at the time of death or as declared deceased by a decision of the Islamic Religious Court, leaves behind heirs and estate." The judge also cited Circular Letter of the Supreme Court of the Republic of Indonesia No. 07 of 2012, which states that "The religion of the deceased determines the competent court. The heirs who are Muslims, their inheritance disputes fall under the jurisdiction of religious courts."

However, there is a different view from the document's author, stating that the legal arguments constructed by the judge in reaching the decision are not in line with the application of the Principle of Islamic Personalism, which refers to the religion of the deceased. The author argues that the baptismal certificate and funeral photo evidence of the deceased cannot be used as evidence that the deceased was non-Muslim because the funeral was not the will of the deceased but the will of the deceased's family.

The author also cites Supreme Court Decision No. 3901 K/Pdt/1985, which states that "Documentary evidence, which is merely a statement from individuals without being examined in court, has no probative force whatsoever (cannot be equated with testimony)." Thus, the author argues that the baptismal certificate has no probative force whatsoever. Furthermore, the author considers the judge's decision to indicate a narrow scope of justice enforcement, as it is limited only to parties of the Islamic faith and overlooks justice for non-Muslim parties. The author also cites a saying of Prophet Muhammad which states, "A Muslim does not inherit from a disbeliever, and a disbeliever does not inherit from a Muslim" (Narrated by Bukhari and Muslim No. 6764), although there are differences of opinion among scholars in interpreting it.

The author highlights the presence of legal logic inconsistencies and religious bias in the settlement of inheritance cases involving Muslims and Non-Muslims, leading to injustice

for non-Muslim heirs who lose the right to inherit from a non-Muslim deceased. The absence of rules regarding court jurisdiction in handling interfaith inheritance cases is also considered to have caused jurisdictional clashes between Religious Courts and General Courts, resulting in uncertainty and injustice for seekers of justice. Thus, there are two different perspectives in this case. The judge's perspective, which bases its authority on the Principle of Islamic Personalism and the religion of the deceased at the time of death, and the author's perspective, which considers the judge's argumentation less accurate and unjust for non-Muslim parties in inheritance cases.

The second perspective, as conveyed in the document, states that the judge's ruling indicates the narrow scope of justice enforcement as it is limited only to parties of the Islamic faith, neglecting justice for Non-Muslims. This view considers the judge's ruling inconsistent with the saying of Prophet Muhammad prohibiting inheritance between Muslims and non-Muslims. However, this perspective is also questioned because the hadith has different interpretations among scholars. Additionally, this view overlooks the principle of justice that should be given to all parties, whether Muslim or Non-Muslim, in matters of inheritance if they have blood or marital ties to the deceased.

Based on this debate, it can be concluded that there are legal logic inconsistencies and religious bias in the settlement of inheritance cases involving Muslims and Non-Muslims. This results in uncertainty and injustice for seekers of justice, especially for non-Muslim heirs who lose the right to inherit from a non-Muslim deceased despite having blood or marital ties and being of the same faith as the deceased. To address this issue, it is necessary to refine regulations or legislation that clearly regulate the authority of Religious Courts and General Courts in handling inheritance cases involving Muslims and Non-Muslims. This is important to ensure legal certainty and justice for all parties seeking justice, without discriminating based on religion or belief.

Such regulatory refinement can refer to the principles of justice and equality as stated in the Constitution of the Republic of Indonesia of 1945, especially in Article 28D paragraph (1) which states that "Everyone has the right to recognition, guarantees, protection, and legal certainty which is fair as well as equal treatment before the law." Additionally, regulatory refinement can also consider the practices of settling interfaith inheritance cases in other countries with more advanced legal systems that prioritize justice for all citizens without discrimination. Thus, it is hoped that legal certainty and equal justice can be achieved for the entire Indonesian society regarding inheritance, regardless of their religion or belief.



### **Religious Court in Resolving Cases in Decision Number 4256/Pdt.G/2015/PA.Jr**

In resolving the case in Decision Number 4256/Pdt.G/2015/PA.Jr, the Religious Court of Jember ruled that the Religious Court is not authorized to accept, examine, adjudicate, and settle the inheritance case.

In the case, it is explained that the Plaintiff is the sibling of the deceased XXX (the Decedent) who were two siblings. During his lifetime, the Decedent was a Muslim and married the Defendant in accordance with Islamic law, as recorded at the Office of Religious Affairs (KUA). Before the marriage, the Decedent made a marriage agreement before a notary. There are no other heirs besides the Plaintiff and the Defendant.

In its consideration, the Panel of Judges stated that the Religious Court of Jember is not authorized to accept, examine, adjudicate, and settle this case because both the Plaintiff and the Decedent are Catholics. The judge based this consideration on Law Number 50 of 2009 concerning the Second Amendment to Law Number 7 of 1989 concerning Religious Courts, which adheres to the Principle of Islamic Personal Law for the parties involved in litigation.

The judge considered that the Plaintiff did not refute and confirmed that the Decedent married the Defendant in an Islamic way (recorded at the KUA), but at the time of death, the Decedent was Catholic based on baptismal certificates and the burial of the Decedent in a Christian/Catholic manner. The Plaintiff also admitted to being Catholic.

The judge also considered that outside the dispute concerning Sharia Economics based on Law Number 3 of 2006, the Religious Court adheres to the principle of Islamic Personal Law, which means that the Religious Court is a Special Court for Muslims regarding certain matters stipulated by the Law (Article 49 of Law Number 50 of 2009), which states that the Religious Court is tasked and authorized to examine, decide, and settle cases at the first instance level between Muslims.

The judge considered that if a person's religion during his lifetime has followed several religions, then the religion at the time of his death and the manner in which the funeral procession and death were treated, then the last religion is considered their religion. The judge considered that regarding the Plaintiff's objection, the Plaintiff did not refute and confirmed that the Decedent (the late XXX) married the Defendant in an Islamic way (recorded at the KUA), and at the time of death, he was Catholic. This is evidenced by the Catholic Baptismal Certificate, photos of the Decedent's funeral in a Christian/Catholic manner, and the Plaintiff's statement admitting to being Catholic.

That statement indicates that the Religious Court adheres to the principle of Islamic personalism, meaning the Religious Court is a Special Court for Muslims regarding specific matters stipulated by the Law. Based on these considerations, the judge concluded that in this inheritance dispute, the deceased was declared no longer a Muslim based on the funeral procedures, while other authentic evidence stated that the deceased passed away as a Muslim. Therefore, this matter does not fall within the jurisdiction of the Religious Court according to the principle of Islamic jurisdiction.

Thus, the judge opined that if someone has adhered to multiple religions during their lifetime, the religion they embraced at the time of their death and the manner in which the funeral procession and death were treated determine their religion. The judge concluded that in the inheritance dispute, it was known that the deceased was declared no longer a Muslim based on the funeral procedures, while other authentic evidence stated that the deceased passed away as a Muslim. Therefore, the judge concluded that the matter does not fall within the jurisdiction of the Religious Court based on the principle of Islamic jurisdiction.

In resolving this case, the judge referred to Article 171 letter (b) of the Compilation of Islamic Law, which states that "The deceased is a person who at the time of their death or declared dead by a decision of the Islamic Religious Court, leaves heirs and estate." The judge also cited Circular Letter of the Supreme Court of the Republic of Indonesia No. 07 of 2012, from the Religious Chamber number 10, which states: "The religion of the deceased determines the competent court. A deceased person who is Muslim, the dispute over their inheritance falls within the jurisdiction of religious courts."

Therefore, the Jember Religious Court decided it was not competent to adjudicate this case because it considered the deceased to be Catholic at the time of death, even though the deceased was Muslim during their lifetime. This decision was based on the application of the Principle of Islamic Personalism in Religious Jurisprudence, which regulates that the Religious Court only has jurisdiction over cases involving parties who are Muslims. However, there is a differing view from the document's author stating that the legal arguments constructed by the judge in making that decision were not in line with the application of the Principle of Islamic Personalism referring to the religion of the deceased.

With those considerations in mind, the Jember Religious Court decided not to accept, examine, adjudicate, and settle case Number 4256/Pdt.G/2015/PA.Jr as it was deemed outside the jurisdiction of the Religious Court. This is in line with the Islamic Personal Jurisdiction Principle embraced in the Religious Judiciary Law, where the Religious Court

only has authority to adjudicate certain cases involving individuals of the Islamic faith. However, the decision of the Jember Religious Court received criticism from the document's author. The author argues that the legal reasoning constructed by the judge in making that decision does not align with the application of the Islamic Personal Jurisdiction Principle, which refers to the religion of the deceased, as stipulated in Article 171 letter (b) of the Compilation of Islamic Law and Supreme Court Circular Letter No. 07 of 2012.

The author argues that the burial certificate and photo evidence of the deceased's funeral cannot be considered as evidence that the deceased was non-Muslim because the burial was not the wish of the deceased but rather the wish of the deceased's family. The author considers that the burial certificate and photo evidence of the deceased's funeral cannot be considered as evidence that the deceased was non-Muslim because the burial was not the wish of the deceased but rather the wish of the deceased's family. The author also cites Supreme Court Decision Number 3901 K/Pdt/1985 which states that "Documentary evidence which is merely a statement from individuals giving statements without being examined in court has no evidentiary value whatsoever (cannot be equated with testimony)".

Therefore, the author argues that the burial certificate has no evidentiary value whatsoever. Furthermore, the author considers that the judge's decision indicates a narrow scope of justice enforcement, as it is limited only to parties of the Islamic faith and disregards justice for parties of non-Muslim faith. The author also cites a Hadith of Prophet Muhammad which states "A Muslim does not inherit from a disbeliever, and a disbeliever does not inherit from a Muslim" (H.R. Bukhari and Muslim No. 6764), although there are differences of opinion among scholars in interpreting it.

The author highlights the inconsistency in legal logic and religious bias in resolving inheritance cases involving Muslims and non-Muslims, leading to injustice for non-Muslim heirs who lose their right to inherit from non-Muslim deceased. The absence of rules regarding the jurisdiction of courts in handling inheritance cases of different religions is also considered to have caused jurisdictional conflicts between the Religious Court and the General Court, which in turn create uncertainty and injustice for seekers of justice.

## **CONCLUSION**

The judge's view on the Principle of Islamic Personality in Islamic Courts regarding inheritance cases is that the Islamic Courts only have the authority to adjudicate inheritance cases involving parties who are Muslims. This is based on Article 49 of Law Number 50 of 2009 concerning Religious Judiciary which adheres to the Principle of Islamic Personality. In

the case of Decision Number 4256/Pdt.G/2015/PA.Jr, the judge argued that the Islamic Court is not authorized to examine and adjudicate the case because both the Plaintiff and the Decedent are Catholics, even though there is evidence indicating that the Decedent passed away as a Muslim.

In resolving the case in Decision Number 4256/Pdt.G/2015/PA.Jr, the Jember Religious Court decided it was not authorized to accept, examine, adjudicate, and settle the inheritance case. The judge based his decision on the Principle of Islamic Personality embraced in the Religious Judiciary Law, where the Islamic Court only has the authority to adjudicate cases involving parties who are Muslims. Although the Decedent was a Muslim during his lifetime, the judge deemed that the Decedent was no longer considered a Muslim at the time of his death based on the Catholic burial rites, thus this case is deemed outside the jurisdiction of the Islamic Court.

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