

Civil Law Analysis of Application for Change of Name at Rembang District Court

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ABSTRACT

The State of Indonesia is a state of law which is regulated in Article 1 paragraph 3 of the 1945 Constitution. One of the implementations of legal products is the settlement of disputes or problems that are contrary to the law by courts. In this study, we want to examine the problem of the application for a name change in the District Court according to the facts that occurred in Rembang. This study uses a qualitative approach which makes observations directly to the field to find the truth value related to the research. The results of the study found that along with the times, the application for change of name was very much found in people's lives. But the fact is that many people are still confused about the name change application process. The purpose of this study is to find the problems in the application case encountered when wanting to change the name and provide information about the procedures related to submitting a name change application at Rembang District Court based on court principles to achieve certainty, benefit, and legal justice.

Keywords: *Civil Law, Name Change, District Court Decision*

INTRODUCTION

Indonesia as a state of law exists in Article 1 paragraph 3 of the 1945 Constitution. All aspects of life must be based on legal norms. In other words, all actions of the Indonesian people must be based on the laws in force in the country of Indonesia (Kamello, 2011). The law that is made certainly has the aim of achieving

certainty, justice, and the interests of the law itself. A human being wants his rights to be fulfilled, by having rights in the form of ownership of something, his innate rights or psychological rights, and his rights not to be violated physically or psychologically. Rights in civil (private) proceedings and rights in criminal proceedings (public) have applications under the Indonesian Civil Procedure Code. Legally, an application is a civil lawsuit filed in the form of a motion filed by the applicant or his proxy to the chairperson of the district court. The term petition can also be described as a voluntary act, a one-sided request that is not withdrawn by the other party as agreed (*No Title*, n.d.).

Currently, one can share reasons and request a name change, such as the name owner having problems in his life. Based on these conditions, the name used can be corrected or renamed by submitting a name change application to the district court where you are domiciled. In a change or change of name, the birth certificate will be changed, the birth certificate is a legal document, so changing the legal document must go through the determination of the District Court Article 52 of Law no. 23 of 2006 concerning Population Administration as amended by Law Number 24 of 2013 concerning Population Administration (Tri Jata Ayu Pramesti, 2022). The request for a name change can also be caused by an error in recording the name in the birth certificate. From the writing interview, it was explained that there were several factors that caused errors in recording birth certificates, the first was human error, human error is human negligence that creates an unsatisfactory system. The second is Slip and Lapses, in this factor there is a very adequate plan, however, there are errors in its implementation. The last one is the recording error made by the child midwife.

The explanation above is an illustration of the reason the author took research related to the application for a name change application at Rembang District Court and provided information related to the procedure for applying for a name change which would later provide legal results in the form of expediency, justice, and certainty of legal products.

RESEARCH METHOD

The type of writing is empirical juridical research. Empirical legal research is concerned with enforcing or enforcing normative legal provisions applied in the

social legal process. Empirical legal research uses the on-the-fly method by observing and interviewing researchers who want to find the truth value (Muhammad, 2004). Meanwhile, the approach that is suitable for this legal research is a qualitative approach, which has the aim of obtaining various answers and information from various parties with all aspects of the legal issue being studied.

The data used in this study are primary data and secondary data. Primary data from direct interviews overrides the legal subject being investigated. Meanwhile, secondary data sources are information from library materials to study investigative law to master the legal object under study. The research was tried directly at Rembang District Court. The information gathering instrument is divided into 2, namely primary information through interviews and secondary information through library research.

RESULT AND DISCUSSION

1. Procedure for Application for Change of Name of Rembang District Court

Birth certificates issued by competent employees must be sourced from the generation of their parents, because the message / birth certificate is indeed convincing, if a child whose name is listed there is the child of the person listed on each birth certificate, at least from the owner listed there. In addition, the birth certificate states that the child in question was born on a certain date and matches a certain date (Satrio, 2005). The happening of a birth there is an obligation for residents to report it to the relevant institution. So, it is the duty of the carrier to record the onset of births and issue birth certificates, as is the case with all residents. The agency referred to in this case is the Department of Population and Population Registration (*Undang-Undang Nomor 23 Tahun 2006 Tentang Administrasi Kependudukan*, n.d.). In legal life, of course there is a problem trapping him.

In resolving civil cases that exist in people's lives, it begins with the filing of a lawsuit. A lawsuit is a civil case in which there is a dispute between the parties requesting the settlement to the court (Bisri, 1998). Based on Sudikno Mertokusumo's comments, the lawsuit is demanding rights with the aim of providing protection provided by the court to prevent citizens from carrying out vigilante acts (*eigenrichting*) (Mertokusumo, 2002). On the other hand, Darwin Prinst's comments as reported by Lilik Mulyadi said that a lawsuit is an application that is notified to

the head of the competent legal assembly in the local state legal assembly that contains a claim against another party and must be reviewed with the method of the legal panel after it is given decision on the matter being sued (Mulyadi, 1996).

Based on the two opinions above, it can be concluded that a lawsuit is an application submitted in court to obtain justice from the case against the lawsuit. In civil cases there are 2 lawsuits, namely (Harahap, 2008):

1. Lawsuit Application (Voluntair)

Civil proceedings submitted in a petition. This voluntary action is included in Article 2 (1) of Law no. 14 of 1970 (replaced by Law No. 35 of 1999).

2. Lawsuit (Contentious)

A contentious lawsuit is a civil case in the form of a lawsuit. This lawsuit is contained in Article 2 paragraph (1) of Law no. 14 of 1970 (replaced by Law No. 35 of 1999).

In the case of changing someone's name in a district court, it is included in the type of voluntary lawsuit, namely a civil matter that is submitted to the district court in the form of an application. Changing a person's name has been regulated in Law Number 23 of 2006 concerning Population Management and Government Regulation Number 25 of 2008 concerning Requirements and Procedures for Population and Personal Registration. By changing your name, you will change your identity, that is, changing your name on the Identity card (KTP), the population service requires a basic document that is an absolute requirement for change, namely a birth certificate.

Universal description in the third paragraph of the Population Management Law no. 23 of 2006, has been changed to Law no. 24 of 2013 to revise Law no. 23 of 2006 concerning Population Management, a change of name is one of the events of population value, an event of value for Article 1 number 17 of Law Number 24 of 2013 is an event that is felt by a person which includes birth, death, marriage, divorce, stillbirth, child recognition. Adoption of children, legalization of children, change of name and citizenship status. Article 52 of Law No. 23 of 2006 stipulates that the registration of a name change is based on a decision of the legal council of the country where the applicant resides. The name change must then be reported by the name change applicant to the implementing agency (Registration Authority for Resident

and Citizenship Status). The implementing agency must issue a Citizenship Status Certificate within 30 days of receipt of a copy of the state legal decision.

Article 53 of Presidential Regulation No. 96 of 2018 concerning Requirements and Procedures for Population and Personal Registration stipulates that registration of a change in population name must meet the following requirements:

- a. A copy of the district court's decision.
- b. Birth quote from citizen status certificate.
- c. Family Card (KK);
- d. Electronic ID card (KTP el); and
- e. Expedition documents for foreigners.

Based on the results of interviews with the leadership of the Rembang District Court, there are several provisions that must be prepared in applying for a name change, including:

1. Message of Application for name change, stamped 6,000 signed by the Applicant (copy 2)
2. Image of 1 (one) copy of the Applicant's Identity Card
3. Photocopy of applicant's KK 1 sheet
4. Photocopy of marriage certificate 1 sheet
5. 1 photocopy of diploma from the sheet (if it meets the requirements and is binding)
6. Photocopy of birth certificate as much as 1 sheet
7. Photocopy of the identity of at least two witnesses. Each maximum 1 (without stamp).

The particularly important matter in submitting a name change is a request message intended for the Head of Rembang District Court with a complete and clear alibi regarding the alibi for the name change application. The file above must then be registered with the legal panel for registration of the problem in order to obtain the agenda for the trial of the problem, the application for change of name will later be guided by a single judge. The process of changing the name requires a minimum of 2 witnesses to strengthen the alibi of the application, the trial of changing the name

did not last long. However, not all applications for a name change in a legal panel can be granted, depending on the alibi and purpose of the applicant in changing the name.

2. Reason for Submitting a Name Change Application

Legal protection for children can be interpreted as an effort to protect the rules against various kinds of freedom and rights of children (fundamental rights and freedoms of children) and various interests related to child welfare. So the case of legal protection for children covers a very broad environment (Walluyadi, 2009). In addition, a birth certificate can also be used as an identity or a sense of self for its owner because on a birth certificate it will be clearly stated regarding the day, date, month, and year of birth and confirms the names of the parents who gave birth to the child. This is a sign that the person has reached the right age to be able to do something such as doing certain legal actions, such as marriage. In addition, as for the benefits so far, besides being for population administration, regarding the status of children, entering school, verification before the court, and birth certificates also have particularly important and overly broad meanings (Wulandari, 2010).

Law is a letter or document that contains events that underlie the law and is signed by an authorized official for the purpose of proof (Victorianus, 2011). A valid birth certificate must be a certificate. This is because a certificate is a certificate issued by a certified employee for the purpose of writing letters with the aim of making the letter as evidence (Prodjohamidjojo, 1997). The name change is included in the definition of major events in Law Number 24 of 2013 covering birth, death, stillbirth, marriage, divorce, child recognition, confirmation, adoption, name change, and change of citizenship status.

The name change is carried out by the local district court by fulfilling the applicable requirements. The name change must be made by making an application in advance addressed to the district court which contains the basis for the application (*posita*) and the request (*petitum*). So, when someone applies for a name change, they must include reasons which will later be included in their *posita*.

The reasons found included:

1. The applicant wishes to use the renaming request for future purposes.
2. The applicant wants to add the family name in between his own name or the

name of the applicant's child.

3. Error typing the name on the birth certificate. From the writing interview, it was explained that there were several factors that caused errors in recording birth certificates, including:
 - a. Human error here is a decision or action that can affect the effectiveness, security, usability, or performance of your system. In general, the causes of human error are:
 1. Induced human error system, is a system that allows human error to occur.
 2. Pure human error. This is purely human error.
 - b. Wisdom and revocation are errors or behavior not according to plan, or unintentional behavior out of control. For example, like a typo in typing a name.
4. Recording errors made by Child midwives. This can happen at the time of the birth of the baby who is wrong in writing the child's name.
5. The name of the applicant is identical to the religion he does not follow or converts to.
6. As one of the requirements for completeness in important papers.

Based on the above matters, it becomes the basis reason of why the applicant submits a name change application at the District Court. The reason for the change to make a name change must be stated in the application to the district court. If the residence is registered with the local Population Registration Office, the person is obliged to report to the residents if there is a discrepancy in the resident's certificate between the residence certificate and the identity card. And citizen registration services. It will record the changes to the state government and issue an ID card according to the last change name.

3. Problems in Submitting a Name Change Application

From this we can conclude that the rate of early marriage in Indonesia is extremely high, supported by inappropriate environmental conditions and guidance

and wrong parental knowledge. Therefore, proper guidance is needed to prevent premature birth. Because the negative effects outweigh the positive effects of early marriage (Muntamah et al., 2019). This suppresses the increasing number of people who later have children who lack knowledge, for example, mistakes in changing names.

Article 51 (1) of Presidential Decree Number 25 of 2008 states that “all birth events are recorded according to the place of birth”. The purpose of this article is to become a regent/community government institution that is responsible and authorized to provide services in its business within the government (Peraturan Pemerintah Republik Indonesia Nomor 25 Tahun 2008 Tentang Persyaratan Dan Tata Cara Pendaftaran Penduduk Dan Pencatatan Sipil, 2008).

However, it is true that for the implementation of legal products there are problems, such as the problem of recording birth certificates described in the Convention on the Rights of the Child No. 23, which stipulates that one of the rights of children is identity, including birth (*Undang-Undang Negara Republik Indonesia Nomor 23 Tahun 2002 Tentang Perlindungan Anak*, 2002). Common problems encountered in submitting a name change application include:

1. Rejection of name change application.

The judge considered that the applicant did not have a strong and logical reason according to the facts to change the name.

2. Requirements to be met.

The applicant or legal agent must submit an application to the district court with several conditions that must be met. If the requirements are incomplete or incomplete, the application is rejected.

3. People who do not fully understand the application process.

The public does not understand or know the procedure for applying to the district court. As well as the lack of clear information related to implementing the name change.

4. Administrative costs.

The problem with the name changing application process that the public will always pay attention to in court is the integrity of the controls and the need

for costs. As a layman who has problems with renaming, of course you must pay money. But this is possible with *Prodeo*. For plaintiffs who wish to file a lawsuit at *Prodeo*, the application must be submitted orally or in writing at the beginning of the trial (Latifiani, 2012). The free trial process (*Prodeo*) is not much different from ordinary proceedings. The only difference is that if you have a free case, you must apply for a free trial with a certificate of incapacity (SKTM) or another bad certificate. The judge also examined the integrity and evidence of the applicant's eligibility in *Prodeo* case.

Although the issue of changing or changing names may be done, not all requests for change of names can be accepted or granted. The name change application approved by the judge must have convincing evidence and must not violate applicable laws and regulations. If each party wants to make decisions voluntarily, they can fulfill their rights and obligations (Latifiani, 2015).²⁰

Changes of name in the Rembang District Court often occur, one of which is the decision Number 39/Pdt.P/2021/PN Rbg with the applicant on behalf of MALIK place / date of birth: Rembang / 19-08-1967, gender: male, religion: Islam , marital status: married, occupation: self-employed, nationality: Indonesian citizen, education: elementary school, Address: Karangharjo village, RT. 001/ RW 001, Kragan Sub-district, Rembang Regency, filed a request to change the name of ABDUL MALIK in which there are different names on each applicant's identity card, which has caused various administrative difficulties. Therefore, the factor of the name change was because of Slip and Lapses. Thus, the panel of judges decided to grant the Petitioner's request to use the name ABDUL MALIK, date of birth 19-08-1967 in the documents and letters of the Petitioner so that the name and date of birth will be uniform and charge a court fee of Rp. 125,000 (one hundred and twenty-five thousand rupiah) to the applicant.

CONCLUSION

The request for a name change can also be caused by an error in recording the name in the birth certificate, there are several factors that cause errors in recording the writing of the birth certificate, namely human errors, Slip and Lapses, recording errors made by child midwives. The change in the child's name can be changed by applying to the local district court to collect the necessary files. In the application for

a name change, problems are often found, such as refusal of a name change application, requirements that must be met but incomplete, people who do not fully understand the application process and administrative costs that must be incurred during the application process. The issue of changing or changing names may be done, but not all requests for change of names can be accepted or granted. The name change application approved by the judge must have convincing evidence and must not violate applicable laws and regulations.

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