

**KEDUDUKAN TAGIHAN KREDITOR PAJAK DAN KREDITOR PEMEGANG HAK JAMINAN KEBENDAAN DALAM EKSEKUSI KEPAILITAN
(STUDI PUTUSAN NOMOR: 17/PDT.SUS.GUGATAN LAIN-LAIN/2018/PN.NIAGA.SBY JO. NOMOR: 17/PDT.SUS-PAILIT/2015/PN.NIAGA.SBY)**

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INTISARI

Pengaturan kepailitan di Indonesia berpedoman pada Undang-undang Nomor 37 tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang. Dalam undang-undang tersebut tidak diatur secara tegas mengenai tata urutan kedudukan kreditor dalam proses eksekusi kepailitan, sehingga pembagian hasil pemberesan oleh kurator sering menuai gugatan oleh kreditor karena tidak puas dengan hasil pembagian tersebut.

Putusan Nomor: 17/Pdt.Sus.Gugatan Lain-Lain/2018/PN.Niaga.Sby Jo. Putusan Nomor:17/Pdt.Sus-Pailit/2015/PN.Niaga. Sby tanggal 8 Oktober 2018 yang memeriksa perkara gugatan lain-lain antara pemohon yaitu Basuni Bahdi melawan kurator PT. Unggul Sumit Particle Board Industry dalam pertimbangan hukunya menyatakan bahwa tata urutan kedudukan kreditor dalam kepailitan adalah, 1) upah buruh yang terutang; 2) tagihan kreditor separatis; 3) tagihan hak-hak pekerja/buruh lainnya; 4) tagihan hak negara, pajak, dll; 5) tagihan kreditor konkuren. Berdasarkan putusan tersebut penulis ingin meneliti bagaimana kedudukan tagihan kreditor pemegang hak jaminan kebendaan dan kreditor pajak dalam eksekusi kepailitan. Penulis menggunakan metode pendekatan interpretasi historis dengan menitikberatkan pada teori kepastian hukum.

Hasil penelitian menyimpulkan bahwa tagihan kreditor pemegang hak jaminan kebendaan lebih tinggi dari tagihan pajak dan putusan Majelis Hakim perkara Nomor:17/Pdt.Sus.Gugatan Lain-Lain/2018/PN.Niaga.Sby Jo. Putusan Nomor:17/Pdt.Sus-Pailit/2015/PN.Niaga.Sby sudah tepat dengan memposisikan tagihan kreditor separatis lebih tinggi dari tagihan pajak.

Kata kunci: Kepailitan, Kreditor Separatis, Tagihan Pajak

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**THE POSITION OF TAX BILLS AND SECURED CREDITORS IN
BANKRUPTCY EXECUTION
(CASE STUDY THE DECISION OF COMMERCIAL CASE NUMBER:
17/PDT.SUS.GUGATAN LAIN-LAIN/2018/PN.NIAGA.SBY JO.
NUMBER: 17/PDT.SUS-PAILIT/2015/PN.NIAGA.SBY)**

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ABSTRACT

Bankruptcy arrangements in Indonesia are guided by Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. The law does not explicitly regulate the ranking order of creditors in the process of executing bankruptcy, so that the distribution of proceeds by the curator often leads to a claim by the creditor because they are not satisfied with the results of the distribution.

The decision of commercial case Number: 17/Pdt.Sus.Gugatan Lain-Lain/2018/PN.Niaga.Sby Jo. Number: 17/Pdt.Sus-Pailit/2015/PN.Niaga.Sby dated October 8, 2018 which examined the other lawsuit cases between the applicant namely Basuni Bahdi against the receiver of PT. Unggul Sumit Particle Board Industry in its legal considerations states that the order of creditor position in bankruptcy is, 1) The Labour Claim; 2) Secured Creditors; 3) claims for other workers / laborers' rights; 4) bills of state rights, taxes, etc.; 5) concurrent creditor bills. Based on the decision, the writer wants to examine how the position of the secured creditors and the tax bills in bankruptcy execution. The author uses the method of historical interpretation approach by focusing on the theory of legal certainty.

The results of the study concluded that the bill of the secured creditor was higher than the tax bills and the decision of the Panel of Judges commercial case Number: 17/Pdt.Sus.Gugatan Lain-Lain/2018/PN.Niaga.Sby Jo. Number: 17/Pdt.Sus-Pailit/2015/PN.Niaga.Sby is right on law by positioning the secured creditor bills higher than the tax bills.

Keywords: Bankruptcy, Secured Creditor, Tax Bills

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