

Pengaruh proses kepailitan terhadap kelanjutan penyelesaian sengketa di luar perkara kepailitan melalui lembaga arbitrase yang diajukan oleh debitor = The effect of bankruptcy proceeding on the continuation of arbitration which submitted by debtors

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Abstrak

Skripsi ini membahas mengenai pengaruh permohonan pernyataan pailit yang diajukan Kreditor (Termohon arbitrase) terhadap Debitor (Pemohon arbitrase) pada saat perkara arbitrase sedang berjalan. Permohonan pernyataan pailit yang diajukan ditengah proses arbitrase yang sedang berjalan akan memberikan batasan dan pengaruh pada kelanjutan perkara arbitrase yang masih berjalan misalnya ketentuan Pasal 26 ayat (2) UUK-PKPU membatasi ketentuan mengenai putusan arbitrase maupun ketentuan Pasal 127 ayat (1) Undang-undang Kepailitan dan PKPU membatasi ketentuan Pasal 3 dan 11 Undang-undang Arbitrase. Dalam hal debitor dinyatakan pailit, kurator akan menggantikan kedudukan debitor sebagai pemohon arbitrase sebagaimana dalam Pasal 26 Juncto Pasal 24 ayat (1) Undang-undang Kepailitan.

<hr>This Thesis aimed to explain the effect of a bankruptcy petition filed by Creditor (as defendant of arbitration) against the debtor (as applicant of arbitration) during the ongoing arbitration case. The bankruptcy petition filed when the ongoing arbitration proceeding will give limits and influence on the continuation of arbitration case such as the provision of Article 26 paragraph (2) of Bankruptcy Law, restricting provisions concerning arbitration decision and the provisions of Article 127 paragraph (1) of Bankruptcy Law No. 37 of 2004 will give limit to the provisions of Articles 3 and 11 of Arbitration Law. In case the bankruptcy petition is granted and the debtor is bankrupt, curator will replace the debtor as defendant of arbitration case, as the explanation in Article 26 paragraph (1) juncto Article 24 of Law No 37 of 2004.