

Review of Surabaya High Court Decision in a Forestry Case Related to Evidence

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Abstract

This study aims to examine final and binding court decisions (*inkracht van gewijsde*) in forestry crime cases, specifically those related to evidence in the form of transportation equipment belonging to third parties. The method used is normative legal research with a statutory and conceptual approach and an analysis of primary and secondary legal materials and legal reasoning theories based on the facts revealed in court. Number 672/PID.SUS-LH/2023/PT SBY in deciding the case, the panel of judges based on Article 78 paragraph (1) of Law Number 41 of 1999 concerning Forestry and the elucidation of Article 16 of Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction. However, the panel ignored that the confiscated evidence belonged to a third party, not proven to be involved in the crime, thus creating injustice even though the decision is legally valid. Therefore, the statutory provisions regarding the confiscation of evidence in forestry cases need to be evaluated and reviewed in terms of legal substance and structure to create more pro-community justice. This research is expected to provide legal insights for law enforcement agencies, enabling them to be more proportional in assessing and deciding cases involving the rights of innocent third parties.

Keywords: *Forestry Crimes; Legal Justice; Evidence; Crime Cases*

Introduction

Forests are a unified ecosystem whose existence must be adequately protected and maintained (Suparmini et al., 2015). Their management must be fair and sustainable, as stipulated in Article 33 of the 1945 Constitution of the Republic of Indonesia, which states that the land, water, and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people. However, forestry-related problems persist, including illegal logging, fires, and forestry conflicts. Illegal logging is cutting down timber, violating forestry regulations (Budyatmojo, 2013). This crime includes logging in protected areas, conservation areas, and national parks, as well as logging without a permit in production forests. Transporting and trading illegal timber and products are also considered forestry crimes. In other words, the definition of illegal logging encompasses a series of regulatory violations that result in the overexploitation of forest resources.

Illegal logging violations occur in all stages of wood production, such as: 1) The logging stage; 2) The log transportation stage; 3) The processing stage; 4) The marketing stage; 5) including the use of corrupt methods to gain access to forestry and financial violations such as tax evasion (Arief, 2011). Violations also occur because almost all administrative boundaries of national forest areas, and nationally authorized production forest units operating within these areas, are not given dividing lines involving local communities (Josephin, 2016). In addition, problems that also arise are the existence of evidence of transportation equipment that is returned to its owner or returned to the rightful owner, and the State confiscates it. Several supporting factors cause illegal logging according to the Research and Development Agency of the Ministry of Forestry, namely: a) Weak rule of law; b) The consequences of the Forest Concession Rights system; c) Unfulfilled demand for logs; d) Large profits obtained from illegal logging activities; e) The existence of illegal timber trade networks; f) Poverty and unemployment; and g) Weak coordination.

Criminal penalties are closely related to the issue of criminal liability as a form of law enforcement. Environmental crimes employ a dual-track system, where forest and land burning perpetrators are subject to cumulative imprisonment and fines, not alternatives. Therefore, forest and land burning crime perpetrators are subject to imprisonment and fines. Furthermore, liability for these crimes is also based on intent or negligence. Perpetrators of forestry crimes, whether crimes or violations, are subject to cumulative criminal sanctions, namely imprisonment and fines. Before imposing sanctions, proving that a crime has been committed through error, whether intentional or negligent (Siswahyudi et al., 2020), is necessary. The formulation of a violation provides guidance and directs what must be proven. The law considers everything included as an element in the formulation of a violation to be proven by criminal procedure law, just as in the case of forest and land burning, it must be proven in court. In Law No. 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, the authorities to manage forest areas are the Government and Regional Governments; however, the Government can delegate the implementation of forest management to State-Owned Enterprises in the forestry sector. For this reason, it is further explained in the provisions of the Regulation of the Minister of Forestry of the Republic of Indonesia Number: P.47/MENHUT-II/2013.

Concerning Guidelines, Criteria, and Standards for Forest Utilization in certain areas in protected and production forest management units. In Article 5, paragraph (2), letters a and b, the criteria for third parties who can utilize the forest are: 1) Local communities; 2) State-Owned Enterprises, Regional-Owned Enterprises, Private Enterprises, Cooperatives, Micro, Small and Medium Enterprises (MSMEs). The enactment of Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction (UU PPPH) was motivated by the consideration that organized forest destruction must be handled effectively and efficiently, and provide a deterrent effect to the perpetrators (Taufan et al., 2025). Based on Article 1, paragraph (3) of Law No. 18 of 2013. Forest destruction is a process, method, or act that damages forests through illegal logging activities, use of forest areas without permission, or use of permits that are contrary to the intent and purpose of granting permits in forest areas that have been determined, or are being processed for determination by the Government. Thus, it can be understood that forest destruction is the reduction in forest area due to damage to its ecosystem caused by deforestation and forest encroachment, referred to as forest degradation.

Currently, forestry crimes committed without permits are increasingly common and have become a serious problem in environmental conservation efforts in Indonesia. These acts are expressly regulated and prohibited in Article 12, paragraph (1) of Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction. This provision contains various prohibitions, including felling trees in forest areas without a permit or a valid utilization permit; transporting, controlling, or possessing forest products without a valid certificate; and bringing heavy equipment or logging tools into forest areas without permission from authorized officials. In addition, this law also prohibits activities related to the results of illegal logging, such as utilizing, distributing, smuggling, buying, selling, storing, or processing

forest products originating from forest areas that have been stolen. The criminal threats stipulated in this law demonstrate the State's commitment to taking firm action against perpetrators of forest destruction. However, in the field, there are still many violations of these provisions, which shows the need for more consistent law enforcement, strict supervision, and high legal awareness from the community and business actors so that forest sustainability can continue to be maintained for the sustainability of the environment and future generations.

All forest products from crimes and violations and/or tools, including transportation used to commit crimes and/or violations, are confiscated by the State (imperative). State assets in the form of forest products and other goods, whether found or confiscated from the proceeds of crimes or violations referred to in Article 78, are auctioned for the State. In addition to criminal sanctions, administrative sanctions are imposed on each holder of a business permit to utilize areas, environmental services, forest products, and others. In the context of evidence, Article 194 paragraph (1) of the Criminal Procedure Code (KUHP) stipulates that in the case of a criminal decision or acquittal or release from all legal charges, the court shall determine that the confiscated evidence be handed over to the party most entitled to receive it back, whose name is listed in the decision, unless according to the provisions of the law the evidence must be confiscated for the benefit of the State or destroyed or damaged so that it can no longer be used.

One of the problems regarding forestry is illegal logging. Illegal logging is an activity that occurs when forest wood cutting is carried out illegally by violating laws and regulations, in the form of wood theft in State forest areas or private forests (owned), and or permit holders carry out cutting further than the quota that has been determined according to the permit. The legal basis that regulates or prohibits a person or group from destroying and taking forest products without fulfilling several requirements including Article 78 paragraph 15 of Law of the Republic of Indonesia Number 41 of 1999 concerning Forestry and the explanation of Article 16 of Law No. 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, explains that all forest products from crimes and violations and or tools including transportation tools used to commit crimes and or violations as referred to in this article are confiscated for the State so that everyone who transports forest wood is required to have a document which is a certificate of legality of forest products by the provisions of laws and regulations. However, Law No. 41 of 1999 concerning Forestry and Law No. 18 of 2013 concerning the Prevention and Eradication of Forest Destruction do not clearly define illegal logging. Both laws and regulations only outline actions that are categorized as illegal logging.

Regulations that contain the confiscation of goods belonging to perpetrators of illegal logging crimes are contained in the Laws and Regulations. However, in practice, the goods used by perpetrators of illegal logging crimes are not their own but are rented from third parties in the form of tools or vehicles to carry out the illegal logging crime (T. B. Utami, 2010). However, regulations that regulate legal protection for third parties, in this case those who rent tools or vehicles to perpetrators of illegal logging crimes who do not know that the perpetrators are using tools owned by third parties for the crime are not yet clear, regulations that contain the confiscated goods do exist, but there is no legal protection for third parties who rent tools used by perpetrators of the crime (rules that cause injustice to third parties/owners of transportation tools) in the laws and regulations that regulate the crime of illegal logging. In the decision of the Kepanjen District Court, Malang Regency, with the Decision of the Surabaya High Court in the case of forestry crime (illegal logging), in case Number 78/Pid.B/LH/2023/pn.kpn and Number 672/PID.SUS-L-H/2023/PT.sby, where in the decision to return the evidence of transportation equipment to the most entitled party (the owner) in the crime of illegal logging, while the High Court decides to confiscate it for the State.

This research focuses on analyzing the application of law to evidence in the form of transportation equipment in forestry crimes (illegal logging), particularly about the differences in the

verdicts between the Kepanjen District Court, Malang Regency, and the Surabaya High Court. From a normative juridical perspective, this research examines the implementation of Article 78 paragraph (15) of Law Number 41 of 1999 concerning Forestry, the explanation of Article 16 of Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, as well as other technical judicial provisions such as the 2005 Supreme Court Guidelines concerning Judicial Techniques and Court Management, and the Supreme Court Circular Letter Number 01 of 2008 concerning the Handling of Forestry Crime Cases. No less important, this research also refers to Article 194 paragraph (1) of the Criminal Procedure Code regarding the legal basis for the decision to confiscate evidence. The primary focus of this research is whether the legal considerations of the Surabaya High Court in confiscating transportation equipment in an illegal logging case have applied legal provisions appropriately, and to what extent the decision reflects a sense of justice, especially for third parties who are not directly involved in forestry crimes. Through a normative approach, this research aims to describe the conformity between positive law and the principle of justice in protecting innocent parties' rights.

Method

This study uses normative legal methods with conceptual, statutory, and case-based approaches to examine the issue of confiscation of evidence in the form of third-party transportation equipment in forestry crimes (illegal logging). This study aims to examine the discrepancy between court decisions and the values of justice that should be upheld in law enforcement. The primary legal materials consist of related laws and regulations, including the Criminal Code, the Criminal Procedure Code, the Forestry Law, and the Law on the Prevention and Eradication of Forest Destruction, as well as relevant court decisions. Data was collected through library research and online searches of legal literature, journals, and related regulations. The analytical techniques used are descriptive analysis and grammatical interpretation to explore the meaning of related articles. This study seeks to provide a deep understanding of the application of fair law in cases of confiscation of evidence, especially regarding the rights of third parties who are not proven guilty.

Results and Discussion

a. Considerations: The Surabaya High Court's Decision Concerning the Confiscation of Transportation Equipment in Forestry Crimes (Illegal Logging) Applies the Law

Based on the results of the study of the Surabaya High Court Decision Number 672/PID.SUS-LH/2023/PT SBY, it was found that the defendant Agus Suhadak was declared legally and convincingly guilty of committing the crime of transporting timber forest products without being accompanied by a valid certificate as referred to in Article 12 letter e in conjunction with Article 83 paragraph (1) letter b of Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction. The facts at the trial showed that several witnesses, including Sutarto, Heriadi (Forest Police), Zuhdy Yahya (member of the Gedangan Police), Didik Setiawan (truck owner), and Deni (driver), provided testimony that the defendant and his colleagues had transported 78 teak logs and 2 logs without being accompanied by legal documents.

The chronology of the case began when the defendant assisted in the sale and purchase of teak wood allegedly originating from the Perhutani forest area, then rented a truck belonging to witness Didik Setiawan and transported the wood with the driver and a transport assistant. On December 15, 2022, during the transportation process to the buyer's house (witness Rosi), the truck used was stopped by a joint team of Forestry Police and Gedangan Police, and the defendant was unable to produce a valid certificate for the wood. The legal process continued at the Kepanjen District Court, which sentenced the defendant but decided to return the evidence in the form of the truck to the owner through witness Deni

Marselino Deas Saputra. This decision was deemed contrary to the provisions of Article 16 of Law Number 18 of 2013, which expressly states that transportation equipment used in forestry crimes must be confiscated for the State to provide a deterrent effect and collective responsibility to transportation service providers. Based on this objection, the Public Prosecutor filed an appeal.

The Surabaya High Court, in its decision, granted the appeal by imposing a prison sentence of 1 year and 6 months and a fine of Rp. 500,000,000, and confiscating all evidence, including teak wood, cash, communication equipment, two-wheeled vehicles, and an ISUZU Elf truck and its equipment for the State. This decision aligns with the principle of legality and the purpose of protecting state forests. It emphasizes that active participation, including in the provision of transportation, cannot be separated from criminal liability within the framework of eradicating illegal logging.

A verdict confirmed that the defendant Agus Suhadak was sentenced to imprisonment for 1 (one) year and 6 (six) months, minus the detention period, and was fined Rp. 500,000,000 (five hundred million rupiah), with the provision that if the fine is not paid, it will be replaced with imprisonment for 1 (one) month. In addition, the Panel of Judges decided to confiscate several pieces of evidence for the State, including forest products in the form of 2 logs of teak wood and 78 square-shaped teak wood in various sizes, which were confiscated for the State. Perhutani is a form of restitution for state losses due to the destruction of forest resources—other evidence, such as Rp. Six hundred thousand in cash, one Xiaomi 6A cellphone, one Yamaha Cipton motorbike, and one ISUZU Elf truck with police number N-9812-UW, along with the key, STNK, and KIR book, were also confiscated by the State. The decision to confiscate the means of transport in the form of an ISUZU Elf truck has attracted attention, considering that the vehicle belonged to a third party who was not directly involved or had no knowledge of the criminal act committed by the defendant.

In the context of criminal law, the confiscation of goods by the State is a form of forced confiscation of the tools or proceeds of crime, as regulated in the provisions of Article 46 of the Criminal Procedure Code and strengthened by Article 16 of Law Number 18 of 2013. However, in this case, a legal issue arises regarding protecting the property rights of third parties who act in good faith and have no legal connection to the crime. This opens up space for discourse regarding the principle of justice and the principle of non-victimization of third parties, who should still be protected by law, and emphasizes the need for careful consideration by judges in issuing decisions to confiscate evidence that impacts the interests of other innocent people (Satria, 2018).

Judges should not rely solely on a rigid, dogmatic-legalistic approach in rendering a decision. However, it should consider the facts revealed during the trial and take a more comprehensive theoretical approach to achieve substantive justice. In this context, at least four relevant theories are relevant to serve as guidelines in formulating decision considerations. First, the theory of *rechtsvinding* (legal discovery), which emphasizes that judges are not only tasked with applying existing legal norms but must also be able to discover the law in concrete situations, especially when there is a gap or ambiguity in the norms (Tumpa, 2015). Legal discovery can be autonomous, based on the judge's considerations, or heteronomous, following relevant external values. This approach reflects a progressive model of judges responsive to social dynamics.

Second, the theory of legal interpretation allows judges to interpret legal rules grammatically, systematically, historically, teleologically, and authentically, so that they can be applied contextually to concrete cases (Priono et al., 2017). This interpretation also opens up space for the formation of jurisprudence as a guideline for similar decisions in the future. Third, the theory of legal application requires judges to apply the law appropriately based on the facts in the trial, while upholding the principles of justice, legal certainty, and expediency (Wantu, 2012). This application is not only textual, but also considers the relevance of the evidence and the positions of the parties; Fourth, moral and justice

considerations, where judges must not ignore the ethical values and sense of justice that exist in society (Sinaga, 2020). Decisions should be legally valid and morally just, reflecting propriety and respect for human dignity. With this approach, the judiciary becomes a tool for law enforcement and an instrument for establishing social justice.

That based on Article 78 paragraph (15) of Law No. 41 of 1999 concerning Forestry and Circular Letter of the Supreme Court (SEMA) No. 01 of 2008 concerning Guidelines for Handling Forestry Crime Cases states that confiscation is imperative, some decisions return the means of transportation belonging to third parties, even though the articles threatened in the forestry crimes concerned have the same characteristics. The existence of differences in the imposition of criminal penalties on cases that have the same characteristics is called criminal disparity (Langkun, 2014). The following are the characteristics of the articles threatened in the cases concerned.

Table 1. Cassation decisions for cases of equal seriousness and different additional criminal penalties

No.	Case Number	Articles Under Threat	Additional Criminal Threats
1.	1887 K/Pid.Sus/2015	Pasal 88 ayat (1) huruf a jo Pasal 16 the law on the Prevention and Eradication of Forest Destruction	The conveyance was returned
2.	2317 K/Pid.Sus/2015	Pasal 83 ayat (1) huruf b the Law on the Prevention and Eradication of Forest Destruction jo Pasal 55 ayat (1) ke-1 Criminal Code	The transport vehicle was confiscated
3.	2947 K/Pid.Sus/2015	Pasal 88 ayat (1) huruf a jo Pasal 16 the Law on the Prevention and Eradication of Forest Destruction jo Pasal 55 ayat (1) ke-1 Criminal Code	The conveyance was returned
4.	2963 K/Pid.Sus/2015	Pasal 88 ayat (1) huruf b jo Pasal 16 the law on the Prevention and Eradication of Forest Destruction jo Pasal 55 Ayat (1) Ke-1 Criminal Code	the transport vehicle was confiscated
5.	1737 K/Pid.Sus/2016	Pasal 83 ayat (1) huruf b jo Pasal 12 huruf e the Law on the Prevention and Eradication of Forest Destruction jo Pasal 55 ayat (1) ke-1 Criminal Code	The transport vehicle was confiscated.

Source: Official website of the Supreme Court/www.mahkamahagung.go.id, November 2017

Criminal offenses in forestry case decisions refer to Article 83 paragraph (1) and Article 88 paragraph (1) of Law Number 18 of 2013, stipulating a prison sentence of 1 to 5 years and a fine of IDR 500 million to IDR 2.5 billion. The sanctions in Law Number 41 of 1999 concerning Forestry are cumulative and imperative, including imprisonment, hefty fines, and additional penalties in the form of confiscation of the proceeds of crime and the tools used, including transportation equipment, for confiscation by the State (Sari & Syahrudin, 2023).

Criminal offenses in the forestry sector, particularly those related to the transportation of processed wood without a Certificate of Legality of Forest Products (SKSHH), are still rampant and are influenced by factors such as the type of transportation equipment, weather, road conditions, and driver

skill. Many drivers transport wood without official documents, thus giving rise to legal issues. In this context, confiscated objects that are easily damaged or expensive to store can be sold at auction or secured by investigators/public prosecutors, as stipulated in the provisions of the Criminal Procedure Code, with the proceeds used as evidence. Based on Article 46 of the Criminal Procedure Code, confiscated objects must be returned to their owners if the case is not continued or is no longer needed, unless the objects originate from or are used in a criminal act. However, in the case of the Surabaya High Court's decision to confiscate an ISUZU Elf truck as state evidence, although legally correct because it meets the provisions of the law, it does not reflect a sense of justice, especially for third parties who own the vehicle and are not directly involved in the crime. This shows the judge's legal approach, which tends to be dogmatic-legalistic without considering the aspect of substantive justice for innocent parties.

b. Decision of the Surabaya High Court Judge Regarding Evidence of Transportation Equipment in Forestry Crimes (Illegal Logging) from a Justice Perspective

That is based on Decision Number 672/PID.SUS-LH/2023/PT SBY, the Surabaya High Court, which examines and tries criminal cases at the appellate court level, stated that the defendant Agus Suhadak was guilty of committing a criminal act by committing, ordering, and participating in the act of intentionally transporting, controlling, or possessing timber forest products that were not accompanied by a certificate of legality of forest products as referred to in Article 12 letter e as regulated and threatened with criminal penalties in Article 83 paragraph (1) letter b in conjunction with Article 12 letter e of the Republic of Indonesia Law Number 18 of 2013 concerning the prevention and eradication of forest destruction.

The decision of the Kepanjen District Court Judge which imposed the status of evidence in the form of 1 (one) ISUZU Elf Truck vehicle along with the key, STNK and KIR book to be returned to the rightful party through witness Deni Marselino Deas Saputra is contrary to the explanation of Article 16 of Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, which states "a means of transport is declared to have transported forest products if some or all of the forest products are in the means of transport to be sent or moved to another place" which is included in the definition of "carrying out transport" is a process that starts from the means of transport, rack to the destination and unloading, lowering, and removing forest products from the means of transport, in addition to forest products that are not accompanied by a certificate of legality of forest products, means of transport, both land and water used to transport forest products are confiscated for the State, this is intended so that the owner of the transport/transport service is also responsible for the legality of the forest products being transported.

The Surabaya High Court's decision Number: 672/PID. In a forestry crime case, SUS-LH/2023/PT SBY, particularly regarding confiscating evidence in the form of transportation equipment belonging to a third party, has significant legal implications regarding protecting the ownership rights of third parties acting in good faith. This issue is debated because judges can assess justice based on their interpretations and beliefs, so even in similar cases, different decisions can be found. In this context, the imposition of criminal confiscation of evidence belonging to a third party who did not know or was not directly involved in the crime is questionable from the perspective of substantive justice. This is considering that Article 78 paragraph (15) of Law Number 41 of 1999 concerning Forestry does provide the authority to confiscate, but does not necessarily eliminate the principle of prudence in protecting the rights of innocent third parties. In the a quo case, it was proven that the vehicle's owner (vehicle) had no legal relationship or criminal conspiracy with the main perpetrator, and was unaware that his vehicle was being used to transport illegal forest products. Therefore, in principle, there is no just basis for seizing the equipment to become state property.

On the contrary, returning goods to the rightful owner is a form of legal protection that aligns with the principles of justice and legal certainty. However, the Surabaya High Court still determined the confiscation of evidence, including the ISUZU Elf Truck with license plate number N-9812-UW, even though the legal considerations of the Kepanjen District Court in Decision Number 78/Pid.B/LH/2023/Kpn, which rejected the confiscation, were more in line with the principles of justice. In the appeal decision, the defendant was declared legally and convincingly proven to have committed a forestry crime with a prison sentence of 1 year and 6 months and a fine of IDR 500,000,000, and all evidence, including cash, two-wheeled vehicles, communication equipment, and transport vehicles, was confiscated by the State. In this case, the appellate judge's considerations appear dogmatic and legalistic, failing to accommodate the trial facts indicating the absence of third-party involvement. This emphasizes that determining the status of evidence, whether to return it to the owner, confiscate it for the State, or use it for evidentiary purposes in other cases, falls within the jurisdiction of the *judex facti*. However, this authority must be exercised proportionally, and the legal construction of ownership of the goods must be considered, as well as the principle of non-liability towards innocent parties. Therefore, to achieve substantive justice and protect legitimate ownership rights, evidence belonging to third parties not proven to be involved in a crime should be returned to their owners, not confiscated by the State.

Based on the above description, the author thinks that the decision of the panel of judges of the Surabaya High Court is Number 672/PID.SUS-LH/2023/PT SBY, when reviewed from the Supreme Court's Guidelines on Judicial Techniques and Court Management in 2005 and the Supreme Court Circular Letter (SEMA) Number 1 of 2008 concerning Guidelines for Handling Forestry Crime Cases, does not fully reflect substantive justice, especially for third parties as the legal owners of means of transportation who are not involved in forestry crimes. Evidence in the form of means of transportation should be returned to third parties in good faith, if, in legal facts, there is no evidence of involvement or conspiracy or a causal relationship between the owner and the perpetrator of the crime. The legal perspective on the status of evidence in forestry criminal cases should be based on the provisions of the Criminal Procedure Code, which provides legal protection to owners of goods who are not involved, as long as it is not regulated otherwise in special regulations (Yusyanti, 2019).

In this context, even though the judge's decision is normatively by Article 78 paragraph (15) of Law Number 41 of 1999 concerning Forestry and the explanation of Article 16 of Law of the Republic of Indonesia Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, in terms of substantial justice it still gives rise to legal problems that harm the rights of third parties. Therefore, the regulations regarding confiscating and seizing evidence in forestry cases need to be reviewed so as not to cause injustice. From the perspective of Aristotle's theory of justice, developed by Theo Huijbers, justice in legal interpretation requires judges to have *epikeia*, namely, a sense of appropriate and contextual justice. Because the law is general and cannot cover all concrete problems, the judge should interpret the law as if he were present in the reality of the event to guarantee proportional and just legal protection for all parties, including innocent property owners (M. Amin, 2015).

That based on the description, in essence the perspective of the court's decision on evidence in criminal cases in the forestry sector is to use legal construction based on the provisions of statutory regulations that do not protect third parties or owners of evidence who are not involved in the criminal case, as long as the statutory regulations do not specify otherwise, that the judge's decision is correct according to the law, but does not fulfill the sense of justice for the owner of the evidence of transportation, because of the provisions of Article 78 paragraph (15) of Law Number 41 of 1999 concerning Forestry, and based on the explanation of Article 16 of Law of the Republic of Indonesia Number 18 of 2013. The prevention and eradication of forest destruction and the regulation of evidence in forestry crimes need to be changed.

Conclusion

The decision of the Panel of Judges of the Surabaya High Court to confiscate evidence in the form of an ISUZU Elf truck with license plate number N-9812-UW in a forestry crime case is indeed in line with the provisions of Law Number 41 of 1999 and Law Number 18 of 2013. However, the decision does not reflect a sense of justice for third parties, as the legal owners of the means of transportation, who were not proven to be involved in the crime. The judge's approach is considered too dogmatic and legalistic because it is only based on normative legal construction without considering the facts of the trial. Judges should apply the law fairly by considering the principles of justice, legal certainty, and expediency, as well as because the vehicle owner has no causal relationship with the crime. In this context, regulations related to confiscating evidence in forestry crimes need to be reviewed to guarantee legal protection for third parties with good intentions.

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