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Ecourt Application And Litigation In Perma Number 7 Of 2022 On Electronic Case And Trial Administration (PA Pasuruan Year 2022)

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Abstract: The birth of Supreme Court Regulation Number 7 of 2022 is expected to provide convenience for justice-seeking parties and answer three main issues, namely delay, affordability (access), and integrity in handling a case (integrity). The entire case registered in ecourt in 2022 at the PA Pasuruan is not directly proportional to the case processed through elitigation so that the goal for the community to get justice through an electronic trial is not in accordance with the principle of Justice, which is simple, fast and low cost. In this study using empirical laws that are descriptive qualitative using sociological juridical approach. The data source of this study is the primary data obtained from field studies and secondary data from the library. Data collection techniques of this study are observation, interviews, and documentation. Data analysis techniques in the form of data reduction, data presentation, data verification and conclusions. The results of this study are first, that ecourt and litigation in Pa Pasuruan in 2022 have been running, but not yet maximized. Second, the factors that affect the implementation of ecourt and e-litigation in PA Pasuruan in 2022 are the lack of literacy or understanding for judges, especially those who are senior and also to the community on the use of technology and information and the lack of socialization related to e-litigation to the community and law enforcement. Third, the efforts made by PA Pasuruan to increase the use of ecourt and litigation in the PA Pasuruan are to socialize the latest features issued by the Supreme Court, namely litigation carried out by conducting technology guidance, seminars, and social media that allow this information to be conveyed to the public.

Keyword: Problems, Application, Efforts to Improve e-Court and e-Litigation.

INTRODUCTION

The development of Information Technology is growing rapidly. Information Technology in Indonesia provides easy information to its users anytime and anywhere. By connecting a computer or phone to the internet, everything becomes easily accessible.

The government is the main provider of public services must keep up with the Times. One of these technological developments has even reached the realm of judicial power. This

can be seen in the judiciary that presents ecourt as the embodiment of the Electronic Justice System in law and politics in Indonesia.

Before e-Court appeared, the judicial process was carried out manually and in the implementation of the judiciary at that time only found some problems or obstacles that were quite complex including the stages of dispute resolution that were quite long, the cost was too expensive, the court felt less dated regarding the handling of a case until a verdict was usually more, and also the occurrence of piles related to cases at the Cassation level or the Supreme Court so that finally in 2018, there is an idea or idea from the judiciary to apply the concept of digitizing cases by using a software, namely e-Court. This application is expected to provide assistance related to the seekers whose name is justice and is able to overcome various obstacles and barriers that have been felt by the community so that the implementation of the principle of justice is carried out quite simply, the cost is light, fast, can be achieved or achieved.

In realizing the principle of justice that is simple, fast and light costs need to be improved in the justice system to overcome obstacles in the process of settlement of cases. There needs to be the latest innovation combined with the sophistication of Information Technology in the current digital era. The Justice-seeking parties also want to litigate quickly so that it does not cost a lot of money and also time. As a means of Public Service, the court must provide a space for justice as a principle of expediency.

Since the enactment of Perma number 3 of 2018, it has made it easier for people to seek justice in court. Perma No. 3 of 2018 turned out to be limited to Case administration and does not include electronic judicial processes, as well as e-Court applications can only be used by lawyers who have been registered. That lawyers who have not registered in the application or the public in general do not have the opportunity to use e-Court. Therefore, Perma No. 3 of 2018 was changed to Perma No. 1 of 2019 regarding electronic litigation and convening. The provisions cover a broader electronic process, not only limited to electronic registration, payment and summons, but also in the process of proceedings conducted by electronic means or commonly known as Electronic Litigation (e-litigation). With this E-litigation, justice seekers do not have to go to court except during the trial/agenda of evidence, because the trial of civil cases starting from registration to the verdict of the panel of judges is carried out electronically (except for the agenda of evidence, their lawyers are required to attend the trial).

The implementation of ecourt and litigation has been running since the issuance of Perma Number 1 of 2019 is a solution for the court to continue to provide excellent legal services even though the parties cannot attend the trial, but when conducting the Electronic Litigation (e-litigation) process, justice seekers are still limited to electronic approval from the defendant. If there is no consent from the defendant, the electronic trial cannot be carried out and remains in session directly by coming to court.

In 2022, the Supreme Court launched Supreme Court Regulation Number 7 of 2022. This Perma is a refinement of Supreme Court Regulation Number 1 of 2019. The difference in this perma is that the E-Court application is directly the trial process is carried out electronically or known as Electronic Litigation (e-litigation) without prior approval as in Perma Number 1 of 2019.

When it was first launched, the functions in ecourt were only 3 types, namely electronic lawsuit registration (e-filing), electronic summons/notification (e-summons) and electronic case payment (e-payment). Now it has developed into sending trial documents (replik, duplik, conclusion, answer) and can download a copy of the verdict that has been electronically signed on the e-court application.

The refinement of Perma number 3 of 2018 to Perma Number 1 of 2019 and refined again to Perma number 7 of 2022 basically includes a broader electronic trial, not only limited to electronic registration, payments and calls, but also the trial process is carried out

by Electronic Litigation (elitigation). With elitigation, justice seekers do not have to go to court except during the trial / agenda of evidence, because the trial of civil cases from registration to the judge's decision is elitigated (except for the agenda of evidence, the parties or their lawyers are required to attend the trial).

The policy of the Supreme Court of Indonesia that issued two legal products that changed the litigation process from a conventional process to an electronic one needs to be appreciated, although the policy is far too late compared to neighboring countries such as Singapore. Singapore itself has implemented e-litigation since 2013 with the launch of the Electronic Filing System (EFS). This EFS provides 4 main services, namely electronic archive service, electronic extract service, electronic service, Document Service and Electronic Information Service.

The Indonesian judiciary has a principle, namely the principle of Contante Justice or called Fast Justice and light costs as stipulated in Article 2 Paragraph (4) of law no. 48 of 2009, regulates "the judiciary is implemented in a way fast, simple, as well as light costs." With regard to the principle is the principle of Justice about the service and implementation of the administration of Justice which focuses on an efficient and effective principle, seta stages of justice that is not complicated, easy to understand, Clear events, and costs can be affordable for the population and the community. All three of these principles have been implemented in such a way that they are very well enforced by all Indonesian judicial systems, especially in the civil justice system.

The religious court as one of the first level courts that exercises judicial power within the Religious Court has simultaneously implemented E-Court and e-litigation effectively since January 2020, including the PA Pasuruan which is under the Surabaya high PA.

Based on the data of the 2022 activity report from the Religious Court, it can be seen that the cases entered at the PA Pasuruan were 3478 cases and the registration of cases by e-Court was 186 cases and the cases examined through e-litigation were 101 cases and ecourt cases that were examined and decided normally were 85 cases.

PA Pasuruan cases registered by e-Court in 2022 are not directly proportional to the number of cases examined and processed through e-litigation, even though the main purpose of the birth of Perma No. 7 of 2022 is in order to encourage the public to get justice through electronic trials.

Based on the background that has been described above can be determined various kinds of problems that will be studied, namely:

1. What is the procedure for conducting the ecourt and elitigation trial at the PA Pasuruan in 2022?
2. How do factors affect the implementation of ecourt and elitigation in the PA Pasuruan in 2022?
3. How are pa Pasuruan efforts to improve the use of ecourt and elitigation in PA Pasuruan?

METHOD

This study is included in empirical legal research that analyzes the law compared to real behavior, as a social phenomenon that is not written, experienced by everyone in the relationship of community life or certain legal events that occur in society in order to achieve a predetermined goal. This study was then conducted through a sociological juridical approach that is descriptive qualitative.

Based on this, the data obtained by researchers come from informants and data. The Data in this study is the state of the ecourt case and elitigation in court, while the informants are those who know and are directly involved in the application of e-litigation in the PA Pasuruan. The data sources of this study are primary data and secondary data. Data collection techniques in this study are observation, interview, and documentation. Then in the form of data analysis data reduction, presentation of data, and the last conclusion.

RESULTS AND DISCUSSION

Ecourt Implementation And Elitigation In PA Pasuruan

The implementation of e-Court has been running in accordance with the standard procedures that have been issued by the PA Pasuruan Standard Operating Procedure (SOP) because basically the existence of this SOP will be a benchmark for whether or not the e-Court runs in PA Pasuruan. It can be seen that the implementation of ecourt and e-litigation in PA Pasuruan has been carried out, in PA Pasuruan There are 196 cases that are accepted ecourt and decided 195 cases remaining 1 case. In addition, of all the e-courts that were decided during 2022, there were 79 cases whose hearings were carried out by regular events (manual) and 116 cases whose hearings were conducted electronically (e-litigation).

Factors affecting the application of ecourt and elitigation in PA Pasuruan

The implementation of eCourt in PA Pasuruan has been running as well as it should, as well as PA Pasuruan that of those who register cases in ecourt contains advocates/lawyers as registered users who register and there is no other user who registers cases in ecourt. Unlike the implementation of elitigation in PA Pasuruan, the existence of e-litigation is still not implemented, even no one has used this electronic trial.

It can be seen that from the provisions of the flow of the trial has been in accordance with Perma No. 7 of 2022, but here there are obstacles that the trial cannot be carried out is that there is a principal who wants to litigate, because before going to carry out e-litigation the judge will ask the parties both the defendant and the plaintiff whether they want to litigate in e-litigation, if from one of the parties agrees, the electronic trial cannot be carried out, contained in Article 20 paragraph (1) that: "the trial is conducted electronically with the consent of the plaintiff and defendant". It can be concluded that if only one party agrees to use this e-litigation, it cannot use the electronic trial.

There is one of the obstacles faced related to the implementation of e-Court and e-litigation that there is no standard operating procedure (SOP) issued by PA Pasuruan related to e-Court and e-litigation, because basically this SOP is a rule related to an orderly and directed procedure to complete a job. And also, it is used as a benchmark or reference so that the implementation related to e-Court and e-litigation can run effectively, without SOP, there is no reference that is implemented as it should. Therefore, it is very important for the existence of this SOP to facilitate performance in the agency by enforcing a valid rule.

The factors that hinder the implementation of e-litigation features properly in PA Pasuruan is the lack of literacy and understanding of the community will be the use of Technology and information. In this condition, it will have an impact on the reluctance of the public to conduct e-litigation because they are worried that documents or other matters related to the trial cannot be received properly because they are done online on the e-Court application system. Then, related to the case that even then must be from the agreement of both parties, if only one party agrees to an electronic Trial, e-litigation will not be able to be implemented or carried out.

From the results of these interviews, the study concluded that at least there are several factors or constraints that cause the ineffective use of e-litigation in Pasuruan, namely as follows:

1. Human Resources (HR) one of which is the judge. Lack of control over information technology is one of the obstacles to running e-litigation because the judge has an important role as a party who has the authority to examine and prosecute cases registered in the PA Pasuruan. Although the age of the judge who is no longer young is not an obstacle to understanding and using e-litigation. But sometimes the position of the judge

here is very influential on the running of e-litigation, because if the judge does not understand the procedures of the electronic trial, then it can not run as it should.

2. The litigant, or so-called Other Users (Community). Related to e-litigation here, the public still lacks understanding of the electronic trial, in addition to e-litigation, the public must understand about IT otherwise the public will be confused from converting data into pdf or doc/rtf to the use of the e-litigation feature itself, and also this electronic trial must also be agreed between both parties, both the defendant and the plaintiff, if one of the parties does not agree to use the electronic trial, the trial cannot take place and return to the trial manually.

Likewise, it also results in the emergence of concerns for the parties who want to submit documents such as answers, replicas and duplicates and submit evidence electronically through ecourt, it will not be conveyed properly to the court or to the opposing party. Whereas in this ecourt system it is good and safe when sent via electronic because it will be stored by the system. But in this case, it is the duty of the Supreme Court, especially in Pasuruan city to continue to socialize and educate regarding the efficiency obtained from the use of e-litigation to justice seekers in order to realize the principle of Justice, which is simple, fast and low cost.

Factors lack litigants to follow the trial electronically due to the limited understanding of the litigants against e-litigation, especially with regard to what are the advantages and benefits of proceeding electronically.

Here researchers can conclude not only the aspect of the low level of education, but also pemahaman masyarakat will be less e-litigation, although in terms of benefits very much of the cost and also the implementation process is not protracted.

3. Facilities and infrastructure related to internet network access, the existence of less stable internet access is a very serious obstacle and even a major obstacle because the use of e-litigation is very dependent on the internet network so that there are still few parties who choose to use e-litigation or electronic trials while the internet network is unstable, it can inhibit the implementation of e-litigation and even e-litigation may fail to occur.

Previously described, that some of these obstacles need to be socialized, from the socialization is the most important thing that must be done so that the use of e-litigation can run effectively, even as the narrative of the two advocates above that it needs to be socialized to the public and advocates regarding e-litigation litigants.

Of course, socialization needs to be done to the officers in the court itself, because the court in providing services must know about the use of e-court and e-litigation, do not let the court officers themselves do not know the use of e-court and e-litigation, then how the court can provide understanding to the public or how officers can provide assistance to people who do not know the use of e-court and e-litigation systems, while they themselves do not know. So, it can be concluded that the socialization of e-court and e-litigation must be carried out against all elements, namely the court apparatus, advocates and the general public.

In addition to socialization, there is a need for legal provisions in order to provide a legal umbrella for obligations in e-court litigation and e-litigation so that this system can run effectively and efficiently. For the first step, it can be required to law enforcers such as advocates, then gradually required for scholars, civil servants, and finally required for the entire community of various elements.

Efforts made by Pa Pasuruan for e-litigation to be effective and efficient in PA Pasuruan

The application of simple judicial principles means that the trial is not complicated and easy to understand. The simpler the formalities in the proceedings, the better the execution of the trial. While the principle of fast refers to the course of the trial in court so as not to drag on in the settlement process. Then, the principle of Light cost means the lowest possible fee so that it can be affordable for justice seekers.

As stated by Mr. Syahrudin as chairman of the Religious Court of Pasuruan, that:

“In terms of socialization to the public, it will be further improved related to the latest features that have been issued by the Supreme Court regarding e-Court, because basically this feature makes it easier for justice seekers themselves from registration (e-Filing), payment (e-Payment), summons (e-Summons), and up to the trial stage (e-litigation)”.

Based on the statement of the judge and the chairman of the PA, shows that the existence of e-litigation can certainly ensure the ease of implementation of the settlement of the case for the parties seeking justice. Even be a support for the fulfillment of the principle of simple, fast and light costs in the scope of proceedings in the PA Pasuruan, which when detailed are as follows:

1. Simple Basics

Related to the meaning of “simple” here is an event that is clear, easy to understand, and not convoluted then the fewer and simpler the procedures required or required then the process in court will be better too. With regard to the meaning of the simple researchers concluded that related to e-litigation or electronic trial has a procedure or flow of the trial is not complicated or not long-winded as long as both parties obey the scheduled in the Court calendar that has been agreed upon by the panel of judges/judges.

2. Quick Basics

Creating this quick basis is greatly influenced by the seriousness of the parties in implementing e-litigation. If they follow the procedure, this principle can be achieved. However, if they are not serious about resolving this case quickly, are not compliant in implementing the trial agenda that has become an agreement in the court calendar, then the fast aspect will not be carried out so that the trial stage does not run as it should even the settlement of the case will take a long time.

As has been explained by Mr. Muhammad Umar as PA Pasuruan judge that:

“Actually, the e-litigation feature has perfected the proceedings from the initial trial, mediation to the conclusion and deliberation stage of the assembly. But sometimes from his own party does not obey the schedule that has been set on the Court calendar, if the party does not obey then the trial will proceed to the next stage”.

Based on this statement from Mr. Muhamad Anwar Umar, it is very clear that the process of examining cases electronically is more than a manual trial which in general can be more than 1 month so that it saves time for resolving cases, especially for the panel of judges and provides service benefits for people who get speed in legal services.

3. Light Cost Principle

In the manual trial, the parties seeking justice must prepare a case fee that must be paid at the time of registering the case in court and the existence of sufficient transportation costs when they have to come directly will even be more expensive when the case faced long resolved, the higher the total costs incurred both transportation costs and also the cost of calls imposed. With regard to the existence of e-Court and e-litigation that has been issued Perma No. 7 of 2022 concerning the administration of cases and proceedings in electronic courts, this makes it easier for parties to litigate, from the case fee fee, especially for the plaintiff/applicant, is less than the manual trial.

CONCLUSION

The implementation procedure for elitigation at the PA Pasuruan of East Java Province in 2022 has been running, but it is just not optimal, because of the total of 196 cases that have

been registered in e-Court 116 cases where not 100% are decided by elitigation or electronic trial due to lack of literacy and understanding of the community towards the use of Technology and information or commonly called IT in addition to the lack of socialization related to e-litigation to the community.

The factors that affect the implementation of ecourt and elitigation in the PA Pasuruan of East Java province include lack of socialization related to the implementation of electronic trials, inadequate facilities and infrastructure and weak rules governing the implementation of the elitigation process in court. In addition, the lack of understanding of the public and advocates who speak in court will be an electronic trial.

Efforts that can be made so that elitigation runs effectively and efficiently in the PA Pasuruan of East Java province is to socialize related to the latest features issued by the Supreme Court, namely e-litigation, before discussing about its efforts as for the factors constrained by this elitigation is the lack of socialization related to e-litigation, weak in law, facilities and infrastructure, in addition to that of advocates and the community. Therefore, the effort that must be done is to further increase public understanding of the ease of electronic trials that from this elitigation feature more benefits are obtained, namely the easy process, the cost is light, and does not linger in line, besides that the increased socialization related to elitigation is done by conducting technology guidance, seminars that allow it to be conveyed to the public.

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Laporan

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