

ABSTRAK

Efektifitas mediasi dalam menyelesaikan sengketa ekonomi syari'ah di Pengadilan Agama (*studi kasus Pengadilan Agama Surabaya dan Pengadilan Agama Mojokerto*). Pengadilan Agama Surabaya dan Pengadilan Agama Mojokerto merupakan Pengadilan Agama yang sudah menangani sengketa ekonomi syari'ah. Berbeda dengan pengadilan lain yang mana sengketa ekonomi syari'ah baru saja masuk atau terdaftar. Dengan demikian tahap mediasi juga sudah pernah dilakukan dan merupakan hal yang baru juga bagi lembaga mediasi di kedua pengadilan tersebut dalam menangani sengketa ekonomi syari'ah. Tujuan dari skripsi ini adalah untuk mengetahui dan memahami praktek mediasi dan efektifitas mediasi dalam menyelesaikan sengketa ekonomi syari'ah di Pengadilan Agama Surabaya dan di Pengadilan Agama Mojokerto.

Metode penelitian yang digunakan adalah metode penelitian kualitatif dengan jenis penelitian lapangan (*field research*). Bersumber dari data primer yang langsung diperoleh melalui wawancara dengan pihak terkait di Pengadilan Agama Surabaya dan Pengadilan Agama Mojokerto dan didukung data sekunder yang diperkuat dengan literatur sebagai pendukung. Sifat penelitian adalah Deskriptif-Komparatif-Analisis. Tujuannya untuk memberikan penjelasan permasalahan yang terjadi kemudian membandingkan persamaan dan perbedaan efektifitas mediasi di kedua pengadilan tersebut. Teknik pengumpulan data yang digunakan yaitu, observasi, wawancara, dokumentasi dan studi kepustakaan.

Praktek mediasi dalam menyelesaikan sengketa ekonomi syari'ah di Pengadilan Agama Surabaya dan Pengadilan Agama Mojokerto sama seperti sengketa lain sesuai buku tata aturan teknis administrasi dan teknik pengadilan. Prosedur mediasi ekonomi syari'ah di Pengadilan Agama Surabaya dan Pengadilan Agama Mojokerto juga sama dengan prosedur mediasi sengketa lain yaitu tahap pra mediasi, tahap pelaksanaan mediasi, dan tahap akhir mediasi atau hasil mediasi.

Efektifitas mediasi dalam menyelesaikan sengketa ekonomi syari'ah di Pengadilan Agama Surabaya dan Pengadilan Agama Mojokerto belum efektif karena mediasi gagal. Ada dua faktor penghambat yaitu: *pertama*, mediator di Pengadilan Agama Surabaya memiliki sertifikat tetapi belum berpengalaman menangani sengketa ekonomi syari'ah dan belum mengikuti pelatihan ekonomi syari'ah sehingga mediasi diserahkan kepada hakim yang sudah mengikuti pelatihan ekonomi syari'ah sebagai mediator. Sedangkan di Pengadilan Agama Mojokerto mediator belum memiliki sertifikat serta belum berpengalaman menangani sengketa ekonomi syari'ah dan belum mengikuti pelatihan ekonomi syari'ah sehingga mediasi diserahkan kepada hakim sebagai mediator. *Kedua*, fasilitas dan sarana mediasi di Pengadilan Agama Surabaya sama-sama belum memadai karena untuk di Pengadilan Agama Mojokerto hanya memiliki satu ruangan khusus mediasi sedangkan di Pengadilan Agama Surabaya sudah memiliki dua ruangan khusus mediasi namun belum dilengkapi fasilitas pendingin seperti AC.

Kata kunci : Efektifitas, Mediasi, Pengadilan Agama, Sengketa, Ekonomi Syari'ah

ABSTRACT

The effectiveness of mediation in resolving disputes about Islamic economic in Religious Courts (*case study at Surabaya Religious Court and Mojokerto Religious Court*). Surabaya Religious Court and Mojokerto Religious Court are courts that are already dealing with dispute of Islamic economic. Unlike the other courts which the disputes of Islamic economic have just entered or registered. Thus, the mediation stage has also been done and became a new thing for the institution of mediation of the two courts in resolving disputes about Islamic economic. The aim of this study is to understand the practice of mediation and effectiveness of mediation in resolving disputes of Islamic economic at Surabaya Religious Court and Mojokerto Religious Court.

The research method of this study is qualitative research method with field research. This study is based on primary data which are obtained directly from interview with the authorities in Surabaya Religious Court and Mojokerto Religious Court and supported with secondary data which are strengthen by literature. The nature of this study is Comparative Descriptive Analysis. The aims of this study are to give an explanation about the problem and compare the effectiveness of mediation of the two courts. Technique of collecting data is observation, interview, documentation, and study of literature.

The practice of mediation in resolving the dispute about Islamic economic at Surabaya Religious Court and Mojokerto Religious Court are same as other disputes in accordance with the book of technical rules governing the court administration and techniques. Procedure of mediation of Islamic economic at Surabaya Religious Court and Mojokerto Religious Court is also same as procedure of mediation of other disputes, such as pre-mediation phase, the implementation phase of mediation, and the final stage of mediation or the results of mediation.

The effectiveness of mediation in resolving dispute of Islamic economic at Surabaya Religious Court and Mojokerto Religious Court is not effective yet because the mediation fails. There are two inhibiting factors, namely: *first*, mediator at Surabaya Religious Court is certified but has not experienced in handling disputes about Islamic economic and has not trained about Islamic economic, so the mediation is submitted to the judge who has trained about Islamic economic as a mediator. Whereas, at Mojokerto Religious Court, the mediator has not certified and experienced in resolving disputes about Islamic economic, and he also has not trained about Islamic economic, so the mediation is submitted to the judge as a mediator. *Second*, the facilities and means of mediation at both of Surabaya Religious Court and Mojokerto Religious Court are inadequate because in Mojokerto Religious Court, there is only one special room for mediation, while Surabaya Religious Court has two special rooms for mediation, but have not equipped yet by air-conditioning facilities.

Keywords: Effectiveness, Mediation, Religious Court, Disputes, Islamic economic.

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