ABSTRACT

Article 4 paragraph (2) of Law Number 47 of 2009 regarding Justice Power imposes obligations to the Judge to facilitate the justice seekers and seek to resolve all constraints and hindrances to achieve a simple, rapid and affordable justice.

Duty of a judge is to accept, examine, adjudicate and resolve each civil case filed to him/her to conduct obligation tasked by provisions of article 4 paragraph (2) of Law Number 48 of 2009 requires a philosophical and theoretic grounds, principle the Judge is active in civil cases.

Judge is active in all set of civil case settlement processes which cover: pre trial/trial preparation, trial/proving stage and post trial stage or execution of verdict having permanent legal effect.

Some provisions of civil procedure law regulating Judge who is active in civil case are:
- Article 119 HIR/143 Rbg: Judge has authority at the time of filing a claim to provide advice and assistance to the plaintiff and his/her proxy;
- Article 120 HIR: Judge assists the plaintiff who filed lawsuit verbally and record it;
- Article 130 HIR/154 Rbg: Judge is obliged to seek peaceful settlement between the disputing parties;
- Article 132 HIR/156 Rbg: Judge has authority to provide guidelines to the disputing parties, showing legal efforts and evidences which they can use;
- Article 178 paragraph (1)189 paragraph (1) Rbg: In the amicable hearing, the Judge due to his capacity is obliged to furnish legal grounds which are not pointed out by the disputing parties.

Principle of Judge is active in civil case is not contrary to the principle of Judge is passive as passiveness means that the scope or extent of dispute filed to the Judge to be examined basically is determined by the disputing parties and not determined by the Judge and the parties freely at any time according to their wish may terminate the dispute filed to the court hearing by themselves.

Keywords: civil case, active judge, passive judge