

The Assessing Validity of Prima Facie Evidence in Handling the Exception of Jurisdiction in Civil Cases

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Abstract. *The plea of lack of jurisdiction in civil cases is a procedural objection by the defendant challenging the court's authority to adjudicate. Theoretically, it does not involve substantive proof, as it precedes the case's merits. However, judicial practice often includes preliminary evidence, prompting scrutiny of its validity. This study examines the legal foundations of jurisdiction exceptions in Indonesian civil procedure and assesses the admissibility of preliminary evidence. Employing a normative juridical approach with legislative, case, and conceptual analysis, it reviews regulations like the Herzien Inlandsch Reglement (HIR), Rechtreglement voor de Buitengewesten (RBg), and Law No. 48 of 2009 on Judicial Power. Case studies of Interlocutory Decision No. 19/Pdt.Sus-Parpol/2018/PN Cbn and Decision No. 56/Pdt.G/2018/PN Cbn reveal judges accepting preliminary evidence in jurisdiction pleas. Findings indicate that, despite absent explicit rules, this practice aligns with principles of fast, simple, and low-cost justice under Article 2(4) of Law No. 48/2009. To prevent procedural delays, future regulations should restrict evidence to documents, per Positief Wettelijke Bewijstheorie. This research clarifies the legal framework for preliminary evidence in jurisdiction exceptions, enhancing civil justice efficiency in Indonesia.*

Keywords: Authority; Civil; Evidence; Procedure.

1. INTRODUCTION

A *contentiosa* Case (lawsuit) is a legal claim involving a dispute between two parties, namely the plaintiff and the defendant. A lawsuit is filed to assert or defend rights in a legal dispute (Danialsyah, 2023). One of the formal requirements that must be met in a lawsuit is "filed with a court of competent jurisdiction on a relative and absolute basis (Dara Sari Sinaga, 2023). Absolute jurisdiction relates to the type of case that can only be examined by a specific court. Meanwhile, relative jurisdiction determines the competent court based on region or location (Ledy Wila Yustini, 2024). If the lawsuit is filed with an unauthorized district court, the judge will decide that he is not authorized to try it.

The legal landscape of civil litigation in Indonesia is fundamentally grounded in the dual application of the *Herzien Inlandsch Reglement* (HIR) for Java and Madura and the *Rechtreglement voor de Buitengewesten* (Rbg) for other regions (Yahya Harahap, 2019). This study specifically examines how judges exercise their mandate to determine whether a District Court (PN) possesses the legal standing to adjudicate a specific lawsuit. Central to this process is the distinction between relative and absolute competence, which dictates the court's jurisdiction over a case. According to Yahya Harahap (2019), these regulations provide the procedural backbone for court proceedings, including the critical initial phase where a judge must scrutinize their own authority to try a case before proceeding to the merits of the dispute. This ensures that every lawsuit is handled by the appropriate judicial body, maintaining the integrity of the civil justice system.

The distinction between relative and absolute lack of authority is a cornerstone of Indonesian civil procedural law, as detailed in the works of Elfrida Ratnawati (2024). Relative authority, governed by Article 133 HIR and Article 159 RBg, pertains to the territorial jurisdiction of the court—specifically whether the lawsuit has been filed in the correct geographic District Court based on the defendant's domicile. In such instances, the defendant must proactively raise an objection (exception) at the beginning of the trial. Conversely, absolute authority, regulated under Article 134 HIR and Article 160 RBg (Elfrida Ratnawati, 2024) concerns the court's inherent power to hear a specific type of case regardless of location (e.g., a civil court hearing a case that belongs in a religious or administrative court). Because absolute competence is a matter of public policy, judges are legally obligated to declare their lack of authority *ex officio*—on their own initiative—at any stage of the proceedings, even if the defendant does not raise an objection.

In practice, the judge's consideration of the fact that the district court does not have the authority to try the case is based on the defendant's exception (Laila Rafida Rofi, 2022). Civil proceedings at least start from a lawsuit, answer, reply, rejoinder, re-reply and re-rejoinder (optional), interlocutory decision or final decision to decide on the authority to adjudicate, evidence, conclusion, and decision (Sundusiyah Sundusiyah, 2022). Basically, the judge in stating the authority has not yet entered the subject matter of the case (Biyanda Rizky, 2022), because this exception is classified as a procedural exception relating to the formal requirements of a lawsuit (Biyanda Rizky, 2022). The basis for not entering the subject matter of the case is because the principle of *ne bis in idem* is not yet attached to the case and it can still be examined and tried by a court with greater authority, both in terms of relative competence and absolute competence.

In this context, when the judge does not enter into the substance of the case in deciding the exception of jurisdiction to try, logically there is no evidentiary stage, and the judge's consideration is entirely based on the lawsuit, answer, reply, rejoinder, and if there are re-replies and re-rejoinders. However, in Interlocutory Decision Number 19/Pdt.Sus-Parpol/2018/PN Cbn and Decision Number 56/Pdt.G/2018/PN Cbn, the judge actually conducted incidental evidence by examining preliminary evidence before deciding on the objection of jurisdiction, which in this case is not in line with the view that the objection is basically "has not yet entered the subject matter of the case" because in fact, proof is part of the examination of the subject matter of the case itself.

Regarding the authority to adjudicate, several studies have examined it, such as in determining the status of missing persons: general courts apply the concept of *absence*

based on Articles 467-468 of the Civil Code, while religious courts rely on judicial interpretation in inheritance law (Moch. Choirul Rizal, 2022). There is also a study on the authority of the District Court in trying inheritance cases (Syamsir Alam Nasution, 2018). In addition, there is also a study on the absolute competence of the District Court and the State Administrative Court and the legal consequences when civil cases contain state administrative disputes (Zir Nuriyah Mustari et al., 2023). Finally, a study on the procedures for examining and deciding exceptions outside the competence to adjudicate to ensure a simple, fast, and inexpensive judicial process (Riki Perdana Raya Waruwu, 2022).

In contrast to previous research, this study supports the submission of preliminary evidence in the exception of jurisdiction, with rationalization to be further examined as the main novelty of the *a quo* research. To find this *novelty*, this study was conducted with a systematic approach: *first*, analyzing the regulation of the exception of lack of jurisdiction in civil procedure law; *second*, examining the validity of submitting preliminary evidence as an appropriate practice in the judicial context. Thus, this study aims to identify the applicable regulation of the exception of lack of jurisdiction and to build a legal construction regarding the validity of preliminary evidence in handling the exception of lack of jurisdiction.

2. RESEARCH METHODS

This study uses a normative juridical method with a "legislative, case, and conceptual approach (Peter Mahmud Marzuki, 2017)." The legislative approach is used to analyze legislation governing the exception of the authority to adjudicate, such as HIR, RBg, BW, and Law No. 48 of 2009. The case approach was applied by examining interlocutory decisions that discussed the exception of jurisdiction, specifically in Interlocutory Decision Number 19/Pdt.Sus-Parpol/2018/PN Cbn and Decision Number 56/Pdt.G/2018/PN Cbn. Meanwhile, the conceptual approach was used to explore relevant legal theories. Research data was obtained from primary legal materials in the form of regulations and court decisions, as well as secondary legal materials from various literatures. The analysis was carried out descriptively-analytically to assess the validity of preliminary evidence in the exception of the authority to adjudicate in order to build the right legal construction in civil judicial practice.

3. RESULTS AND DISCUSSION

3.1. The Regulation of Exceptions to Jurisdiction

The authority to adjudicate is the legal authority given to the court to try and decide a particular case, and this authority is mainly categorized into absolute and relative authority. Absolute authority refers to the authority inherent in the court based on the nature of the case, such as criminal versus civil cases, while relative authority refers to the competence of the court based on considerations of jurisdiction. The authority of the court is very important to consider, so that cases are handled effectively (Peter Mahmud Marzuki, 2017). Besides, the accuracy of the authority to adjudicate also has an impact on the efficiency and accessibility of the legal system (Muhammad Adiguna Bimasakti, 2018). If the authority to adjudicate is not managed properly, the judicial process can be protracted, wasteful of resources, and hinder the resolution of cases. So in this context, before the judge considers the merits of the case first before deciding on the merits of the case.

As explained previously, there are two exceptions to the authority to adjudicate, namely absolute and relative. The first one will discuss the absolute exception to the authority to adjudicate. Basically, for this absolute jurisdiction, the judge can actually declare that he has no jurisdiction *ex officio* or without an objection from the defendant (Anita Afriana et al., 2022). Declaring that it has no absolute jurisdiction *ex officio* is expressly regulated in Article 134 of the Indonesian Code of Civil Procedure and Article 160 of the Indonesian Code of Civil Procedure.

Both *ex officio* and on the basis of exceptions, the absolute authority to adjudicate refers to absolute competence, which is the authority of a particular judicial body or forum to examine cases that absolutely cannot be examined by other judicial bodies or forums. This is based on the applicable statutory provisions (Jonathan Agustinus Alva, 2023). In essence, absolute competence relates to the domain of law over which it has authority (Sri Wahyuni dan Arif Wibowo, 2023).

In simple terms, absolute competence refers to which court, out of the four types of courts in Indonesia—the district court, the religious court, the military court, and the administrative court—has the authority to try the case brought before it (Retnowulan Sutantio, 2009). Apart from the judicial environment, judges are also obliged to declare that they have no absolute authority if the case submitted should fall under the authority of an extra-judicial institution, such as arbitration (Huzaimah Al-Anshori, 2023).

Furthermore, it relates to relative jurisdiction, which determines the authority of a court based on its jurisdiction, which generally follows the principle of *actor sequitur forum rei*, which means that a lawsuit is filed in the court where the defendant lives. This principle aims to protect the defendant's right not to be burdened with attending trials outside his domicile, except in certain conditions that require an exception, such as in disputes over fixed objects that follow the *forum rei sitae* principle, where a lawsuit is filed in the court with jurisdiction over the location of the disputed object. In addition, in cases where the defendant has more than one domicile or is not known to reside, the rules on relative competence provide flexibility by taking into account the real whereabouts of the defendant or the interests of protection for the weaker party, such as in consumer and employment cases where a lawsuit can be filed in the plaintiff's place of residence (*forum actoris*) (Sujayadi Sujayadi, 2023). HIR and RBg have regulated this principle, which can be reviewed in the following table:

Table 1. Relative Jurisdiction Based on HIR and RBg

Article 118 HIR	Article 142 RBg
- Paragraph (1) determines that a lawsuit is filed with the court in the place of residence of the defendant, or if it is unknown, it is filed with the place of actual residence. - Paragraph (2) determines that if there is more than one defendant, it is filed with the court in the place of residence of one of the defendants. - Paragraph (2) determines that if there is a defendant who has a relationship as the main debtor and insurer, then it is submitted to the place of residence of the debtor.	- Paragraph (1) determines that the lawsuit is filed at the defendant's place of residence, or if it is not known, it is filed at the actual place of residence. - Paragraph (2) if there is more than one defendant, it is filed with the court where one of the defendants resides. - Paragraph (3) determines that if the defendant's place of residence or residence is unknown, a lawsuit is filed with the court where the plaintiff or one of them resides. - Paragraph (5) determines that if the disputed object is immovable, the lawsuit is filed with the court where the object is located, and if the object consists of several, it is sufficient to file it with one of the courts where the object is located.

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- **Paragraph (3) if the defendant's place of residence is unknown, a lawsuit is filed with the court where the plaintiff or one of them resides, and if the lawsuit relates to immovable property, it is filed where the property is located.**
 - **Paragraph (4) if you have chosen a court to resolve the dispute, it is submitted to the court that has been chosen.**
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Source: Researcher's elaboration, 2025.

The fundamental difference between the provisions in Article 118 paragraph (3) HIR and Article 142 paragraph (5) RBg lies in the requirements that must be met before applying the *forum rei sitae* principle in a civil lawsuit against an immovable object. Article 118 paragraph (3) HIR stipulates that a lawsuit can only be filed in the place where the object is located if the defendant's place of residence is unknown, thus making ignorance of the defendant's domicile a prerequisite before applying jurisdiction based on the location of the disputed object. On the other hand, Article 142 paragraph (5) RBg does not require the condition of ignorance of the defendant's domicile to apply the *forum rei sitae*, so that a lawsuit against immovable objects can be filed directly in the court with jurisdiction over the location of the object, without questioning the defendant's domicile.

Relative jurisdiction can be waived if the parties agree to choose the jurisdiction of a particular court. It must be submitted before answering the subject of the case. If it is not submitted from the start, it will be considered forfeited. Relative jurisdiction is the jurisdiction of the court relating to the legal territory of the case over which it has jurisdiction. The exception of jurisdiction to try must be decided before entering the subject of the case. If the court decides that it has no authority, the case can be resubmitted to a court with greater authority in accordance with applicable regulations. Meanwhile, Article 160 of the Code of Civil Procedure stipulates that an exception to absolute competence can be filed at any stage of the examination, while an exception to relative competence is filed when submitting an answer as stated in Article 159 of the Code of Civil Procedure. This provision in the Code of Civil Procedure is also regulated in Article 134 of the Code of Civil Procedure.

3.2. Validity of The Submission of Evidence of Initiation in Handling Exceptions to Jurisdiction

In theory, there are two types of decisions, namely interlocutory decisions and final decisions. In this interlocutory decision, the judge decides on the exception of the authority to adjudicate (Martha Eri Safira, 2017). In the context of the exception of the authority to adjudicate, an interlocutory decision is handed down when the judge rejects the exception, so that legal remedies can only be filed together with the final decision. On the other hand, if the exception is granted, an appeal can be filed immediately, because the first instance judge no longer has the authority to decide it (Mahkamah Agung, 2013).

As for the issue in this study regarding preliminary evidence before the judge decides on the exception, this can be reviewed from Interlocutory Decision Number 19/Pdt.Sus-Parpol/2018/PN Cbn, where the panel of judges rejected the absolute competence exception. In one of his considerations, the judge stated: "Considering that for the

Plaintiff's Reply, Defendants I and III have filed a Rejoinder which essentially remains as stated above. In addition, Defendant I also submitted an attachment to the Rejoinder in the form of documentary evidence T.I-1, namely Certificate Number ..." Meanwhile, in Decision Number 56/Pdt.G/2018/PN Cbn, the plea of relative competence was granted. In his consideration, the judge stated: "Considering that to strengthen his plea of exception, Defendant II submitted preliminary evidence in the form of a letter marked TII-1, namely a photocopy of an Identity Card..."

Although there is a difference in the decision, where one decision rejects and the other grants the exception, the important point to be made is that both decisions accept preliminary evidence before deciding on the exception. The exception of competence is a procedural exception, which means that objections are raised regarding the court's authority to try a case. In this context, the judge has not yet entered into the main examination of the case, but only assesses the formal aspects related to judicial authority (Jordan Marciano Makalew, 2023).

There are no explicit rules governing preliminary evidence in the context of exceptions, but there are also no provisions prohibiting its use. Therefore, legal construction is needed to find juridical justification for this phenomenon. One aspect that can be used as a basis is the implementation of the principle of administering judicial power, namely "fast, simple, and low-cost justice", as regulated in Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power (Law No. 48 of 2009) (Nelson Febby Mutiara, 2021). In the United States, the principle of speedy justice in particular is a constitutional right guaranteed in the Sixth Amendment to the Constitution (Colleen Cullen, 2024).

When judges only examine the arguments of the parties without making a thorough assessment of the relevant facts and evidence, the resulting decision has the potential to be "*onvoldoende gemotiveerd*" or lack adequate legal consideration. This can lead to a decision being considered insufficiently grounded and at risk of being overturned on appeal or cassation (K.M Zwaan, 2023).

Without adequate consideration, a court decision has the potential to be overturned, and the court of appeal can order a retrial. According to the Supreme Court Circular Letter Number 1 of 2022 (SEMA No. 1 of 2022), in the event of an appeal against a first-instance court decision stating that it does not have the authority to examine and try a lawsuit, the court of appeal will reassess that authority. If the court of appeal is of the opinion that the court of first instance actually has the authority, an interlocutory decision will be handed down with the following wording:

1. Order the District Court to conduct a principal examination of the case and send the results of the examination to the High Court for a final decision;
2. Decide that the court costs are deferred until the final decision;
3. Declare that the District Court has the authority to examine and decide the case, both in terms of relative and absolute authority.

With preliminary evidence, judges can formulate legal considerations more comprehensively. The authority of judges to provide an opportunity to present preliminary evidence can basically be interpreted from Article 4 paragraph (2) of Law Number 48 of 2009 which emphasizes that "The court helps seekers of justice and tries

to overcome all obstacles and barriers in order to achieve simple, fast, and inexpensive justice.”

The principle that the court must help seekers of justice and overcome obstacles in order to achieve simple, fast, and inexpensive justice is reflected in the role of judges who are not only passive, but also active in the civil judicial process. In this context, the judge's activeness is necessary, where the judge must provide an explanation of the legal process. In this case, the judge only provides an opportunity and an explanation regarding preliminary evidence, while the submission of evidence is entirely left to the parties based on the *Verhandlungsmaxime* or *Party Disposition Principle*. This principle emphasizes that in civil procedural law, the responsibility for collecting and submitting evidence lies entirely with the parties to the case. The judge has no authority to actively search for or add evidence without a request from the parties (Davide Turrone, 2021). This is also in line with the principle of *Da mihi factum, dabo tibi ius* which means “give me the facts, then I will give you the law,” where the judge can only apply the law based on the facts submitted by the parties, not create or search for facts independently (Scott Rocco Dezorzi, 2020).

In the submission of preliminary evidence, the judge must still ensure balance by giving both parties the opportunity to present their evidence (Faisal Yahya Maulidya Annisa, 2020). The principle of *audi et alteram partem*, which means “listen to the other party,” is essential in guaranteeing a fair and impartial judicial process. This principle is part of access to justice, which emphasizes that everyone has equal and non-discriminatory rights (Laura Carlson, 2024). Although preliminary evidence is important for judges in formulating comprehensive decisions, restrictions are still necessary so as not to contradict the principle of swift, simple, and low-cost justice. Too much evidence can unnecessarily prolong the judicial process, causing complexity that actually hampers the efficiency of case resolution. Therefore, the evidence submitted must remain relevant and proportionate, limited only to what is necessary to ensure clarity in deciding the exception of jurisdiction to adjudicate.

In the future reform of procedural law, it is necessary to formulate clearer regulations regarding the use of preliminary evidence in the exception of jurisdiction to adjudicate. However, restrictions are still needed so that the preliminary evidence submitted does not contradict the principles of swift, simple, and low-cost justice. This restriction can be done by specializing preliminary evidence only in documentary evidence, in line with the character of evidence in civil procedural law which is based on *Positief Wettelijke Bewijstheorie* (evidence theory according to positive legislation). This theory emphasizes that judges can only base their decisions on evidence that has been limitatively defined in the law (Hari Wibowo et al., 2024). Thus, the use of prima facie evidence in the exception of jurisdiction to adjudicate remains focused and does not open up space for excessive examination of evidence, which can ultimately slow down the judicial process.

In civil procedural law, documentary evidence plays a major role in proof, especially in civil legal relations. The parties to the transaction have usually prepared written evidence from the start in anticipation of disputes in the future. This is in line with the essence of the law, which aims to resolve conflicts of interest in society (Achmad Ali, 2012). In civil procedure law, documentary evidence is divided into authentic deeds and under-hand deeds, each of which has different probative force. Authentic deeds, as regulated in Article 1868 BW, Article 285 RBg, and Article 165 HIR, have perfect probative force, where the contents stated therein are considered true and binding on the parties, unless

proven otherwise. Article 1870 BW emphasizes that authentic deeds stand alone as evidence without the need for other evidence to support them. On the other hand, private deeds, as regulated in Articles 1874-1880 of the Civil Code, have weaker probative force because they can still be refuted. If the signature on a private deed is disputed, the party submitting the document must prove its validity first. Thus, authentic deeds are stronger than handwritten deeds, because they are more difficult to refute in the evidentiary process (Achmad Hasan Basri, 2023).

Thus, the validity of the submission of preliminary evidence in handling the exception of the authority to adjudicate is an important aspect to support quality judges' decisions and avoid protracted case settlements. Although there are no explicit rules governing its use, judicial practice shows that preliminary evidence can help judges in formulating more comprehensive legal considerations, in line with the principles of swift, simple, and low-cost justice as stipulated in Article 2 paragraph (4) of Law No. 48 of 2009. However, to prevent excessive examination of evidence and slow down the judicial process, clear limitations are needed in future regulations, specifically by limiting preliminary evidence to documentary evidence, in accordance with the *Positief Wettelijke Bewijstheorie*. With proper implementation, prima facie evidence can be an instrument that supports the principle of swift, simple, and low-cost justice, while ensuring that the exception of the authority to adjudicate is decided on a sound legal basis and adequate consideration.

4. CONCLUSION

The exception of jurisdiction is a legal objection raised by the defendant against the relative or absolute jurisdiction of the court. In civil procedure law, this exception is procedural in nature and must be decided before entering the main examination of the case. If the exception is granted, the lawsuit must be filed with a higher court, whereas if it is rejected, the case will proceed to the main examination stage. There are no rules that explicitly regulate or prohibit the use of preliminary evidence in the exception of jurisdiction. However, its application can be justified as long as it is in line with the principles of fast, simple, and low-cost justice as regulated in Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power. Theoretically, the exception of the authority to adjudicate has not entered the subject matter of the case, so that the evidentiary stage is not necessary. However, in several decisions such as Interlocutory Decision Number 19/Pdt.Sus-Parpol/2018/PN Cbn and Decision Number 56/Pdt.G/2018/PN Cbn, judges considered preliminary evidence before deciding on the exception, which indicates that this practice has occurred in the field. The evidence used in the trial authority exception is limited to documentary evidence, in line with *Positief Wettelijke Bewijstheorie* which limits evidence in civil procedure law to evidence that has been determined in legislation.

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