

:: Welcome to Mediation Centre ::

**MEDIATION MONITORING COMMITTEE HIGH COURT
MEDIATION CENTRE**

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Hon'ble the Chief Justice
Chairperson, Mediation Monitoring Committee

Hon'ble Mr. Justice B.A.Vaishnav,
Member, Mediation Monitoring Committee

Hon'ble Ms. Justice S.V. Pinto
Member, Mediation Monitoring Committee

Mrs. A. A. Vyas
Co-ordinator, Gujarat High Court Mediation Centre

Mediation is one of the Alternative Dispute Resolution Methods contemplated under Section 89 of the Code of Civil Procedure as amended by the Parliament.

Mediation is a process in which a neutral third party assists the disputing parties to creatively resolve their dispute without going to trial. Mediation presents a unique opportunity for dispute resolution with the involvement and participation of all the parties and their advocates.

A neutral third party called "mediator" uses special negotiation skills and communication techniques to help litigants bridge their differences and find a solution to their dispute.

Mediation always leaves the decision making power with the parties. A Mediator does not decide what is fair or right, apportion blame or predict the outcome in court. Rather, a mediator acts as a catalyst to bring the two disputing parties together by defining issues and eliminating obstacles for communication and settlement.

MEDIATION IS:-

- Voluntary
- Confidential - only you decide what information may be shared with the other party or court
- If necessary, a mediator may meet each disputing party in private sessions. Private sessions offer opportunities to:
 - Help the mediator understand the needs of each participant and the obstacles to settlement Explain to the party the strengths and weaknesses of his case Assist parties to prioritise their interests in the dispute
- Explore confidentially with each side the possibilities of various settlement options.

- The mediator will spend as much time as necessary with the participants (jointly and privately) to explore all options of settlement.
- If the parties do reach a settlement, the terms will be written, signed and submitted to the court. If not, the case will be returned to the referring judge for adjudication.

Duration of Mediation / Time Consumed in Mediation

Many cases are resolved in one or two sessions. Some mediation may require more sessions, especially in complex disputes. Most follow-up sessions are scheduled within one week of the previous sessions.

The Mediator does not give adjournments easily. If a counsel or party is not present on more than one occasion, the case will be sent back to court for adjudication. The mediation process can take a maximum of 120 days as provided under Rule 18 of Mediation Rules 2015.

PREPARING FOR MEDIATION

Parties and their counsel should prepare for mediation by reviewing the risks and costs of litigation and considering the long term personal, family and community interests that will be served by resolving the dispute. Possible settlement options should be considered. Counsel and parties should bring relevant documents to facilitate meaningful discussions and early settlement.

WHO SHOULD ATTEND MEDIATION?

Parties/representatives having authority to settle the dispute should participate in the mediation along with their counsel.

HOW WILL MEDIATION AFFECT THE CASE?

Mediation is an Alternative Dispute Resolution process and an alternative to trial. Reference of a case to mediation does not put an end to court proceedings or extend litigation deadlines. If a case is not settled in mediation, it will be returned to the court with no time lost.

Section 89 and Order X (1A) of the Code of Civil Procedure:

The Code of Civil Procedure (Amendment) Act, 1999 has introduced a new section 89 in the Code of Civil Procedure in order to provide for various Alternative Dispute Resolution Mechanism. Under Section 89, the Court is empowered to direct the parties to choose from out of different ADR modes providing therein for resolution of their dispute. The provisions of section 89 are based on the recommendations made by the Law Commission of India and the Malimath Committee.

The constitutionality of the amendments to the Code of Civil Procedure was challenged by Salem Bar Association in Tamil Nadu. The Supreme Court, while upholding

the constitutionality of the Code of Civil Procedure (Amendment) Act of 46 of 1999 and 22 of 2002 observed that:-

".....Section 89 is a new provision and even though arbitration or conciliation has been in place as a mode for settling the disputes, this has not really reduced the burden on the Courts. It does appear to us that modalities have to be formulated for the manner in which Section 89 and, for that matter, the other provisions which have been introduced by way of amendments, may have to be in operation. All counsel are agreed that for this purpose it will be appropriate if a Committee is constituted so as to ensure that the amendments made become effective and result in quicker dispensation of justice..... "

As per directions of Hon'ble Supreme Court, Gujarat High Court has framed the guide lines for Appropriate Dispute Resolution Methods and particularly for Mediation which are published in the Official Gazette in June 2007.