

THE LAW

Code of Civil Procedure, 1908

Section 89*

Settlement of disputes outside the court

(1) Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the observations of the parties, the Court may reformulate the terms of a possible settlement and refer the same for

- (a) arbitration;
- (b) CONCILIATION;
- (c) judicial settlement, including settlement through Lok Adalat; or
- (d) MEDIATION

(2) Where a dispute has been referred

(a) for arbitration or conciliation, the provisions of the **Arbitration and Conciliation Act, 1996** (26 of 1996) shall apply as if the proceedings for arbitration or conciliation were referred for settlement under the provisions of that Act;

(b) to Lok Adalat, the Court shall refer the same to the Lok Adalat in accordance with the

*Inserted by Amendment Act 46 of 1999 w.e.f. 1.7.2002.



provisions of sub-section (1) of Section 20 of the Legal Services Authority Act, 1987 (39 of 1987) and all other provisions of the Act shall apply in respect of the dispute so referred to the Lok Adalat;

(c) for judicial settlement, the Court shall refer the same to a suitable institution or person and such institution or person shall be deemed to be a Lok Adalat and all the provisions of the Legal Services Authority Act, 1987 (39 of 1987) shall apply as if the disputes were referred to a Lok Adalat under the provisions of that Act;

(d) for Mediation, the Court shall effect a compromise between the parties and shall follow such procedure as may be prescribed.

ORDER X

EXAMINATION OF PARTIES BY THE COURT

X 1 A* Direction of the Court to opt for any one mode of alternative dispute resolution.

After recording the admissions and denials, the Court shall direct the parties to the suit to opt either mode of the settlement outside the Court as specified in sub-section (1) of Section 89. On the option of the parties, the Court shall fix the date of appearance before such forum or authority as may be opted by the parties.

*Inserted by Amendment Act, 1999 w.e.f. 1.7.2002



X 1 B* Appearance before the conciliatory forum or authority : Where a suit is referred under rule 1-A, the parties shall appear before such forum or authority for conciliation of the suit.

X 1 C* Appearance before the court consequent to the failure of efforts of conciliation : Where a suit is referred under Rule 1-A and the presiding officer of conciliation forum or authority is satisfied that it would not be proper in the interest of justice to proceed with the matter further, then, it shall refer the matter again to the Court and direct the parties to appear before the Court on the date fixed by it.

ORDER XXXII A**

SUITS RELATING TO MATTERS CONCERNING THE FAMILY

1. Application of the Order

The provisions of this Order shall apply to suits or proceeding relating to matters concerning the family.

3. Duty of the Court to make efforts for settlement

(1) In every suit or proceeding to which this Order applies, an endeavour shall be made by the Court in the first instance, where it is possible to do so consistent with the nature and circumstances of the case, to assist the parties in arriving at a settlement in respect of the subject matter of the suit.

(2) If, in any such suit or proceeding, at any stage, it appears to the Court that there is a reasonable possibility of a settlement between the parties, the Court may adjourn the

*Inserted by Amendment Act, 1999 w.e.f. 1.7.2002.

**Inserted by Amendment Act 1976 w.e.f. 1.2.77.

(The omitted Rule 2 is not relevant to Mediation).



proceeding for such period as it thinks fit to enable attempts to be made to effect such a settlement.

(3) The power conferred by sub-rule (2) shall be in addition to, and not in derogation of, any other power of the Court to adjourn the proceeding.

4. Assistance of welfare expert

In every suit or proceeding to which this Order applies, it shall be open to the Court to secure the services of such person (preferably a woman where available), whether related to the parties or not, including a person professionally engaged in promoting the welfare of the family as the Court may think fit, for the purpose of assisting the Court in discharging the functions imposed by Rule 3 of this Order.

THE COURT FEES ACT, 1870

Section 16.* Refund of fee**

Where the Court refers the parties to the suit to any one of the mode of settlement of dispute referred to in section 89 of the Code of Civil Procedure, 1908 [5 of 1908], the plaintiff shall be entitled to a certificate from the Court authorizing him to receive back from the collector, the full amount of the fee paid in respect of such plaint.

***This section was inserted by Act 46 of 1999, section 34 with effect from 1.7.2002. The earlier section 16 relating to "Additional fee where respondent takes objection to unappealed part of decree" was repealed by Act 5 of 1908.