

WHAT IS MEDIATION AND ITS PURPOSE

Mediation is a voluntary, party-centric, negotiation process where a neutral, third person, known as a Mediator, assists the parties in resolving their disputes using specialized communication and negotiation skills. The parties themselves decide the terms of settlement during the process of mediation facilitated by the Mediator. Once the terms of settlement are agreed and signed by the parties and the Mediator, they are binding and enforceable like a decree/award. Mediation is not bound by rules of evidence or procedure. The discussions are confidential, without prejudice and cannot be used in courts.

The parties can always go back to Courts or Arbitrator if there is no settlement in Mediation.

WHY CHOOSE MEDIATION?

- Fast, easy and efficient resolution of disputes within a fixed timeline
- Cost effective compared to court or arbitration
- Flexible and informal as not bound by rules of evidence or procedure
- Confidentiality of discussions in mediation
- Improves and mends on-going relationships
- Can be held virtually or physically
- Opportunity to negotiate agreed terms
- Offers discussed are without prejudice
- Voluntary settlement by parties
- Option of going back to Court or for arbitration if mediation does not result in settlement
- Settlement before a Mediator is binding and enforceable in law like a decree/award
- Avoids litigation stress and is win-win for all
- It is supported by the existing judicial system

STEP-WISE PROCESS OF MEDIATION

Step 1:

The Parties can be referred for mediation at any point of the matter. Parties can request themselves for reference to mediation or the Court can refer the Parties to mediation if the Court find any elements of settlement between the Parties. The Mediator meets all the Parties to the disputes in a joint, opening session and explains the process of mediation, including its voluntary and confidential. The Mediator gathers all the information from the Parties about their conflict. Parties are also informed that the terms of agreement cannot be imposed upon them but once the terms are agreed and signed, they are binding upon the Parties.

Step 2:

The Mediator thereafter usually sits in single session with each Party to avoid direct conflict. Mediator actively listens in detail to understand the underlying interests and concerns of the Parties and explores options for Settlement. Separate single session is also a face-saving mechanism as offers are not made directly so they can be altered by the Parties if need arises.

Step 3:

Mediator conveys the perspectives and offers of one Party to the other, rephrases any harsh words, reframes negative comments into positive and guides the Parties to develop multiple options keeping both the Parties' interests in mind and avoids a stalemate.

Step 4:

When an oral agreement is reached between the Parties to their satisfaction, the Mediator puts the same into writing in consultation with all the stakeholders. Thereafter the same is signed by the Parties and the Mediator. The Settlement then becomes legally binding and enforceable.

Who can go for Mediation?

Any person, company or group seeking to avoid or end disputes/possible disputes relating but not limited to:

- Commercial disputes
- Consumer disputes.
- Matrimonial or family conflicts
- Contract works and payments
- Broadcasting & Telecom disputes
- Employment, or workplace disputes
- Cheque return
- Tenancy or property disputes
- Certain criminal disputes etc.

Where, When & How to go for Mediation:

- **Where:** Delhi High Court Mediation & Conciliation Centre annexed to the Court Or to any Individual /Institution of Mediation, as directed by the Court.

- **When & How:**

During pendency of litigation

Parties in litigation before a Court or an Arbitrator can, at any stage, agree to go for mediation at Delhi High Court Mediation and Conciliation Centre, (SAMADHAN) 4th Floor, Administrative Block, Delhi High Court, Shershah Road, new Delhi – 1100503