



# **DELHI MEDIATION CENTRE**

## **ANNUAL REPORT**

**2005-2006**

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## MEDIATION ANNUAL REPORT 2005-2006

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## Foreword

*The Delhi Mediation Centre* (i.e. both its limbs, the Tis Hazari Mediation Centre and the Karkardooma Mediation Centre) presents its *First Annual Report (August, 2005 to July, 2006)* on the implementation of “*Judicial Mediation*” in the District Courts at Delhi, which has now been institutionalised as a *permanent unique mode of alternate dispute resolution* as also envisaged by Section 89 of the Code of Civil Procedure, 1908, as amended.

Set forth herein are the untiring efforts of the judicial officers of the District Courts at Delhi, under the visionary guiding light of the Hon’ble Judges of the Hon’ble Supreme Court of India and the Hon’ble High Court of Delhi, which spell the success story of the endeavour to live up to the dream of the “*Father of the Nation*” to *render justice, to one and all, inexpensively, faster and in a manner, that warring acrimonious litigations and disputes are resolved amicably, finally.*

## **MEDIATION – INSTITUTIONALISED :**

### **Introduction**

Mahatma Gandhi in his autobiography described his experience at amicable dispute resolution as an exercise in uniting parties riven asunder. This is really the essence of mediation.

Justice delivery is the primary responsibility of judges and judicial officers as it is they who are given the task of interpreting the laws and adjudicating disputes.

Keeping both in mind, that is the experience of Mahatma Gandhi as well as the primary duty of judicial officers, the Delhi Mediation Centre (started by the District Courts in Delhi) evolved a unique method of alternative dispute resolution which can best be described as '*Judicial Mediation*'. This form of dispute resolution was initiated by a Committee (appointed by the Chief Justice of India consisting of Hon'ble Judges of the Supreme Court, a Judge of the Delhi High Court, Senior Advocates and a judicial officer) as being best suited to the needs of litigants in India and in consonance with the social ethos of our country.

In this background, even though judicial officers were trained by American experts in mediation, the Delhi Mediation Centre did not adopt the mediation models prevailing in America but developed its own unique model which seeks to realize the vision of Mahatma Gandhi, through judicial officers who need to be encouraged, even otherwise, to resolve disputes in a spirit of compromise and settlement, which is also envisaged by Section 89 of the Code of Civil Procedure, 1908, as amended.

One of the most significant aspects of *Judicial Mediation* is that the service is provided at absolutely no cost to any litigant. On the contrary, on the conclusion of a successful mediation, followed by a decree, the plaintiff is entitled to (and is given) a refund of court fees in terms of Section 16 of the Court Fees Act, 1870, as amended. In cases where the Mediator feels it appropriate, tea or coffee is even offered to the litigants and their lawyers free of charge. All this has added to the uniqueness of the judicial mediation programme conducted by the Delhi Mediation Centre.

As a result of the effective management programme, the Delhi Mediation Centre has successfully trained eleven judicial officers as mediators and has even been invited by the Madhya Pradesh High Court (at Jabalpur) and the National Judicial Academy at Bhopal to share its experiences and conduct training programmes in mediation.

### **How it all began**

The concept of mediation is ancient and has always been enshrined in our Indian culture. It can be traced to ancient Indian texts such as “Kautilya’s Arthshashtra”, through the Panchayat system and eventually given shape to, in legal disputes by none other than the Father of the Nation, Mohandas Karamchand Gandhi, who in his autobiography wrote<sup>1</sup> :-

*“The lawyer’s fees were so rapidly mounting up that they were enough to devour all the resources of the clients, big merchants as they were. The case occupied so much of their attention that they had no time left for any other work. In the meantime, mutual ill will was steadily increasing. I became disgusted with the profession. [Despite succeeding in arbitration, Gandhiji’s client agreed to accept the awarded amount in installments over a long period of time.]... But, both [parties] were happy over the result, and both rose in the public estimation. My joy was boundless. I had learnt the true practice of law. I had learnt to find out the better side of human nature and to enter men’s hearts. I realized that the true function of a lawyer was to unite parties riven asunder. The lesson was so indelibly burnt into me that a large part of my time during the twenty years of my practice as a lawyer was occupied in bringing about private compromise of hundreds of cases. I lost nothing thereby – not even money; certainly not my soul.”<sup>1</sup>*

Mediation as one of the modes of legislated Alternate Dispute Resolution (ADR) was brought into operation by the Code of Civil Procedure (Amendment) Act, 1999 by the enactment of Section 89 which came into force with effect from 01.07.2002.

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1. Mohandas K. Gandhi: An Autobiography at Page No. 133-134

***Section 89 of the CPC reads as follows :-***

*“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 provisions of sub section (1) of section 20 of the Legal Services Authority Act, 1987 (39 of 1987) and all other provisions of that 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 dispute 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.*

It provides for formulation of the terms of settlement by the Court and reformulating the same, if necessary, where it appears to the Court that there exists an element of a settlement, which may be acceptable to the parties and a reference by the Court, inter alia to Mediation.



### **Pilot Mediation Programme**

For giving effect to Section 89 of the CPC, the then Hon'ble the Chief Justice of India, Mr. Justice R.C. Lahoti appointed a Mediation and Conciliation Project Committee (MCPC) on 09.04.2005. The MCPC held its first meeting on 25.04.2005.

The members of the committee were :

1. The Chairman, NALSA – Hon'ble Mr. Justice N. Santosh Hegde, Judge, Supreme Court.
2. Hon'ble Mr. Justice B.N. Srikrishna, Judge, Supreme Court.
3. Hon'ble Mr. Justice Dharmadhikari, Judge, Supreme Court.
4. Hon'ble Mr. Justice S.B. Sinha, Judge, Supreme Court.
5. Hon'ble Mr. Justice A.M. Ahmadi, Former Chief Justice of the Hon'ble Supreme Court of India.
6. Hon'ble Mr. Justice Madan B. Lokur, Judge, Delhi High Court.
7. Mr. P.P. Rao, Senior Advocate.
8. Dr. Abhishek Manu Singhvi, Senior Advocate.
9. Mr. Rohinton Nariman, Senior Advocate.
10. Mr. Raju Ramchandran, Senior Advocate.
11. Mr. Stephen Mayo, Executive Director, Institute for the Study and Development of Legal Systems (ISDLS).
12. Member Secretary, NALSA – Mr. Kamlesh Kumar, Additional District Judge, Delhi.

In its meeting held on 11.07.2005, the committee decided to initiate a pilot project on judicial mediation in the Tis Hazari Court complex in Delhi. It was agreed that ISDLS would bring specialist mediators/trainers to train judicial officers in the art and technique of mediation and these trained judicial officers would then mediate pending disputes that would be referred to the Mediation Centre by other judicial officers. The MCPC appointed a sub-committee consisting of Hon'ble Mr. Justice S.B. Sinha, Judge, Supreme Court, Hon'ble Mr. Justice Madan B. Lokur, Judge, Delhi High Court and Mr. Raju Ramchandran, Senior Advocate to oversee and monitor the pilot project in the Tis Hazari Court complex.

### **Training of Judicial Officers**

Under the active guidance and inspiration of Chief Justice Lahoti and supervision of the Sub-Committee, a pilot mediation programme was launched in the Tis Hazari Courts on 02.08.2005, with Mr. Robert W. Rack as a trainer and Mr. Dave Schlacter of the ISDLS as Programme Coordinator. A Mediation Centre was set up in Room No.325, Tis Hazari Courts, Delhi which started working with effect from 04.08.2005, as a means of providing a model for expeditious settlement in litigated disputes. All Judicial Officers were apprised by the Ld. District Judge, Delhi vide a Circular dated 03.08.2005 that if it was found in any case, that there was a possibility of a compromise through Mediation, and the parties were willing for Mediation, the cases be sent to the Administrative Incharge, Mediation Cell vide a referral order with a note of brief facts and a request for Mediation.

Coincidentally, on 02.08.2005 the decision in '**Salem Advocate Bar Association Vs. Union of India**'<sup>2</sup>, came to be pronounced by the Hon'ble Supreme Court on the same date as the launching of the Pilot Mediation Programme at the Tis Hazari Courts. In its decision, the Supreme Court approved the draft Civil Procedure Alternate Dispute Resolution and Mediation Rules framed by the Committee headed by the Hon'ble Chairman of the Law Commission of India, Hon'ble Mr. Justice M. Jagannadha Rao, laying down specifically that "**The intention of the legislature behind enacting section 89 of the CPC, 1908 is, that where it appears to the Court that there exists element of settlement, which may be acceptable to the parties, they, at the instance of the court, shall be made to apply their mind so as to opt for one or of the other four ADR methods mentioned in the Section and if the parties do not agree, the Court shall refer them to one or other of the said modes.**' (emphasis given).

The Full Court of the Delhi High Court approved the draft Rules on 11.08.2005, which were then notified as the Mediation and Conciliation Rules, 2005 vide notification No. 171/Rules/DHC dated 11.8.2005 published in the Delhi Gazette Extra Ordinary Part IV No. 120 (NCTD. No. 427) dated 11.08.2005.

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2. 2005 VI AD 421 = (2005) 6 SCC 344

Training of six Judicial Officers of the Delhi Higher Judicial Service commenced on 11.08.2005 under the expert guidance of Mr. Robert W Rack, Jr. Chief Circuit Mediator of the United States Court of Appeal in the Sixth Circuit. Mr. Rack obtained a Law Degree from the University of Toledo College of Law in 1972 and was selected in 1981 to start a mediation office in the Sixth Circuit Court in Cincinnati where he works today as the 'Chief Circuit Mediator'. He has been instrumental in formation of mediation programmes in States and Federal Appellate and Trial Courts throughout the United States of America and has taught mediation nationally for the Department of Justice and internationally in India, Pakistan, Egypt and Bangladesh for the United States, Department of State and Institute for the Study and Development of Legal Systems. He has also co-founded the Cincinnati Centre for mediation of disputes and has mediated over 2000 federal civil cases.

The following six officers of the Delhi Higher Judicial Service were imparted extensive mediation training from 11.08.2005 till 02.09.2005 under the guidance of Mr. Robert W Rack, Jr. that is,

1. Mr. K.C. Lohia
2. Mr. B.B. Chaudhary
3. Mr. O.P. Gupta
4. Ms. Anu Malhotra
5. Ms. R. Kiran Nath
6. Ms. Ravinder Kaur

During the mediation training, apart from intensive lectures delivered by Mr. Rack, there were also visual demonstrations of mediations conducted in the United States and in Bangladesh and group exercises were also conducted and the trainees were also exposed to components of a typical mediation conducted in litigated cases as practised in many Courts in the United States. Each trainee had an opportunity to play the role of a Mediator at least once during the training period. The training emphasised on communication skills, confidentiality through holding of caucuses and ethics, and the informality of the entire process, which instilled into the trainees the cultivation of the thought process to allow the parties to be assisted through a non binding confidential negotiation process by an especially trained neutral mediator to come forth with creative

remedies, which would be helpful to both parties through the ultimate resolved solution. The training also enabled the trainees in assisting parties to understand their respective point of view, interests, priorities and assessing alternatives to agreements, and to help the parties to put aside the issues in a case and work to resolve the underlying causes of the dispute, thereby giving both sides a sense of satisfaction and vindication. It is through this entire process that the trainees could imbibe the intricate nuances of Mediation.

During the course of training itself, from 16.08.2005 onwards, Mediation of actual cases pending in the Tis Hazari Courts (with Mr. Rack, as an observer), commenced in full swing, and, as mentioned earlier, the mediation training programme continued till 02.09.2005.

Between 16.08.2005 and 02.09.2005, 55 cases were referred by the Courts for Mediation of which 15 cases were settled by 02.09.2005 which included Recovery Suits, a Landlord Tenant Dispute, Guardianship and Custody Issues, Matrimonial Disputes, Partition Suits, Motor Accident Claim Cases and cases under the Negotiable Instruments Act. During this period, 11 cases were 'not settled' and 29 cases were under process. The initial results satisfied both the litigants, the lawyers and the trained Judicial Mediators, for the process of mediation helped the parties to arrive at an amicable solution through discussion, which thereby resulted in a finality of the dispute as it permitted a mutually acceptable solution. This saved time and money for the litigants, preserved ongoing business and personal relationships and helped settle all or part of the disputes between the parties much sooner than trial. **The effective participation of lawyers in the Mediation Training Programme helped to dispel all doubts**, if any, that the mediation process would adversely affect the advocates in their professional activities, in any manner. **Rather, the advent of judicial mediation in the legal system** gave a new professional opportunity for lawyers, as mediated case settlement in a legal system opens doors to many litigants who were previously intimidated by the formal legal system. Judicial Mediation in Delhi is provided free of cost, advocates play a different and important role in this process and though they always represent the client's interests, rather than argue adversarially as they would in Court, they assist their clients by helping them propose

and consider settlement options in the light of their client's long term best interests.

Encouraged by the initial success of the mediation process, a report in the Hindustan Times published from New Delhi dated 30.08.2005 said it all 'Faster verdicts via Mediation Cell'. An excerpt of the report is as follows :-

**“Complainant Sumair Singh is a happy man. He had almost given up on his recovery case against a bank, thanks to the long Court proceedings that went on and on with little progress. It was then that he decided to put up his plea before the Mediation Cell. Action was prompt, the case reached an agreement in one day”.**

A similar report was published in the Hindustan dated 30.08.2005 published in Hindi.



Judicial mediation on a regular basis commenced for the first time in India with effect from 13.09.2005 in the Tis Hazari Courts, Delhi with the six trained Judicial Officers having been assigned one day a week only to deal with cases referred for Mediation. Since the time the Mediation Training Programme began and metamorphosed into regular mediated case settlement in the legal system in India in the Tis Hazari Courts, Delhi, the Mediation Centre had received till 24.10.2005, 303 cases from the District Courts at Delhi which had been referred for Mediation. Of these:-

**105 cases had been settled**

**120 cases were pending and were in the process of mediation**

**78 cases had not been settled and had been returned to the concerned referral Courts.**

From 13.09.2005 till 22.09.2005 under the ongoing mediation programme initiated by the Hon'ble Supreme Court, 12 more officers of the Delhi Higher Judicial Service were imparted 40 Hours of Intensive Training by Mr. Lee Jay Berman of California, USA. Lee Jay Berman founded the Mediation Alliance and The Institute for Mediation Studies in 1994. He has successfully mediated over 1,000 litigated matters and is a Fellow with the International Academy of Mediators, a member of the National Panel of Distinguished Neutrals for the International Institute for Conflict Prevention and Resolution (CPR Institute), and a member of the American Arbitration Association's National Registry of Mediators. He is Director of the "Mediating the Litigated Case" program for the Straus Institute for Dispute Resolution at Pepperdine University School of Law (ranked #1 in America by US News & Word Report), and he is the national chairman of the American Bar Association's Dispute Resolution Training Committee. Mr. Berman has also conducted trainings for the U.S. Agency for International Development, American Arbitration Association, and multiple Bar Associations and Courts in the United States. Mr. Berman was the inaugural Director who launched and oversaw the first year of the Court Administered Dispute Resolution (CADRe) Program for the Superior Court of California, County of Santa Barbara. As a trainer, his evaluations often comment about his passion for the mediation

process, and his deep desire to convey his knowledge and enthusiasm for the process to those with whom he works.

The said officers imparted training were:-

1. Mr. P.K. Bhasin (Now Hon'ble Judge, High Court of Delhi)
2. Mr. B.S. Mathur
3. Mr. M.L. Mehta
4. Mr. R.P.S. Teji
5. Mr. Chander Shekhar
6. Mr. Yogesh Khanna
7. Ms. Asha Menon
8. Mr. Brijesh Sethi
9. Mr. Deepak Jagotra
10. Mr. Dharmesh Sharma
11. Mr. Manoj Jain
12. Mr. M.R. Sethi

These officers also began conducting Mediation regularly one day a week from 26.09.2005. The Judicial Officers also had the privilege of interaction with Hon'ble Mr. Leo S Papas, Federal Judge in California, USA, a reputed Mediation Judge, and Mr. Jeff Banchemo, an attorney associated with ISDLS.


### **Setting up Mediation Centres**

The overwhelming success of the mediation training programme resulted in the inauguration of the Mediation Centre on the third floor of the Tis Hazari Courts on 24.10.2005 by the Hon'ble Mr. Justice Y.K. Sabharwal, then Hon'ble Judge, Supreme Court of India and also the then Executive Chairman of the NALSA and presently the Hon'ble the Chief Justice of India. The newly inaugurated Mediation Centre created an informal atmosphere away from the Court rooms and chambers of the judicial mediators. The inauguration was attended by Hon'ble Mr. Justice B.N. Srikrishna, Hon'ble Mr. Justice S.B. Sinha, Hon'ble Judges of the Hon'ble Supreme Court of India, Hon'ble Dr. Justice M.K. Sharma, Hon'ble Mr. Justice Madan B. Lokur, Hon'ble Judges of the Hon'ble High Court of Delhi, Mr. Raju Ramchandran, Senior Advocate, and

Representatives of the ISDLS including its Executive Director Mr. Stephen Mayo, the then District & Sessions Judge, Delhi, Mr. S.N. Dhingra, now Hon'ble Judge of the Hon'ble High Court of Delhi, Judicial Officers of the DHJS, members of the Bar, and the media.

**OFFICE OF DISTRICT & SESSIONS JUDGE. DELHI.**

Hon'ble Designate Chief Justice of India Mr.Y.K.Sabharwal had kindly agreed to inaugurate the Mediation Centre at the Central Hall, 3<sup>rd</sup> floor, Tis Hazari courts on 24.10.05 at 4.15 p.m. You are requested to attend the Inaugural function and take your seat positively by 4 p.m.

  
(Shiv Narayan Dhingra)  
District & Sessions Judge, Delhi.

No. 96082-382/J.21.10.05

1. All the Mediation Officers (as per list attached)
2. All Addl. District & Sessions Judges at TH, PH and KKD courts.
3. Sr. Civil Judge, Admn. Civil Judge.
4. Chief Metropolitan Magistrate, Delhi.

  
District & Sessions Judge, Delhi.



5. Sh. R.K. Jain
6. Ms. Deepa Sharma
7. Sh. S.N. Gupta
8. Sh. Vinod Goel
9. Sh. R.K. Gauba
10. Sh. T.S. Kashyap
11. Sh. Deepak Jagotra
12. Dr. Sudhir Jain

underwent intensive training from 20.11.2005 to 26.11.2005 for a period of 40 hours under Mr. Gregg F. Reylea, and Mr. Victor Schachter, Attorneys at Law, California. Mr. Reylea is an experienced neutral in the field of private dispute resolution. He has mediated and arbitrated in more than two thousand disputes. He is the author of numerous articles on mediation, arbitration, neutral fact finding and other aspects of dispute resolution. He teaches mediation, arbitration and alternative disputes resolution at the University of California, San Diego (UCSD) and at the California Western School of Law. He has an established full time private mediation practice in San Diego and works as a private independent mediator serving in a wide range of disputes including Commercial Disputes, International Business Disputes, Automobile Disputes, Insurance, High Tech Disputes, Real Estate/Commercial Leases/Construction and Intellectual Property, and is the member of the International Academy of Mediators, and of the American College of Civil Mediators and Association for Conflict Resolution (National and San Diego chapters).

Mr. Schachter is a partner at Fenwick & West LLP, resident in its Mountain View and San Francisco, California offices. He is a member of the firm's Litigation and Employment/Labour Law Groups where he represents employers exclusively in employment law and labour relations, privacy, trade secrets, unfair competition, and related litigation. In addition, Mr.Schachter has pioneered the development of training programs for executives and managers, and

he is an accomplished advocate and mediator in alternative dispute resolution matters. He has been chosen by his peers for inclusion in The Best Lawyers in America for over 10 years, and has been selected as a “Northern California Super Lawyer” in Employment Litigation. Mr. Schachter serves as a member of the Board of Directors of the California Dispute Resolution Council.

Four of these Judicial Officers posted at the Tis Hazari Courts commenced regular mediation once a week with effect from 5.12.2005. The other Judicial Officers who had undergone the training were at that time posted at the Karkardooma District Courts. *Thus, there were now 30 trained Judicial Mediators in the District Courts, 22 in the Tis Hazari Courts and 8 in the Karkardooma Courts.*

*It is important to note that the training of all these Judicial Officers was arranged entirely by ISDLS totally free of cost. During the entire period from 1<sup>st</sup> August, 2005 till 31<sup>st</sup> January, 2006, ISDLS maintained its presence in Delhi without any charge to the District Courts.*

In order to deliver the benefits of the ADR mechanism through mediation at the door step to the litigants, judicial mediation commenced at the Karkardooma Courts through the chambers of the 8 Judicial Mediators then posted at the Karkardooma Courts from 02.12.2005, and the success of the mediation conducted at the Karkardooma Courts resulted into the inauguration of the Mediation Centre at the Karkardooma Courts on 05.05.2006 by the Hon’ble Mr. Justice S.B. Sinha, Judge, Supreme Court of India, the untiring driving force behind it all. Hon’ble Mr. Justice Vijender Jain, the Hon’ble Acting Chief Justice, High Court of Delhi, Hon’ble Dr. Justice M.K. Sharma, Hon’ble Mr. Justice Madan B. Lokur and other Hon’ble Judges of the Hon’ble High Court of Delhi and the then Hon’ble District & Sessions Judge, now Hon’ble Ms. Justice Aruna Suresh graciously gave their guidance for this momentous event. The Mediators and Judicial Officers of the Delhi Higher Judicial Service

and Officers of the District Courts at Delhi, Advocates and other dignitaries attended the inauguration.



**District & Sessions Judge, Delhi**  
Solicits your gracious presence at the inauguration of

**MEDIATION CENTRE**  
at Karkardooma Courts Complex, Delhi  
on Friday, the 5th May, 2006 at 4.45 p.m.

**Hon'ble Mr. Justice S. B. Sinha**  
Judge, Supreme Court of India  
has kindly consented to inaugurate the Centre

**Hon'ble Mr. Justice Vijender Jain**  
Acting Chief Justice, High Court of Delhi  
shall preside the function.

R.S.VP.

**Aruna Suresh**

District & Sessions Judge, Delhi

Tel. : 23962529, 23958577

(Please be seated by 4.30 p.m.)

Entry through  
Officers gate

In the meanwhile, the continued success of the Mediation Centre in Tis Hazari led to an increase in referrals and this, in turn resulted in the increase of mediation days per Mediator from one day per week to one and half days per week with effect from 01.05.2006, and now there are mediators working in the Tis Hazari Mediation Centre each day of the week that is Monday to Saturday.

The success of the two Mediation Centres and the resultant increase in referrals of pending cases to judicial mediation paved the way for expansion of the Mediation Training Programme. Consequently, 11 more Officers of the Delhi Higher Judicial Services that is six Officers at the Tis Hazari Mediation Centre and 5 Officers at the Karkardooma Mediation Centre that is the two major limbs of the Delhi Mediation Centre have been imparted 40 hours mediation training from 12.06.2006 to 19.06.2006 namely:

Mr. Rajnish Bhatnagar

Mr. Vinay Gupta

Ms. Shailender Kaur

Mr. Sunil Aggarwal

Mr. A.K. Arya

Mr. V.K. Khanna, by Mr. G.P. Mittal, Judge Incharge, Mediation Centre, Tis Hazari Court Complex<sup>3</sup>, and Dr. Sudhir Jain, Additional District Judge, Delhi,

and Ms. Rekha Rani

Mr. Harish Dudani

Ms. Nisha Saxena

Mr. Alok Aggarwal

Mr. L.K. Gaur, by Mr. M.L. Mehta, Judge Incharge, Mediation Centre, Karkardooma Court Complex.

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3. Since 11.8.2006 Shri B. B. Chaudhary, Additional District and Sessions Judge Delhi has taken over as the Judge & Incharge Coordinator of the Tis Hazari Mediation Centre.

The said extensive training was conducted from 12.00 noon to 6.00p.m. on 12.06.2006 to 17.06.2006 and 19.06.2006 from 9.00a.m. to 2.00p.m. It comprised of lectures on:-

- i. ADR and its relevance
- ii. Mediation introduction, definition and concept
- iii. Difference between Mediation and Arbitration
- iv. Mediation and Lok Adalat
- v. Med – Arb
- vi. Mediation process / Stages of mediation
- vii. Introduction
- viii. Joint – session
- ix. Caucus
- x. Agreement
- xi. Approaches to negotiation
- xii. Types of bargaining
- xiii. Communication techniques
- xiv. Restatement
- xv. Summarising
- xvi. Neutral reframing
- xvii. Acknowledgment
- xviii. Setting an agenda
- xix. Deferring
- xx. Redirecting
- xxi. Types of disputes which can be referred for mediation
- xxii. Disputes where mediation is appropriate
- xxiii. Disputes where mediation is not appropriate
- xxiv. Stage at which the case may be referred for Mediation
- xxv. Documentary on mediation
- xxvi. Mediation viz-a-viz traditional litigation
- xxvii. Questions not conducive for constructive negotiation
- xxviii. Words that are not conducive for constructive negotiations
- xxix. Reality check (BATNA, WATNA, MLATNA)
- xxx. Brain storming
- xxxi. Lateral thinking
- xxxii. Qualities of a good mediator
- xxxiii. Mediation & Conciliation Rules, 2004
- xxxiv. Impasses
- xxxv. Origin of impasses

- xxxvi. How to break impasses
- xxxvii. Effective and Ineffective mediator
- xxxviii. Early neutral evaluation
- xxxix. Importance of mediation management
- xl. Role of referral Judge
- xli. Importance of referral order.

There were also role plays conducted, so that the Officers could imbibe the finer nuances of mediation techniques effectively. The Officers also got an opportunity to see a documentary on mediation techniques, as adopted in Bangladesh. There were also interactive sessions, so that the participants could clarify their doubts, if any from the Trainers.

The general statistical reports of the Tis Hazari and Karkardooma Mediation Centres of the date 31.07.2006, speak eloquently of the benefits of mediation, and bring forth that till 31.07.2006, 630 of the 1030 cases disposed of through mediation, had been settled at the Tis Hazari Mediation Centre and that till the said date, 282 of the 370 cases disposed of, had been settled at the Karkardooma Mediation Centre, apart from 205 and 76 connected cases settled respectively at the said Centres. Thus, more than 1000 cases have been settled through mediation since August, 2005 till 31.07.2006, the precise number being 1193.

Of these 1193 cases settled through mediation, 20 cases referred by the Hon'ble Supreme Court and 21 cases referred by the Hon'ble High Court of Delhi, have been settled through mediation. Additionally, a dispute between an interior decorator of Mumbai and the National Judicial Academy, Bhopal was successfully settled. The reference to the Delhi Mediation Centre was made by the Governing Council of the National Judicial Academy consisting of the three senior most Judges of the Hon'ble Supreme Court. Thus, it is quite clear that Hon'ble Judges of the Supreme Court have reposed faith in the working of the Delhi Mediation Centre – a feather in the cap of the Delhi Mediation Centre.

**INFRASTRUCTURE OF THE MEDIATION CENTRE**  
**AT TIS HAZARI**

The Mediation Centre at the Tis Hazari Courts is situated on the 3<sup>rd</sup> Floor towards the Centre of the building. It is fully air conditioned and facilitates the creation of a completely informal atmosphere away from the Court rooms and the chambers of the Judicial Mediator. Now 20 Mediators function regularly throughout the week, with 14 Mediators working six days a month, and 6 Mediators working 4 days a month. Sh. K.C. Lohia, Additional District & Sessions Judge, Delhi, was appointed on 24.11.2005 as the first full time Co-ordinator of the Mediation Centre, and thereafter was succeeded by Sh. G.P. Mittal, AD&SJ, Delhi on 03.01.2006<sup>4</sup>. The full time Judge Incharge and Co-ordinator of the Mediator Centre apart from contributing continuously and unflinchingly towards mediated settlements, again screens the cases to ascertain whether there exists any element of settlement.

There is a reception hall for litigants and counsel who come to participate in the judicial mediation. There is adequate seating arrangement for all of them. There are also staff personnel at the reception itself to facilitate the parties to reach the Mediator. Tea / Coffee is also sometimes supplied to the litigants, free of cost, to break the impasse that arises during the course of mediation and to cool risen tempers which flare up during the course of mediation.

There is one room for the Judge Incharge of the Mediation Centre with an annexed pantry and room of the P.S. to the Judge Incharge.

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4. Presently, since 11.08.2006, Shri B.B. Chaudhary, Addl. District & Sessions Judge, Delhi, has taken over as the full time Judge Incharge and Coordinator of the Tis Hazari Mediation Centre.

3. Three L.D.Cs who maintain the institution register, settlement register, register of the cases which have not been settled, register of the cases not fit for Mediation, Dak register, official communication, applications for certified copies, receipt and transmission of the files from Supreme Court, High Court, Patiala House, Karkardooma and Rohini Courts to and fro, issuance of process, removal of objections, preparing the files to be placed before the Referring Judge.

The institution of cases referred to the Mediation Centre, the cause list of cases before each Mediator, and those yet to be assigned, the pendency of cases and disposal of cases has also been computerized, and is maintained efficiently,

4. Two L.D.Cs. who maintain computer updates.

5. Two peons.

**REQUIREMENT:**

A space separately available for parties to discuss privately, confidentially during caucuses.

**REQUIREMENTS EXPRESSED BY MEDIATORS:-**

- a). Peons,
- b). Telephone instrument in each room – so that the Mediator can make immediate contact whenever required,
- c). A complete computer system with printer in each Mediation Room be also made available, or more computers be provided at the Mediation Centre so that the proceedings before the Mediator can be expeditiously and effectively typed out and printed.



### **SUPPORT STAFF AT THE KARKARDOOMA MEDIATION CENTRE**

1. One Branch Incharge
2. One P.S. to Judge Incharge of the Mediation Centre
3. One U.D.C
4. Two L.D.Cs
5. One Peon (there is requirement of more peons at this Mediation Centre).

### **REQUIREMENTS EXPRESSED BY THE MEDIATORS**

1. Proper amenities
2. A Reception in the Central Portion of the Centre, as the Office – cum – reception is at a distance from the Mediators room; and a bell be installed in each Mediator's Room.

### **ADR Committee - Monitoring**

A huge amount of planning for the Mediation Centre was initiated in September, 2005 when an informal **ADR Committee** comprising of the then Judge Incharge, Mediation Centre, Tis Hazari, Mr. K.C. Lohia and 4 other Mediators was set up under the guidance of Hon'ble Mr. Justice Madan B. Lokur, and Mr. Robert W. Rack Jr. and Mr. Dave Schlacter of the ISDLS, which dealt with :-

#### **I). Plans for the new mediation rooms :-**

- a). Design,
- b). Estimated date of completion,
- c). Furnishings,
- d). Use of Room 302 (before lunch hours) until new space was completed.

#### **II). Referral :-**

- a). Case referral procedures anticipating possible 300% increase in mediations,

- b). Using a master calendar to space out mediations,
- c). Whether more focus was required on cases under Section 138 of the Negotiable Instrument Act, 1881.

**III). Collecting Evaluated Information :**

- a). Completion of mediated case information forms,
- b). Disposal of related cases resulting from mediated settlement,
- c). Reviewing questionnaire data,
- d). Civil settlement rates to date.

**IV). Other items :**

- a). Signs explaining mediation,
- b). Clarifying role of Advocates,
- c). Written confidentiality agreements,
- d). Others.

Under the inspiring guidance of Hon'ble Mr. Justice Madan B. Lokur, the monitoring committee was able to ensure :-

- i) That there was no unequal distribution of work;
- ii) That mediators got cases equally;
- iii) That cases under section 138 of the Negotiable Instrument Act, 1881 which required lesser time for resolution were evenly distributed;
- iv) That priority was given to cases other than cases under Section 138 of the Negotiable Instrument Act, 1881, which were separate categories in themselves;
- v) Regular meetings were held with Judges to ensure that cases were sent on a regular basis to the Mediation Centre;
- vi) Referring Judges were encouraged to send only those cases that were likely to be settled and were discouraged from dumping cases or sending very difficult cases;
- vii) The computer software that was produced in house indicated

adequately the statistical data qua cases received and resolved through mediation and cases found not fit for mediation;

viii) The cause list of the Mediation Centre was properly maintained, that the registers of the Mediation Centre were properly maintained;

ix) Specific timings were given to litigants who were thus not made to wait the whole day;

x) There was no overflow of work on any given date or at any given time;

xi) There was no under utilization of time or resources;

xii) The feedback forms for the lawyers and litigants were promptly filled up before they left the Mediation Centre;

xiii) The mediator does not have any cases listed in Court on the day he / she is mediating, so as to avoid inconvenience to litigants;

xiv) The committee explored the possibility of a mediator sitting for more than one day a week, if he / she was so inclined, as the eventual idea is to have full time mediators;

xv) Provide for a back up arrangement in case the mediator or the Staff Incharge proceeds on leave;

xvi) Mediation pamphlets are freely available in English and Hindi at the Mediation Centre, the Courts of Referring Judges, and at the Filing Counter.

### **Recognition of efforts**

The successes and efforts of the Delhi Mediation Centre and the uniqueness of judicial mediation have been duly recognized outside Delhi. One Trainer-Mediator of the Delhi Mediation Centre, Dr. Sudhir Jain was invited to deliver two lectures as a Resource Person in a workshop held at the National Judicial Academy at Bhopal during 07.04.2006 to 12.04.2006 qua Mediation, Conciliation, Arbitration and Negotiated Settlement which was attended by 40 Addl. District & Sessions Judges from across the country. The two lectures delivered by Dr. Sudhir Jain were on 'Role of Referral Judges in Mediation'; and 'Role of ADR in Labour disputes'. Apart from the above, two practical Sessions were also conducted. Two Officers of the Delhi Higher Judicial Services, Mr. A.K. Chawla and Sh. T.S. Kashyap had also attended the said workshop.

Two lectures on the 'Techniques of Mediation' to the 11 new entrants of the Delhi Judicial Service were also delivered by Dr. Sudhir Jain on 25.03.2006 at the Delhi Judicial Academy, where practical sessions on Mediation were also conducted. Even before the Mediation and Conciliation Rules were notified on 11.08.2005, cases had been referred to Mediation by the Hon'ble Supreme Court and by the Hon'ble High Court and by the District Courts to two of the Mediators, Mr. M.L. Mehta and Dr. Sudhir Jain whereby several cases referred to mediation were settled.

A Foundation Training Programme in mediation procedures was organised by the Judicial Officers' Training & Research Institute, High Court of Madhya Pradesh and M.P. State Legal Services Authority on 8<sup>th</sup> and 9<sup>th</sup> July, 2006 at Jabalpur. Twenty advocates including many senior advocates and ten Additional District Judges participated in the training programme. The inaugural session was attended by the Hon'ble Chief Guest, Hon'ble Mr. Justice S.B. Sinha, Judge, Supreme Court of India, Hon'ble Mr. Justice Anang Kumar Patnaik, the Chief Justice of the Madhya Pradesh High Court, Hon'ble Mr. Justice Dipak Misra, Chairman, High Court Training Committee and Judge, High Court of Madhya Pradesh, Hon'ble Mr. Justice Madan B. Lokur, Judge, High Court of Delhi and by the Hon'ble Judges of the Madhya Pradesh High Court, Judicial Officers and Advocates. Hon'ble Mr. Justice S.B. Sinha, the Chief Guest dwelt on the importance of mediation as an Alternative Form of Dispute Resolution and the need to have recourse to mediation in a big way.

National Judicial Academy, Bhopal followed by another informative lecture by Dr. Sudhir Jain on the Role of Information and Communication Technology in the Management of Mediation on 30.07.2006 both at the National Judicial Academy, Bhopal.

### Visitors

The news of the success of the Delhi Mediation Centre has reached overseas.

Distinguished visitors from distant lands have visited the Tis Hazari Mediation Centre till July, 2006. They are :-

**14.06.2006** - A Tanzanian delegation amongst whom were Hon'ble Dr. Justice S.J. Bwana, Hon'ble Judge, High Court of Tanzania, Commercial Division and Hon'ble Ms. Eliamani G. Mbise, Registrar Commercial Court, High Court of Tanzania, who evinced a keen interest in the mediation programme. They also watched the training being imparted by **Mr.G.P. Mittal**, Judge Incharge and Coordinator of the said Mediation Centre (Tis Hazari)<sup>s</sup> and Dr.Sudhir Jain, Mediator to the judicial officers.

**12.07.2006** – A delegation of Chinese legal experts headed by Mr. Liu Zhongding, Deputy Director-General, Shanghai Judicature Bureau visited the Tis Hazari Mediation Centre. The other delegates were :-

1. Mr. Zhao Jun, Director-General, Judicature Bureau, ZhaBei District, Shanghai City.
2. Mr. Zhang Ronghua, Director-General, Judicature Bureau, Qingpu District, Shanghai City.
3. Mr. Zhu Junhua, Division Chief of Audit Section of Shanghai Judicature Bureau.
4. Ms. Lin Yi, Vice-Principal of Shanghai Judicature School.
5. Mr. Lu Gang, Deputy Chief Judge, People's Tribunals of PuDong New District.
6. Ms. Ye Chixian, Deputy Section, Chief of Shanghai Judicature Bureau.

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5. Since 11.08.2006, **Sh.B.B.Chaudhary**, Additional District & Sessions Judge, Delhi has taken over as the Judge Incharge and Full time Coordinator (Mediation), Tis Hazari Mediation Centre.

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6. The second year commencing from August, 2006 has brought more visitors. They are :-

**02.08.2006** - A delegation from the Hon'ble Supreme Court of Sudan, i.e. :-

Hon'ble Dr. Wahbi Mohamed Mukhta Salih,  
Deputy Chief Justice.

Hon'ble Mr. Ali Ahmed Mahgoub, Director  
General for Courts Administration.

Hon'ble Ms. Rabab Mohamed Mustafa ,  
Judge Supreme Court of Sudan.

Hon'ble Mr. Chan Reech Bulpini, Judge,  
Supreme Court of Sudan.

who were accompanied by  
Ms. Walid Hussein – UNDP – Programme  
Specialist.

Ms. Ayesha El Bereir – UNDP – Liason  
Officer.

Mr. Mike Albers Stevens – UNDP, Project  
Manager.

Ms. Dharampreet – Team Leader – SAJI  
Project of UNDP and Government of India.

7. The second year commencing August, 2006 has fortified the benefits pursuant to the setting up of the Delhi Mediation Centre. Sh. K. Ashok Babu, District Judge, Krishnagiri, Andhra Pradesh visited the Tis Hazari Mediation Centre, at Tis Hazari District Courts on 17.08.2006, and took the mediation material from [Sh.B.B.Chaudhary](#), Judge Incharge and Coordinator, Tis Hazari Mediation Centre, Delhi and handed over the same to Sh. Sri N. Vidya Prasad, Member Secretary, A.P. State Legal Services Authority, Hyderabad, for information of the Patron-in-Chief and the Executive Chairman. The result – a Mediation Centre, was set up attached to the Permanent Lok Adalats in the twin cities of Hyderabad and Secunderabad, and Sh. K. Ashok Babu, whilst assuming charge as the Chairman of the Permanent Lok

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Adalat for Public Utility Services, Hyderabad, also took over as Incharge of the Mediation Centre run on Delhi lines.

K. Ashok Babu,  
Chairman

Permanent Lok Adalat for  
Public Utility Services,  
Hyderabad.

August, 31 2006

Dear Sri Chowdary,

I have assumed charge as the Chairman, Permanent Lok Adalat for Public Utility Services, Hyderabad, today F.N., and I am made in charge of the Mediation Center, run on Delhi lines, which is attached to Permanent Lok Adalats in the twin cities of Hyderabad and Secunderabad.

I have handed over all the material collected from you to Sri N. Vidya Prasad, Member Secretary, A.P. State Legal Services Authority, Hyderabad, for information of the Patron-in-Chief and the Executive Chairman.

I am enclosing 4 (four) snaps taken in the Mediation Center, New Delhi, two of which you may hand over to Sri Dharmesh Sharma and another colleague.

With regards,

Yours sincerely,

*K. Ashok Babu*

K. Ashok Babu

Sri B.B. Chowdary,  
Additional District Judge &  
Officer in-charge,  
Mediation Center,  
Tis Hazari Courts Complex,  
DELHI.

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- 8 **23.08.2006-** A delegation from the USA visited both the Tis Hazari Mediation Centre and the Karkardooma Mediation Centre i.e. :-

Hon. Jeremy Fogel, Judge, U.S. District Court (San Jose)

Hon. Richard Seeborg, Magistrate Judge, U.S. District Court (San Jose)

Christopher Sonderby, DOJ IP Law Enforcement Coordinator for Asia and Attache at the U.S. Embassy in Bangkok, Thailand (Bangkok, Thailand)

Christopher Merriam, International Coordinator for IP, Computer Crime & IP Section, DOJ (Washington, D.C.).

I. Neel Chatterjee, Partner, Orrick, Herrington & Sutcliffe UP (Silicon Valley)

Victor Schachter, ISDLS Board of Directors, Partner Fenwick and West LLP (Mountain View and San Francisco)

Stephen A. Mayo, Executive Director, ISDLS (San Francisco)

Elizabeth Gadbow, Program Associate, (ISDLS)



whose valued comments in the Visitors' Book at the Tis Hazari Mediation Centre say it all :-

<b>Date</b>	<b>Name</b>	<b>Address</b>	<b>Your Valued Comments</b>
23.08.2006	Victor Schachter	U.S.A.	Congratulations on this excellent Mediation Centre.
23.08.2006	Christopher Merriam	US Department of Justice	Thank you for the tour – very educational.
23.08.2006	Neel Chatterjee	U.S.A.	Thank you and congratulations. Your Centre is very impressive.
23.08.2006	Elizabeth Gadbow	ISDLS, U.S.A.	Thank you for the wonderful tour!
23.08.2006	Christopher Sonderby	US DOJ, Embassy Bangkok	Very impressive progress. Thanks for the tour and hospitality
23.08.2006	Stephen A. Mayo	ISDLS	Very proud of the significant accomplishment of the mediation centre.
23.08.2006	Jeremy Eobel	US District Court Judge	A most impressive accomplishment. Congratulations !
23.08.2006	Richard Seeborg	US Magistrate Judge	It is a pleasure to join you again and see what tremendous progress has been made. Congratulations !

## II MEDIATION – ITS PROCESS

### **Raison d'Être :**

The Justice Delivery System presently is overburdened due to a docket explosion, due to increased public awareness of rights on account of education, the development of the Welfare State, urbanisation and waning of the non judicial traditional dispute resolution institutions.

### **What it is ?**

Mediation is a remedial attempt to resolve disputes through settlement, rather than the mere disposal of a case, which nevertheless may still leave one party to the 'lis' dissatisfied, resulting into appeals and revisions. It is a voluntary non binding process in which an impartial and neutral mediator assists the parties to reach an agreement. A mediator does not impose a solution, but creates an atmosphere under which parties can resolve their disputes, often much beyond the ambit of that particular litigation, by reaching the underlying root cause of disharmony and discontent between the parties, by assisting the parties to cultivate a thought process, through a non binding confidential negotiation, to come forth with creative remedies which would be helpful to both the parties through the ultimate resolved solution. The mediator assists each of the parties to understand the opposite party's point of view, interests and priorities and to help the parties to assess alternatives to agreements and put the issues in a case aside and work to resolve the underlying causes of the disputes, thereby giving both sides a sense of satisfaction and vindication.

***Mediation is a structured, negotiation process, where a neutral uses specialized communication and negotiation techniques to assist the parties in resolving their disputes, whereby both sides are happy with the result and both rise in public estimation.***

### **MEDIATION SESSIONS**

A mediator meets both the parties in a joint mediation settlement, introduces them to each other, explains the mediation process, establishes that the mediation proceedings are a

### **THE ROLE OF A MEDIATOR IS :-**

- i) to manage interaction between the parties; facilitate communication between parties, reduce mis-understandings;
- ii) to identify barriers to agreements, to identify the interests of the parties, to develop the terms of the agreement, - whilst remaining wholly impartial and neutral, maintaining confidentiality qua all information received confidentially from the parties, whether oral or documentary, and emphasizing that it is the responsibility of the parties to take decisions which effect them, without imposing any terms of settlement on the parties whilst maintaining reasonable expectations of the parties, and refraining from making promises or guarantees of results.

Rule 17 of the Mediation and Conciliation Rules, 2004 provides that the parties shall be made to understand that the mediator / conciliator only facilitates in arriving at a resolution to resolve the dispute, that he will not and cannot impose any settlement, nor does the mediator / conciliator give any assurance that the mediation / conciliation will result in a settlement and that the mediator / conciliator is not to impose any decision on the parties. *Thus the parties alone are responsible for their own decisions which come forth through the absence of formality of court procedures and through open discussion of issues and free interchange of ideas resulting into a greater likelihood of a lasting resolution.*

*A copy of the Mediation and Conciliation Rules, 2004, as amended is annexed hereto as Annexure A-1.*

### **MEDIATION – ITS BENEFITS**

By resorting to judicial mediation, disputes and cases are resolved fully or partly without going through the full trial, thus avoiding the delay incurred in a regular trial, resolving the disputes much sooner than a trial. It helps a mutually acceptable solution being arrived at which the Court would often not have the power to order, saves time and money, preserves ongoing business and personal relationships, increases satisfaction and thus results in a greater likelihood of a lasting resolution. Furthermore, where a

matter has been referred to mediation in terms of Section 89 of the CPC, then in terms of Section 16 of the Court Fees Act, 1870, the Court Fee paid on a lis is liable to be refunded to the plaintiff.

The salient benefits of mediation can be crystallized as follows :-

- ✧ Prompt
- ✧ Economical/No Costs
- ✧ Convenient
- ✧ Win-win situation
- ✧ Creative solutions/remedies
- ✧ Resolution of disputes
- ✧ Harmony
- ✧ Parties control outcome
- ✧ Informal
- ✧ Private
- ✧ Confidential

### **MEDIATORS–WHO CAN BE SO NOMINATED/ APPOINTED**

Rule 2 of the Mediation & Conciliation Rules, 2004 provides for the parties to a suit or proceeding agreeing upon a name of a mediator/conciliator for mediating between them, and Rule 3 of the said Rules also provides for the creation of a panel of mediators by the Hon'ble High Court of Delhi and by the Ld. District & Sessions Judge, Delhi, after obtaining the consent of the persons so included in the panel before empanelling them. The said panel may comprise of retired Judges of the Hon'ble Supreme Court of India, retired Judges of the Hon'ble High Courts, retired District & Sessions Judges or retired Officers of the Delhi Higher Judicial Services, District & Sessions Judge, Delhi or Officers of the Delhi Higher Judicial Service;

- i) Legal Practitioners with at least 10 years standing at the Bar at the level of the Supreme Court or the High Court or the District Courts;

- ii) Experts or other professionals with at least 15 years standing; and
- iii) persons who are themselves expert in mediation / conciliation.

Under the guidance and supervision of the MCPC, the Delhi Mediation Centre has opted to have Judicial Officers of the Delhi Higher Judicial Service as Mediators. As the number of cases referred for mediation increases, the Delhi Mediation Centre will further train retired Judicial Officers and advocates as Mediators.

### **MEDIATION – ROLE OF ADVOCATES**

The advent of mediated case settlement in the legal system is a new professional opportunity for lawyers as it has opened doors to many litigants who were previously intimidated by the legal system. Judicial mediation is provided free of cost in the Delhi Mediation Centre giving access to them. *Advocates play a different and important role in this process and though they always represent the client's interests rather than argue adversarially as they would in Court, they assist clients by helping them propose and consider settlement options in the light of their clients long term best interests.*

The effective participation of lawyers in the mediation pilot programme at Delhi has helped to dispel all doubts, if any, that the mediation process would adversely affect the advocates in their professional activities in any manner. With the increasing success of settlement rates through mediation, satisfaction of clients of advocates is bound to increase, substantially, resulting necessarily in increase of professional work for advocates correspondingly, as commercial entities prefer to spend less time litigating and allowing them to dedicate more time and energy towards their enterprise. The increase in quick resolution of civil matters including divorce, dowry, maintenance, partition suits, suits for injunctions, cases under the Negotiable Instrument Act, recovery suits, has helped many previously inhibited and hesitant, to seek redressal of their grievances and vindication of their rights, and has thus widened professional opportunities to advocates.

## **ACHIEVEMENTS PURSUANT TO SETTING UP OF MEDIATION CENTRES**

- i). Mediation through Officers of the Delhi Higher Judicial Service provided free of cost to litigants.
- ii). The creation of a harmonious informal atmosphere in the Mediation Centres within the Court complexes with polite and helpful personnel.
- iii). Many cases of various kinds referred to Mediation have been settled; that is - suits relating to recovery, landlord / tenant disputes, matrimonial cases relating to petitions for maintenance, execution of maintenance orders, cases under Section 498A / 406 of the IPC, 1860, Partition Suits, Suits for Permanent Injunction, Labour Management Disputes, cases referred by the Hon'ble Supreme Court and Hon'ble High Court of Delhi.
- iv). From experience gained, modifications are proposed in the Mediation & Conciliation Rules, 2004 framed by the Hon'ble High Court of Delhi.
- v). NALSA Pamphlets on Mediation published and circulated, both in English and Hindi.
- vi). A pamphlet on mediation by the two Mediation Centres has been designed, published and circulated by the Delhi Mediation Centre.
- vii). Guidelines for Referral Judges have been circulated.
- viii). The monitoring of statistical data at the Mediation Centres at Tis Hazari and Karkardooma has been invaluablely aided by the Computer Software designed and developed wholly by the computer personnel of the District Courts of Delhi, headed by Mr.Gaurav Walia (MCA), LDC, Computer Branch, Tis Hazari Courts, Delhi.
- ix). The preparation of a documentary is underway so that adequate publicity is given to the process of mediation, the setting up of the two Mediation Centres at the District Courts at Delhi and the benefits of mediation.

- x). A website is also to be launched soon.
- xi). Free Beverages and Water Facility provided to the participants during mediation, through innovative budgeting initiated by the then District Judge, Delhi, now Hon'ble Mr. Justice S.N.Dhingra, Judge, High Court of Delhi, Hon'ble Mr. Justice P.K.Bhasin, Judge, High Court of Delhi, Hon'ble Mrs. Justice Aruna Suresh, Judge, High Court of Delhi and now by the present Id. District Judge, Delhi, Mr.V.B. Gupta.

## **PROPOSALS FOR THE COMING YEAR**

1. *Adequate publicity of the setting up of the Mediation Centres both at the Tis Hazari and Karkardooma Courts through Media i.e. Newspapers, Publications, Television and Radio Talk shows, setting up of Sign Boards in the District Courts with basic benefits of Mediation at focal points,*
2. *Expansion of the mediation programme at the Delhi District Courts by bringing mediation to the doorsteps of the litigants even at the Patiala House Courts, New Delhi and the Rohini Courts, Delhi.*
3. *More frequent discussions with Referral Judges in groups of 3 / 4 Officers by a Monitoring Committee at each Centre which must always exist, so that appropriate cases are referred to Mediation, controlling thereby the increased influx of inappropriate cases being referred to mediation affecting the credibility and effectiveness of the Mediation Centres ultimately.*
4. *Regular meetings of Mediators to discuss and share their problems, experiences, and to put forth suggestions for improvements.*
5. *Facilitating transmission of records referred to the Mediation Centres and back from the Mediation Centres to the Referral Courts in time.*
6. *Pendency at the Mediation Centres will be zeroed down by equal distribution of work, and keeping the ranks of Mediators intact with expansion, from time to time, as required.*
7. *Officers of the Delhi Higher Judicial Service, at the verge of retirement, after consenting to the same, may be trained as Mediators and thereafter be nominated to the panel of Mediators.*
8. *Number and nature of cases pending between the parties be mentioned in the Referral Order so that the entire gamut of the issues involved is known to the Mediator.*
9. *Presence of parties and/or their authorized representatives be secured, and mode and manner of implementation of Rule 13*



*of the Mediation & Conciliation Rules, 2004, as amended will be actively considered for issuance of 'appropriate directions' by the Court on a party's failure to attend a session or meeting notified by the Mediator willfully. Furthermore, the ambit of the said 'appropriate directions' be specified or illustrated.*

- 10. The aspect of non-compoundable offences which arise out of family disputes, where parties are willing to forget their inimical and harsh feelings, being amenable to mediation proceedings, with settlements between the parties qua quashing of proceedings by the Hon'ble High Court and the Hon'ble Supreme Court may be considered.*
- 11. An ample budget for proper functioning of the Mediation Centres autonomously.*

### III REFERRALS

#### IMPORTANCE OF REFERENCE OF APPROPRIATE CASES FOR MEDIATION

I The general statistical report of virtually each day brings forth that several cases referred to the Mediation Centre for mediation, were not fit for mediation ( TIS HAZARI – 20.42% and KARKARDOOMA – 22.57% as of 31.07.2006 ) — which results into a loss of several ‘Mediation hours’. The reasons why the cases have been found to be not fit for mediation as brought forth on a perusal of the records sent to the Mediation Centre are :-

1. *Where the parties have adamant and rigid stands and do not intend changing their views:*

*Illustrations* of this category are:

- (a) Recovery cases where according to the defendant there is not a penny due to the plaintiff;
- (b) In Motor accident claim matters where the respondent is not willing for any settlement and has denied the case of the petitioner altogether and had declined to make any payment of compensation at all;
- (c) Matrimonial cases where one spouse wants to live with the other, and the other spouse does not want to live with that spouse under any circumstance, and the spouse who wants to live with the other, is not inclined to go in for a divorce at all, thereby negating the probability of any settlement between them, that is neither through reconciliation, nor through a consensus to seek a divorce through mutual consent;
- (d) Where the disputing spouses have stated before the Court that they want to live together but have not specified the modes in which they want to live. For example, when the husband wants to live in a rented house, and states that he has been disowned by his family

members and the wife insists that she would live with the husband, only if he lived with his parents, which makes it apparent that the matter cannot be settled as parties have rigid stands and *only intend harassing each other*, and the reference of such matters to mediation results into a loss of about 4 hours of mediation;

(e) Labour matters where also the workmen and Management have adopted resolute stands.

***2. Cases where one of the parties themselves seek that the matter be sent for mediation with intent to delay the proceedings and there being no evidence of good faith intent to settle, eg. cases where anticipatory bail is sought.***

***Illustrations of these kinds are :***

(a) Where despite the prayer made to the Court that the matter be referred to mediation that very party does not put in appearance before the Mediator or sends a person who has no authority to negotiate: For example :

A case was referred to the Mediation Centre in a matrimonial dispute. The petitioner did not put in appearance despite the matter having been taken up on two dates of hearing and thereafter the matter was sent back to Court, and was once again referred back to Mediation on some explanation having been put forth by the father of the petitioner as to why she could not appear. Despite the matter having been taken up even thereafter on two days, the petitioner did not appear and initially put forth an explanation that she had to appear in an examination and on the next date of hearing, her counsel stated that she was not interested in mediation and thus the case had to be sent back to the Court as not settled, with approximately 5 hours of mediation time having been spent to no avail.

(b) There are several cases which have been referred to mediation in which only counsel and proxy counsel have appeared and requested for time for appearance of their clients, and despite notices sent to the parties which have been served, they have not chosen to appear.

(c) Anticipatory bail matters in matrimonial offences under Sections 498-A/406 IPC, 1860 where the intent of the accused is only to delay the proceedings and to evade arrest on the plea that they want to settle, but in fact they do not want to do so and are only gaining time, cases where the accused has just been released on bail under section 498A/406 IPC 1860, and it is too early to negotiate due to hard feelings.

(d) Where both parties have sought reference of the matter to mediation only to delay the proceedings.

3. *Where too many parties are involved and unless all parties have a very positive frame of mind, the case should not be referred to mediation.*

*Illustration* of this has been a case for partition in which the statements were also recorded where three of the parties to the suit were represented by counsel and after signing on behalf of his clients, the counsel thought that it would be better that the litigants sign on the agreement, whereafter the matter was adjourned for the appearance of the litigants to sign, on which date the other party not represented by that counsel was no longer agreeable to settle the matter.

4. *Where one party / both parties completely oppose/opposes the matter being referred to mediation and there exists no element of settlement which may be acceptable to the parties. The matter ought not to be referred to mediation, for in such cases the litigant / litigants states / state before the Mediator that they had not consented for the matter being referred to Mediation.*

*Illustration* : In a suit for injunction against sale of property where the defendant states that he has already sold the said property.

5. *Matters with criminal over tones, such as cases under Sections 302/307/468/471 of IPC, 1860, where parties seek*

*to settle the matters in criminal cases which are not compoundable. In these cases the Mediation Centre cannot be made party to litigants consenting inter-se to turn hostile before the Court and thus such cases ought not be referred to the Mediation Centre. A view has however been expressed by a Ld. Referral Judge that in cases which are non-compoundable, but involve family disputes, and where the parties are willing to forget their harsh feelings inter se, cases even in relation to criminal offences be made amenable to mediation, and the parties may agree to settle to seek quashing of the proceedings before the Hon'ble High Court and the Hon'ble Supreme Court.*

- 6. Cases involving several diverse, complex legal implications, also ought not to be referred to mediation, and the Mediation Centre ought not be utilised for merely dumping cases of a difficult nature.*
- 7. Cases which are at a very early stage, where even pleadings are not on the record, be preferably not referred, as issues thus are not specified.*
- 8. Cases where one party is clearly on the wrong side of the law, for example a case where a woman married thrice, and her third husband filed a divorce petition, on the admitted ground that the lady had not obtained a legal divorce from her two earlier husbands.*

## **II. ADVANTAGES OF REFERENCE OF APPROPRIATE CASES TO MEDIATION.**

Disputes between litigants settle in a cordial atmosphere much faster than a trial in the Court and ongoing business or personal relationships between the litigants are preserved and mutually acceptable solutions are arrived at, through open discussions of issues, for which the parties to the lis are responsible. A mediated settlement results into a lasting resolution decreasing thus the likelihood of revisions and appeals and helping effectively tackle the issue of pending backlog of cases in Courts. Furthermore, often disputes between parties result into several litigations in Court or before other forums, and through the mediated result all disputes between the parties beyond the ambit of the dispute in a particular case referred to mediation are also settled. The reference of appropriate cases to mediation by the Courts also results into reduction of pendency in the docket of the referring Court.

Guidelines for Referral Judges and the Requisite Referral Order format to be filled in before referring the matter to Mediation have been formulated and copies of the same are annexed hereto, as Annexures A-2 and A-3 respectively.

It has been observed that not all Referral Judges are filling in the Requisite Referral Order format, which gives an opportunity to litigants and their counsel to state before the Mediator that they had never agreed to the reference of the lis to Mediation. Thus, the necessity and relevance of the Referral Order being made cannot and must not be overlooked by the Referral Judge.

**IV****FEED BACK FROM LITIGANTS AND ADVOCATES**

A Confidential Questionnaire for assessing the effectiveness and quality of the mediation project is given to each litigant and each lawyer who participates in the mediation process to ascertain whether participating in the mediation process had been helpful to them and also in order to assist the Mediation Centre in making adjustments in the mediation procedures to make them as useful as possible. In order to ensure anonymity and to receive honest comments from the consumers of the Mediation program, counsel and the litigants have been requested not to sign the questionnaire and the filled-in questionnaire is fully confidential with no scope of any repercussions.

The questionnaire seeks to ascertain :

- (a) How the litigant and the counsel felt about mediation before commencing the mediation proceedings; whether they were opposed to the same or had no opinion or favoured for the same;
- (b) whether the mediator expressed the mediation process clearly in a way that could be understood;
- (c) whether the mediator assured the participants of confidentiality;
- (d) whether the mediation process was helpful in
  - clarifying the legal issue.
  - clarifying the party's underlying concerns and interests.
  - improving the relationship between the parties.
  - providing litigants an opportunity to resolve their dispute ;
  - or any other way.
- (e) Whether the case settled; and
- (f) Opinion about the amount of time the mediator spent - whether it was enough or too much time; or appropriate.

- (g) whether the mediator assisted the parties in negotiating their own agreement;
- (h) whether the mediator pressed the parties to accept his/her idea of what the agreement should be;
- (i) If the case did not settle whether mediation improved the chances of settlement.
- (j) whether the mediation process was fair and if the participant thought it was unfair, as to why it was considered unfair;
- (k) After the mediation process had been completed, how the consumer felt about it;
- (l) Name of the mediator;
- (m) Nature of the case;
- (n) The types of cases the consumer thought were suited for mediation ; and
- (o) whether they had any comments or suggestions for improvement of the programme.

A perusal of some of these confidential questionnaires brings forth that the mediation process has generally been approved by the consumers that is litigants and their counsel, who have been satisfied with the same and have expressed that the mediation process has been fair and that the mediators have assisted the parties in negotiating their own agreement without pressing upon the parties to accept their idea of what the agreement should be. Some of the participants have expressed that the mediation program may be thought of as a permanent arrangement with permanent mediators, whilst expressing that the whole process had been extremely purpose oriented and fast.

There have also been views expressed that matters which would have taken years to be sorted out have been settled expeditiously to the betterment of quarreling spouses and their children in a cordial atmosphere which had saved harassment to them. The general observations of the consumers participating in the mediation program have been that the mediation process is convenient, inexpensive and results into speedy disposal, efficiently in a harmonious



atmosphere, where they do not even feel that they are in the Court, despite the Mediation Centres being situated in the Court complexes.

There have also been views expressed that mediation centres should be promoted all over India, as people are scared to go to Courts and litigation takes several years and decision making should be fair and fast. There are views also expressed that when the litigants have felt completely disillusioned by the litigation process which has not given any adjudicated result, despite lapse of time, the reference of a matter to mediation has resulted in speedy, fair, harmonious disposal of the 'lis'.

It has been the general opinion of all litigants and consumers that the mediators and the supporting staff were very co-operative and very helpful towards them.

### **SOME SUGGESTIONS THAT HAVE COME FORTH THROUGH THE CONFIDENTIAL QUESTIONNAIRES**

1. Setting up of mediation centres and the process of mediation be given adequate wide publicity through the media (that is T.V., Radio talk shows) so that the general public is made aware of the advantages of mediation. The mediation process should be made more public as most of the litigants are not aware of such a process that advocates generally do not recommend the same for obvious reasons. Though a litigant in a matrimonial dispute, had to pay much towards alimony and maintenance, it was nevertheless agreed that the mediation process was a good process.
2. Number of Mediators be increased and Mediators be persons who understand both law and practical aspects.
3. Mediation Centres and a mediation programme be made a permanent arrangement.
4. Mediation Centres be promoted all over the country.
5. Mediation Centres be situated on the ground floor as presence of the advocates is not compulsory [This is with reference to the Mediation Centre at the Tis Hazari District Courts which is situated on the 3<sup>rd</sup> Floor. The Mediation Centre set up recently at Karkardooma Courts on 5.5.2006 is on the ground floor].
6. Pre-litigation mediation be commenced.
7. For the proper implementation of a mediated settlement and for any undetermined points, a provision for a follow up meeting be made.
8. Apart from Judicial Officers, other respectable persons of the society be joined into the effort for settlement through Mediation.
9. The mediator could have given more time for settling the disputes and should have made more personal efforts to improve the chances of settlement. It has also been expressed that the system and atmosphere at the Mediation Cell should be more familiar and should not be like Indian Courts, and that a more personal touch to parties would be highly appreciated.

10. Mediation proceedings took a lot of time, though less than the routine time consumed in the regular decision of a case and it was also felt by the litigant that for a false claim, there was no fixed criterion to find a solution by way of mediation and the basis of this was only from the face of the record. This was despite the fact that the matter concerning this litigant had been settled.

11. For the first time in dealing with the legal system for the last 5 years, the litigant found some hope, faith and relief in the process and has expressed further that if the mediation process had begun 5 years ago, both sides would have saved lots of precious time and money. It was also expressed that this program should be widely spread even to lower courts (the case was referred by the Hon'ble Supreme Court). It was also expressed that the number of mediators should be increased and there should be talk shows on TV, Radio to propagate the concept and that whoever had started it, had done a great job. Another view was expressed that the mediation process was very clear, which cleared the doubts of both parties in legal parlance, confidentiality was maintained and advocates were not required, though this litigant felt that the mediation process did not improve the relationship between the parties, though the case settled as he claimed that personal and social relationships amongst parties are on a different footing. It was also expressed that the Mediator should be a person who not only understands law but also practical aspects.

12. Despite a case having been settled in a matrimonial matter, it was expressed that for matrimonial mediation cases, there should be a lady mediator appointed as they have a more emotional touch and reconciliation of the parties should be the motive of mediation, rather than settlement or else a Reconciliation Cell should also be there.

#### **SOME VIEWS EXPRESSED BY LAWYERS ARE :-**

1. The setting up of Mediation Cell was the best method for settlement of a case.

2. A senior counsel of the District Courts expressed that mediation was a very good process but apart from Judicial Officers, other influential members should also join in the mediation effort.

3. A Mediation Centre is very important and very useful for family disputes, property disputes, landlord – tenant disputes and is helpful in imparting justice.

**SOME GENERAL VIEWS EXPRESSED ARE :-**

1. Time limits are essential and punctuality has to be observed by both the parties and the mediator.
2. It is a very good process to solve any matter very easily.
3. Financial and other personal disputes should be settled through mediation only, which is the best way to settle them amicably.

A sample of the request for filling in the questionnaire to assess the effectiveness and quality of the mediation project and a copy of the said confidential questionnaire are annexed hereto as Annexures A-4 and A-5 respectively.

### ***FEED BACK FROM REFERRAL JUDGES***

Most of the Referral Judges whose cases have been settled have opined that :-

- i). Reference to Mediation has disposed of the 'lis' sooner than trial as the parties have felt more comfortable in bringing forth their problems and underlying interests and root causes of discontent.
- ii). Reference of cases to Mediation has saved judicial time, helping thus in reducing the back log of pending cases on their dockets.
- iii). Settlement through Mediation has been faster than settlement through the permanent Lok Adalat qua electricity matters as some cases have been settled in fifteen days.
- iv). A Referring Judge has expressed that 90% to 95% cases referred by him of which approximately 6 were of the 1980s, that is suits for injunction were settled harmoniously, expeditiously and effectively through resultant partitions that were settled through judicial mediation.
- v). Where a number of cases referred to Mediation by a Referral Judge have been settled thereby, when some cases are returned not settled they have opined that more efforts ought to have been made by the Mediators and that the cases ought not be sent back on the same day that they are taken up for Mediation the first time. These Referral Judges have also stated that some of the cases referred by them have been settled after there has been no settlement at the Mediation Centre, after efforts made by the Referral Judges in their Courts.
- vi). Some Referral Judges whose cases were initially settled through Mediation, and whose subsequent referrals have not been settled have stated that they have started slowing down referrals.
- vii). A Referral Judge has expressed that if parties do not reach within time, the Mediators may wait a little, rather than return the matter to the Referring Court. Another view expressed by this Referral Judge, whose cases have all been settled except one, was that he makes efforts himself in Court, and after the parties reach a fair stage of settlement, and differ on terms, then only, does he refer the matter to Mediation.

### ***FEED BACK FROM THE MEDIATORS***

- i). Where a case has been settled through the efforts of the Mediator, it has given much satisfaction to the Mediator. The Mediators have been able to cultivate a thought process to come forth with creative remedies which would be helpful to both the parties to reach to the ultimate resolved solution; they have been able to help parties understand their respective points of view, interests and priorities; to assist the parties to assess alternatives to agreement and help them to put the issue in a case aside and work to resolve the underlying causes of the dispute,
- ii). Most Mediators are unanimous in their point of view that influx of inadequate referrals has increased and that cases which are not fit for Mediation, or where the parties have a resolute stand, are being referred to Mediation at a very high percentage which ought to be prevented. Another view expressed was that by and large the referrals are good, and no system can be foolproof.
- iii). Some cases not settled before the Mediator are reported to have been settled before the Referral Judge on return, making it apparent that the Mediation proceedings have helped in parties changing their attitudes, shifting and mellowing from resolute stands and in resolving their disputes, and that thus the Mediation proceedings have not been in vain but rather the thought process through the mediation proceedings has resulted ultimately into a resolution of the dispute.
- iv). A view expressed by a Mediator was that the referral order was being sent without taking signatures of parties and the parties outrightly state that their consent was not taken, and that the same be avoided.
- v). Another view expressed was that in petitions under Section 9 of the Hindu Marriage Act, 1955 as amended, where both state that they want to live together, but have rigid stands qua their modes of convenience of living together, they in fact do not want to live together, and that such cases generally do not settle, and thus, be referred with caution.

vi). Lack of punctuality in appearance by parties and their Advocates (Karkardooma), wastes Mediation hours.

vii). A view expressed was that just as an award given by the Lok Adalat in terms of the Legal Services Authority Act, 1987 is deemed to be a decree of the Court, in terms of Section 21 thereof, a similar provision be incorporated into the Mediation and Conciliation Rules, 2004, as amended, as there are cases now coming up where despite reasonably fair and good settlements arrived at, people have started resiling from the agreements entered into during mediation proceedings, on the matter being returned back to the Court after a report of settlement by the Mediator.

viii). Another view expressed was that cases be not referred, without having secured the presence of authorized persons on behalf of the parties, before the Mediators, or else that often results into delay in the Mediation proceedings, and also at times, in the authorized persons never appearing before the Mediator.

ix). It has also been expressed that care should be taken that where parties are ex parte, the matter ought not to be referred to mediation. In a particular case, however due to the efforts of a Mediator, the parties agreed in a suit for partition to give the rightful share to that exparte party.

x). Another view expressed was that at the Mediation Centres, there should be proper space for parties to sit separately to discuss the matters privately, before and during mediation sessions (such a room is available at the Karkardooma Mediation Centre, but not at the Tis Hazari Courts).

xi). It has also been expressed that newspapers, reading material, family magazines with aspects of mediated settlements be made available to the parties, whilst they are waiting for their turn before the Mediator, as the same has a psychological soothing effect on frayed, highly strung nerves.

xii). A view expressed by a Mediator was that there should be equal distribution of cases, subjectwise, to each Mediator, (that is cases

under section 138 of the Negotiable Instruments Act, 1881, Recovery Suits, MACT Cases, Matrimonial Matters, Partition Suits, Injunctions), that is each Mediator ought to be referred both the difficult and simpler kinds of cases.

xiii). Another view expressed was that the Mediators should be given an orientation of the matters that they have to deal with, that is MACT, Labour, Compensation matters, so that they gain proficiency in evaluating a reasonable quantum settlement.

xiv). Where matters qua family disputes (be they matrimonial matters, or partition matters / suits for injunctions, possession) are referred to Mediation, the underlying latent difficult, harsh and hard feelings, and pre-determined resolute postures of the parties make it tough for the Mediators, as the parties are adamant and even arrogant, at times. Thus, to make them come with an open mind in order to explore the possibility of a settlement, a preliminary introduction to mediation and to the role of the Mediator, and the benefits of mediation be made at the Reception by a staff personnel, so that the thought process of the parties is facilitated towards exploring the possibility of mediated settlements and they would then be willing at least to listen to the Mediator.

xv). No outsider be permitted at the Mediation Centre.

xvi). Mediators wherever they are – be not wasted that is Mediators posted at the Rohini District Courts and Patiala House Courts, can be asked to organize their judicial work in a manner that they can work at the Mediation Centres, at least once a week.

xvii). It was also expressed that a feedback be obtained from Referring Courts, after the cases have been returned to them, where though the mediation had not succeeded, on return to Court, the matter was settled, so that the Mediator may continue using those methods adopted previously as good modes of mediation.

xviii). Another view expressed has been that the Referral Judge should direct the advocates to appear before the Mediator so that an adjournment sought by the parties for presence of their Advocates to negotiate a settlement are avoided.



xix). It has also been expressed that the Mediators meet at the Centre once a month so that they can share their experiences, problems faced, and settlements made, which would thus enhance the mettle of each Mediator; whereby the nuances of a previously tried method in a case may help in arriving at a settlement in another case.

xx). Another view expressed is that there should be a Refresher Course for Mediators already functioning and apart from the same, each Judicial Officer should be trained in the intricate nuances of mediation, so that each Referral Judge knows the basic elements pre-requisite in a case for reference thereof to Mediation, which itself would thereby obviate the categories of cases 'Not fit for mediation'.

xxi). A view has also been expressed that there should be a method to ensure presence of the parties before the Mediator and the process of issuance of notice to the parties who do not put in appearance on a date of hearing after having participated in the mediation proceeding, be stopped.

xxii). A view has also been expressed that in bank cases, though litigants are willing to settle the matter, the duly authorized personnel of banks are not present, which hampers and delays the mediation and sometimes, results into 'no settlement'.

## V

### **STATISTICAL DATA**

The computer updates of the Mediation Centre, Tis Hazari and of the Mediation Centre, Karkardooma upto 31.07.2006 spell out the success story explicitly.

#### **TIS HAZARI MEDIATION CENTRE**

Total Number of cases referred for mediation from 22.8.2005 to 31.07.2006	1459
Total Number of cases settled.	630
Number of connected cases settled.	205
Number of cases not settled	400
Number of cases not fit for Mediation.	298
Number of cases pending for Mediation.	131
Percentage of cases settled	61.17%
Percentage of cases not settled.	38.83%

#### **KARKARDOOMA MEDIATION CENTRE**

Total Number of cases referred for mediation from 1.12.2005 to 31.7.2006	514
Total Number of cases settled.	282
Number of connected cases settled.	76
Number of cases not settled.	88
Number of cases not fit for Mediation.	116
Number of cases pending for Mediation.	28
Percentage of cases settled	76.22%
Percentage of cases not settled.	23.78%

The Quarterly Statement of cases referred to Mediation of the period January, 2006 to March, 2006 and April, 2006 to July, 2006 indicates that the dockets of some Referral Judges have been lightened by settlement of cases as high as 15, 13, 13, 10, 6, 7, 9, 20, 25 in the said quarters. Thus, 1193 cases have been settled through mediation at the two Mediation Centres from 22.08.2005 to 31.07.2006.

*In order to monitor the effectiveness of the Mediation programme at the Delhi District Courts, Quarterly statements of Referrals and resultant settlements, if any, have been called for from Judicial Officers, commencing w.e.f 1.1.2006.*

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**ANNEXURES**  
**A1 TO A8**