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An Overview of the Evolution of ADR Mechanism and Its Importance in India with the Help of Relevant Cases

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Abstract

The old traditional approach to resolve a dispute is through litigation before the competent court of law. However, due to an increase in the number of cases filed in the courts, there was a need for a mechanism wherein the disputing parties could resolve their disputes amicably and the delivery of justice was on time. For such reasons the mechanism of Alternate Dispute Resolution was evolved. India was not new to this mechanism, and it traces its root to the ancient way of resolving disputes as there was the system of Gram Panchayats in existence at that time under which the parties in dispute adhere to the decision of the President of the Gram Panchayat. By adopting the Gram Panchayat system and legally recognising it, Alternate Dispute Resolution found its way in the Indian legal system. Since then, the Alternate Dispute Resolution System has undergone a tremendous evolution and is still evolving to this day. It is one of the efficient ways in resolving disputes by delivering justice in time and it also helps in reducing the burden of the courts because pendency of cases makes courts difficult to implement the laws in India efficiently, it also has various other advantages such as it is confidential, cost – effective, legally recognised, settle the dispute amicably, party-oriented dispute resolution mechanism. Hence over the time, the importance of the Alternate Dispute Resolution System has significantly grown in India. The object of this paper is to trace the evolution of Alternate Dispute Resolution in India and how it came to be legally recognized in India and the legislations enacted for the same. This paper intends to understand the different methods under the Alternate Dispute Resolution. This paper will further

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discuss the current position of Alternate Dispute Resolution in the Indian legal system and the various recent trends relating to it.

Keywords: alternate dispute resolution, India, justice, legal system

Introduction

People have been in arguments and disputes from the beginning of time. With time, to resolve the disputes, litigation was developed. A dispute in a simple term means an argument or a disagreement between people or groups.[1] A dispute arises when an individual feels that their opinion or view is not respected. Dispute also arises due to conflicting ideas and values, difference of opinions, due to misunderstanding of terms and conditions in a contract agreed between two individuals or a group of people. Hence, when two parties have a difference of opinion on a particular subject matter, a party files a suit before a competent court of law seeking for a legal remedy which otherwise would have been resolved through communication. The parties reach the court in great pain seeking for justice without taking laws in their hands. The judicial system effectiveness is not only based upon the justice being delivered but also on how swiftly it is delivered. India being a vast country, in reality it is seen that the judicial system fails to deliver justice at the earliest, creating tremendous pendency of cases in the court. Even with various efforts to deliver justice, it becomes impossible for the judicial system to decide on the cases because lengthy court procedures end up in taking a litigation till the time of the litigant.

Therefore, to reduce the burden of the courts and to resolve disputes between the parties amicably through the process of Alternate Dispute Resolution (hereinafter referred to as 'ADR') has been evolved giving an opportunity to the parties to settle the dispute through communication. Alternative Dispute Resolution includes the methods of Arbitration, Mediation, Conciliation, and Judicial settlement through Lok Adalat. These methods have been laid down under section 89 of Code of Civil Procedure, 1908 in India.[2] In the ADR mechanism, a neutral third party along with

[1]Wex Team (2021) *Dispute*, *Legal Information Institute*. Available at: https://www.law.cornell.edu/wex/dispute (Accessed: 04 May 2024).
[2] Code of Civil Procedure, 1908, sec. 89

the parties to the dispute communicate the differences of opinion and try to resolve the dispute. The traditional dispute resolution method of litigation gives very less opportunity to the parties to vent out their feelings because in litigation, it is the lawyer who represents their clients. The methods of ADR mechanism are party oriented, making it easier to resolve the disputes because most of the methods involve the parties and an advocate representing them which helps parties in expressing their feelings which further helps in clearing all the misunderstanding between the parties and therefore resolving a dispute amicably without going through the lengthy procedure of the court.

Historical Background and Evolution of ADR In India

The judicial system in India was established with the primary objective to resolve the conflict between the parties to the dispute by upholding the principles of justice. Parties can file the case in the competent court of law which makes the decision based on the facts and evidence produced before it. However, in India there was a system known as Gram Panchayat under which the head of the village solves the dispute between the parties belonging to that village. Hence, resolving a dispute outside the court of law is not new to India and it has a long back history with strong roots in India.

Ancient Times

The tracing of ADR takes us back to India's great mythology of Mahabharata in which we understand the concept of mediator in which Lord Krishna acted as a neutral third party between Pandavas and Kauravas mediating to avoid the war.[3] He also negotiated with the Pandavas and the Kauravas by requesting the latter to provide five villages to the Pandavas. In the Vedic age there was no special mention of courts in India. However, the dispute in case aroused was resolved under the system of Sabha which existed in the Rig Vedic era. The head of the village was known as Sabhapati who was in control of the community. Further there were various kinds of dispute

[3] Sukumar Pay (2020) *Alternate Dispute Resolution along with Gram Nyayalayas Act, 2008*. 2nd edn. Eastern Law House.

resolving methods followed in Yajnavalkya which are Puga, Sreni, and Kula.[4] Puga consists of people residing in the same locality but are from different tribes and sects. Sreni consists of tradesmen and artisans belonging to the different tribes. Kula is a group of persons having a family tie. Dr. Kane in his book P.V. Kane: History of Dharmasastra, Vol. III has mentioned that Puga, Kula and Sreni having similar setup to an arbitral tribunal has the status of Panchayat in the modern times.[5]

Even the great work of Arthasastra by Kautilya refers to Gramavriddha who is the chairman of the village involved in resolving the disputes of the villagers with the help of a few other local people.[6] Brishaspati mentions Apratisthita as an arbitrator who acted as a mobile institution to provide justice at the door. However, the traditional modes of dispute resolution were not helpful in settling the disputes which were commercial in nature involving high monetary claims.

During the British Period

India in the past has always been encouraging in terms of settling disputes outside the legal court system. Mostly the disputes were settled by the head of the village or by any elderly person. It therefore can be said that the Panchayat which literally means 'coming together of five persons' was present at the grassroot level of India. Village Panchayats at the rural level were functioning with great vigour. Generally, parties agree to the decision decided in the Panchayati system. Gradually, there was more recognition given to urban courts. In the beginning of British rule, the system of Panchayat at the rural level was not tampered. However, with time as observed by Marc Galanter and Upendra Baxi, in pre- British India there was an overlap of local jurisdictions and many groups enjoyed administering laws to themselves.[7] Even the disputes which were not solved by the royal courts established by the Britishers were solved by the tribunals of the locality or by

[4] Madhusudan Saharay (2015) *Textbook on Arbitration and Conciliation with Alternate Dispute Resolution*. 3rd edn. Universal Law Publishing Co.
[5] Dr. G. Devadas (2016) 'JUDICIAL SYSTEM IN INDIA –FROM A HISTORICAL PERSPECTIVE', *International Journal of Multidisciplinary Educational Research*, Vol. 5, p. 94.
[6] Sukumar Pay (2020) *Alternate Dispute Resolution along with Gram Nyayalayas Act, 2008*. 2nd edn. Eastern Law House.
[7] Madabhushi Sridhar (2007) *Alternate Dispute Resolution Negotiation and Mediation*. Wadhwa, Maharashtra: LexisNexis Butterworths.

the panchayat of the locally dominant caste. By means Panchayat got the recognition because it had a formal process, and it was quick in settling the disputes. Therefore, in the British Era, efforts were made to recognize the rural self-government and recognise the Panchayat system. The Local Self Government Act of 1882 was enacted with the view to provide powers and authority to the local communities of the rural villages in India to govern their local area and settle matters which affect their region. Earlier, Bombay Regulations 1802 and Madras Regulation 1816 were framed to reduce the cost of litigation. The Bombay Village Panchayat Act, 1920 was enacted which framed the procedure in constituting the elected body in the Panchayat system.[8] In regards with arbitration, during the commencement of British rule in India, Bengal Regulations of 1772 and the Bengal Regulation Act, 1781 were passed and provided for the submission of cases to an arbitrator. The government of Madras and Bombay through the Madras Regulation Act, 1816 and the Bombay Regulation Act, 1827 conferred some power upon the Panchayats to resolve the dispute through referring the case to arbitration. In 1899, the Indian Arbitration Act was enacted, which was applied only to the Presidency towns of India at that time. In 1908, Code of Civil Procedure was enacted repealing Code of Civil Procedure, 1859. Section 89 of Code of Civil Procedure, 1908 laid down the ADR provision. Later, the Arbitration Act, 1940 was passed in India with the view to bring together all the laws relating to Arbitration under one umbrella.[9] The act mainly dealt with three kinds of arbitration which are: (i) arbitration without court intervention, (ii) arbitration with the intervention of court, without any suit pending before the court and (iii) arbitration in suits.

Post – Independence Era

Post-Independence in India, the Indian Arbitration Act, 1940 was in force until it was repealed by the Arbitration and Conciliation Act, 1996. The Geneva Protocol on Arbitration Clauses was prevailing at the international level and India became a party to it under British India. The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 was made and India became party to it in the year 1960 and subsequently, to give effect to the New

[8] Dr. Anupam Kurlwal (2022) *An Introduction to Alternate Dispute Resolution System (ADR)*. 4th edn. Allahabad, Uttar Pradesh: Central Law Publications.
[9] Sheryl Ann Abraham (2017) *The Arbitration Act of India: The unfinished business*. iPleaders, 1 March. Available at: https://blog.ipleaders.in/the-arbitration-act-of-india-the-unfinished-business/ (Accessed: 05 May 2024).

York Convention, India enacted the Foreign Awards (Recognition and Enforcement) Act, 1961. The 76th report by the Law Commission of India had observed that there is a requirement to change or to modify the Arbitration Act, 1940 because it had become outdated, and it needed to be updated to keep in line with the development happening in the field of arbitration.[10] Hence there was a need to enact the current Arbitration and Conciliation Act of 1996. In the case of Food Corporation of India v. Joginderpal Mohinderpal[11], it was observed by the Hon'ble Supreme Court of India that there should be a law on arbitration which is simple and more reliable. In the International arena, Model Arbitration Law was adopted by the United Nations Commission on International Trade Law (hereinafter referred to as UNCITRAL) on 21st June, 1985.[12] In India, the laws relating to arbitration were more reliable for domestic arbitration and it was causing chaos for the international traders as disputes arising were very difficult to resolve. Hence there was a push from various countries for India to adopt the UNCITRAL Model law on Arbitration. India also felt the need for updating the Arbitration Act because there were significant difficulties in trading with the foreign countries as the law did not provide reliable remedies, which was affecting the economy of India during the era of liberalisation, privatisation and globalisation. India being a member country of the United Nations which had adopted the UNCITRAL model law, and to give effect to it at the domestic level, enacted the Arbitration and Conciliation Act, 1996 which is in force till today bringing uniformity in arbitration procedures and therefore meeting the needs of foreign countries involving in commercial transactions with India.

Methods of ADR Mechanism

Arbitration

Arbitration is a form of quasi-judicial adjudicatory procedure in which the parties or the court appoints an arbitrator or arbitrators from the panel to decide a dispute between the parties. In the case of Collins v. Collins, arbitration was defined as "a reference to the decisions of one or more

[10] H.R. Khanna (1978) *Law Commission of India Seventy: Sixth Report On Arbitration Act, 1940*. Rep. Government of India, Pp. 1–69.
[11] AIR 1989 SC 1263
[12] *UNCITRAL model law on international commercial arbitration (1985), with amendments as adopted in 2006 commission on international trade law United Nations*. Available at: https://uncitral.un.org/en/texts/arbitration/modellaw/commercial_arbitration (Accessed: 05 May 2024).

persons either with or without an umpire, a particular matter in difference between the parties".[13] The parties file a joint application before the court giving consent and agreeing to the process of arbitration and settle the dispute through the process of Arbitration. The Arbitration and Conciliation Act, 1996 governs all aspects of the arbitration process, including the binding nature of the award passed through it. According to section 36 of the Arbitration and Conciliation Act of 1996, the arbitrator's decision is legally binding on the parties and can be enforced as a court order and the same is equivalent to the order passed by the trial court.[14] Arbitration is more flexible than court proceedings and cost effective.

Conciliation

Conciliation is an ADR mechanism process which is recognised under part III of the Arbitration and Conciliation Act of 1996. In comparison with arbitration, conciliation is an informal process wherein the parties voluntarily give their consent to resolve the dispute. According to Halsbury Laws of England, conciliation is a process of persuading parties to reach an agreement, and is plainly not arbitration, nor is the chairman of a Conciliation Board an arbitrator.[15] In conciliation, a conciliator is appointed to resolve the dispute. Section 64 of the Arbitration and Conciliation Act of 1996, provided for the appointment of conciliators wherein the parties can agree upon appointment of a sole arbitrator or can appoint a conciliator representing each of them individually, and in turn, the two appointed conciliators by the parties shall appoint a third conciliator.[16] In appointing the third conciliator, the parties have no input as he is appointed only by the decision of the two conciliators appointed by the parties. Conciliation is a confidential process, wherein the conciliator is bound to maintain the confidentiality of the parties.

Mediation

[13] 1858 (28) LJ Ch ER 916
[14] Arbitration and Conciliation Act of 1996, sec. 36
[15] The Indian Law (2022) *Conciliation Meaning and Procedure In India*, *THE INDIAN LAW*. Available at: https://theindianlaw.in/conciliation-meaning-and-procedure-in-india/ (Accessed: 05 May 2024).
[16] Arbitration and Conciliation Act of 1996, sec. 64

Mediation is one of the ADR methods contemplated under section 89 of the Code of Civil Procedure, 1908. Mediation is a process in which a neutral third party facilitates and assists the parties in dispute to resolve the same without going through the process of trial. In comparison to arbitration, mediation is a party-oriented process, and solely depends upon the decision of the parties arrived at with their involvement. A mediator only facilitates the parties to arrive at a solution. A mediator uses special negotiation skills and communication techniques to help the parties to find a solution by assisting in bridging the differences amongst the parties. Mediator does not decide what is fair for the parties, instead the mediator acts as a catalyst to bring the parties together by identifying their differences and help in removing the obstacles that are blocking the parties from resolving the dispute. Compared to the judicial proceedings in court, mediation is cost effective and time saving.

Judicial Settlement and Lok Adalat

Section 89 of the Code of Civil Procedure, 1908, lists judicial settlement as one of the alternative dispute resolution methods. As of now there are no explicit rules which have been established in regards with the same. In the process of judicial settlement, the judge attempts to mediate the conflict between the parties. The government-established Lok Adalat, also referred to as the people's court, is becoming more and more well-liked through negotiation and compromise. It is a court system that was created by the populace for settlement-based social justice.[17] The state of Gujarat's Una district, in the Junagadh district, hosted the first Lok Adalat. The Legal Services Authority Act, 1987's provisions will take effect if the matter is brought before the Lok Adalat.[18]

Importance of ADR in India

[17] Gupta, S. (2020) *Lok Adalat- "People's Court In India", Via Mediation & Arbitartion Centre*. Available at: https://viamediationcentre.org/readnews/NjA0/LOK-ADALAT-PEOPLES-COURT-IN-INDIA (Accessed: 05 May 2024).
[18] (2024) *History*. Junagadh, Gujarat: District Court Junagadh. Available at: https://junagadh.dcourts.gov.in/about-department/history/# (Accessed: 05 May 2024).

The ADR process is fully loaded with various advantages including being time saving and cost-effective compared to the traditional litigation approach. Hence, the ADR mechanism is very important because it helps to resolve the dispute between the parties swiftly and it does not mandate going through the lengthy procedure of the court proceedings. It also helps in reducing the burden on the courts by dealing with the pendency of the cases in the court. ADR plays an important role in Indian dispute resolution methods by providing various creative methods and by using tactful strategies and techniques. Otherwise, the cases would have to have been resolved through court procedures. ADR provides various methods to resolve the dispute such as arbitration, mediation, conciliation, judicial settlement, and Lok Adalat as laid under section 89 of Code of Civil Procedure.

Advantages of Alternate Dispute Resolution System

- In ADR processes, the disputes are resolved in a short period of time, making it less time consuming.
- When compared to court procedures, the process of ADR has less procedures to be adhered to.
- ADR processes are cost-effective because if the dispute is settled by way of ADR, the parties get 75% of the court fee refunded. It also saves the advocate fee as in an ADR mechanism hiring an advocate is not necessary whereas it is mandatory in litigation.
- Resolving the dispute through ADR processes, both the parties get to have win – win situation, hence, making both the parties succeed in the case.
- The ADR methods reduce the burden on the courts, by resolving the dispute outside the courts and therefore helping in clearing the backlog of the court.
- ADR processes also help in speedy justice, whereas court proceedings take years to conclude.
- Parties preserve the relationship between themselves by resolving the disputes amicably.
- The procedure of ADR is not rigid, making it more flexible and as per the convenience of the parties.
- Parties are free to express their feelings directly to the neutral third party, because the ADR processes maintain confidentiality of the information given by parties.

- The order passed in ADR methods gets legal validity, because the orders passed are equivalent to the court which is executable.

Recent Trends in ADR in India

In India, ADR is an emerging and evolving process aimed to help the parties in dispute to resolve the same in a timely manner, providing speedy justice and resolving it amicably. Since the enactment of the Arbitration Act, 1940, the concept of arbitration has been given more legal status and it has been updated with the changing times to keep in pace with the recent developments. For the same, to have uniformity in regards with arbitration and to make international traders reliable on the arbitration the Arbitration and Conciliation Act, 1996 was enacted by the Government of India replacing the Arbitration Act, 1940 on the recommendation of the Law Commission Report and Malimath Committee.[19] Since then, the Act has been amended several times. However, the first amendment was made in the year 2015, almost 19 years after the enactment of the Act in 1996.

Arbitration and Conciliation (Amendment) Act, 2015

The President of India promulgated an Ordinance on October 23, 2015, amending the Arbitration and Conciliation Act, 1996, with the goal of making arbitration the preferred method of resolving commercial disputes and establishing India as a centre for international commercial arbitration. In the 2015 amendment, the term "court" was defined to differentiate it between international court arbitration and domestic arbitration. It also laid out that in cases of international arbitration, the High Court of competent jurisdiction will have the authority. The 2015 amendment lays down that an award passed in international arbitration can be set aside only when it is granted by fraud or corruption, when it is against the fundamental policy of India and when it is in conflict with the

[19] PIB Delhi (2022) *Speedy disposal of the cases*, *Press Information Bureau*. Available at: https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1809624 (Accessed: 05 May 2024).

principle of moral justice.[20] The amendment of 2015, allows the parties to opt for fast track arbitration wherein the award needs to be granted within six months, hence trying to achieve the object of speedy justice in a timely manner.[21]

Arbitration and Conciliation (Amendment) Act, 2019

The Act of Arbitration and Conciliation, 1996 was enacted further in the year 2019 to keep up with the developing society and to make the Act more reliable by removing any ambiguity therein. The most important amendment of 2019 was to define an "arbitral institution", as it is designated by the Supreme Court of India or High Court according to the Act.[22] The amendment laid down that there shall be the establishment of Arbitration Council of India, for which the headquarters shall be in Delhi. The time limit of completion of statement of claimant and respondent must be completed by the arbitrator within six months.

Arbitration and Conciliation (Amendment) Act, 2021

If the courts are satisfied with the circumstances and facts, Section 36(3) of the Act allows for a stay of the awards' implementation.[23] The 2021 Amendment included a second proviso which laid that if the courts are satisfied there exists a prima facie case on the basis that the arbitral award has delivered due to inducement of fraud or corruption, on such instance the court may grant an

[20] Vikas Goel (2016) 'Highlights of amendment to the arbitration and conciliation act 1996 via arbitration ordinance 2015', *Singhania And Partners LLP*. Available at: https://singhania.in/blog/highlights-of-amendment-to-the-arbitration-and-conciliation-act-1996-via-arbitration-ordinance-2015 (Accessed: 05 May 2024).
[21] Ministry: Law and Justice (2015) *The Arbitration and Conciliation (Amendment) Bill, 2015, PRS Legislative Research*. Available at: https://prsindia.org/billtrack/the-arbitration-and-conciliation-amendment-bill-2015 (Accessed: 05 May 2024).
[22] AZB & Partners (2019) *The Arbitration And Conciliation (Amendment) Act, 2019 – Key Highlights, MONDAQ*. Available at: https://www.mondaq.com/india/arbitration--dispute-resolution/840292/the-arbitration-and-conciliation-amendment-act-2019--key-highlights (Accessed: 05 May 2024).
[23] Arbitration and Conciliation Act of 1996, sec. 36(3)

unconditional stay for the arbitral award passed.[24] The 2021 Amendment Act further prohibits the parties from testifying in front of the arbitral tribunal when the award is being enforced.

Mediation Act, 2023

The latest and the most recent trend in India in regard to ADR is the passing of the Mediation Act, 2023 by the government of India, which extends to the whole of India. The enactment of the Mediation Act, 2023 gives legal recognition to the concept of mediation in India. The Act also recognised court annexed and private mediation. The main goal of the Act is to promote and facilitate mediation in India. The Act also mentions the cases fit and unfit for the process of mediation. It also lays down under section 8 of the Mediation Act, 2023 that the proceedings of mediation must be completed within the time period of maximum of 180 days.[25]

Judgements Relating to ADR In India

In the case of Jugal Kishore Prabhatilal Sharma v. Vijayendra Prabhatilal Sharma[26], court observed that the arbitrator during the pendency of an arbitration suit in the concerned tribunal has all the powers similar to that of the civil court as it would have in deciding the case.

In the case of Salem Advocates Bar Association, Tamil Nadu v. Union of India[27], the constitutional validity of Section 89 of Code of Civil Procedure was upheld. The validity of section 89 was invoked because it was recently added to the Code of Civil Procedure, 1908 at that time. The new section provided discretion to the court to refer the matter to ADR as it thinks fit.[28] The section included arbitration as an ADR method. Hence, it created an ambiguity in the applicability of the

[24] Ministry: Law and Justice (2021) *The Arbitration and Conciliation (Amendment) Bill, 2021*, *PRS Legislative Research*. Available at: https://prsindia.org/billtrack/the-arbitration-and-conciliation-amendment-bill-2021 (Accessed: 05 May 2024).
[25] Mediation Act, 2023, sec. 8
[26] AIR 1993 SC 864
[27] AIR 2003 (1) SCC 49
[28] Mr. Swapnil Tripathi (2016) 'Salem Advocate Bar Association, Tamil Nadu V. Union Of India': The Case That Changed The Course Of Civil Litigation In India', *Bharati Law Review*, p. 274.

provision in arbitration whether section 89 of Code of Civil Procedure or Arbitration and Conciliation Act, 1996. The Court, relying on the case of P Anand Gajapathi Raju v. P.V.G. Raju[29], held that once the case is referred to arbitration under section 89 of Code of Civil Procedure, 1908 then after the reference of the same, the Arbitration and Conciliation Act, 1996 shall be applied and not before it.

In the landmark judgement of Afcons Infrastructure Limited and Ors. v. Cherian Varkey Construction and Ors.,[30] the most important aspect of the judgement laid was the list of cases that are not fit for ADR. The matters that are barred from being resolved through such methods were also listed by Justice R.V. Raveendran,[31] such as suits involving public interest, cases requiring protection of court, suits for declaration of title against the government, representative suits and suits of criminal offences that are non-compoundable.

In the Bhatia International v. Bulk Trading SA[32], the case was regarding Part I of the Arbitration and Conciliation Act, 1996 which contains the provisions governing the procedure of Arbitration such as appointment of arbitrator. The primary issue involved in the case was whether Part I of the Arbitration and Conciliation Act, 1996 is applicable to the arbitration taking place outside India. It was observed by the court that the Part I of the Arbitration and Conciliation Act, 1996 will be applied to the arbitration outside India. However, the judgement was overruled by the Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc. [33] judgement in which the court observed that the Part I is applicable to the domestic arbitration even if both the parties do not belong to India and that Part I will not be applicable to any foreign arbitration even if both the parties belong to India and by doing so, the court adopted the seat-centric approach.

[29] AIR 2000 (4) SCC 539
[30] AIR 2010 (8) SCC 24
[31] Feroz Pathan (2021) 'The anomaly in Afcons Infrastructure case', *The Daily Guardian*, 22 April. Available at: https://thedailyguardian.com/the-anomaly-in-afcons-infrastructure-case/ (Accessed: 05 May 2024).
[32] AIR 2002 SC 1432
[33] AIR 2012 (9) SCC 552

Arbitration is so effective and flexible that in the case of Lufthansa German Airlines v. Airport Authority of India Supreme Court[34], the parties were given the liberty to raise additional issues before the arbitrator after the case was referred to arbitration.

In Parabat Bhai Ahir @ Parbatbhai Bhimsinhabhai Karmur v. The State of Gujarat, court upheld the judgement pronounced in the Gian Singh v. State of Punjab.[35] It held that only private matters such as business, financial, mercantile, partnership, or similar transactions with a primarily civil flavour may be settled through mediation or outside the court settlement.[36] Serious crimes such as murder, dacoity, or rape, or matters that have a significant impact on society, are excluded from the ADR mechanism as a means of resolution.

In the case of Anita Kushwaha v. Pushap Sudan[37], the court laid down that the four facets constituting access to justice which includes effectiveness of adjudicatory mechanism, reasonable accessibility in terms of distance, speedy adjudication, and affordability of the mechanism. Therefore, it is clear by this judgment that to achieve access to justice to all, the same can be achieved by ADR methods.

Conclusion

One of the fundamental alternatives to the traditional court system is ADR, which is frequently perceived as a speedy path to justice. Indian society has long employed an ADR-like system such as Panchayat. Almost all prehistoric societies used this method of conflict resolution. Currently being reconstructed into Lok Adalat, the Panchayat system is one such prevalent example in modern Indian society. One could agree that the need for an efficient, speedy, and amicable resolution of disputes while escaping the lengthy procedures of court proceedings led to the development of ADR mechanisms. As a welfare state, India aspires to provide prompt and equitable justice to all of its citizens, as stated in the Directive Principles of State Policy found in

[34] AIR 2012 (11) SCC 554
[35] AIR 2017 (9) SCC 641
[36] AIR 2012 (10) SCC 303
[37] AIR 2016 (8) SCC 509

the Indian Constitution. Hence, with the passage of arbitration laws, which underwent significant evolution over time, the history of ADR mechanisms began. Over time, other ADR mechanisms gained legal recognition such as mediation through Mediation Act, 2023 made their way from the Indian Parliament, which was wise enough to support these new approaches to conflict resolution. Therefore, ADR development in India is a sign of an ongoing change in dispute resolution methods, with a focus on effective, adaptable, and society-driven alternative dispute resolution techniques. India's ADR history represents an intriguing blend of tradition and innovation, from prehistoric panchayats to contemporary arbitration and mediation procedures.