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AN OVERVIEW ON TYPES OF ALTERNATIVE DISPUTE RESOLUTION

INTRODUCTION:

In the current dynamic world, the hearings in Court procedure have become lengthy with the increasing number of cases. This led to the start of Alternative Dispute Resolution. As the name suggests, it is an alternative procedure to resolve the disputes among two parties. Alternative Dispute Resolution (ADR) is the process by which the disputes among the parties are resolved amicably without any trials or any judicial intervention. This method is often used in matters that are of civil nature, commercial nature, industrial disputes, intra family disputes, and more where the parties have reached to a point where the negotiation between them have failed, despite the efforts taken by them and not having a solution. In such situation, a third-party often helps them reach an amicable solution and provides room for reducing hostility.

ALTERNATIVE DISPUTE RESOLUTION (ADR) MECHANISMS:

The mechanism under ADR is different from that of courts. Firstly, the decision-making power is solely upon the parties to a dispute and not the third party, unlike in Courts where the decision-making power is with the Judge. Secondly, ADR is a very confidential proceeding where the information exchanged will remain only among the parties. The parties also sign a Non – Disclosure Agreement and the third party as well as the parties are obliged not to disclose any information shared during the process, unlike in courts where the Judgment is released in the government website. Thirdly, ADR processes are usually faster than Court proceedings where both the parties do not have to visit the Court often and can have a separate meeting, even in online mode. Fourthly, ADR processes ensures that both the parties compromise on aspects that are not important and receiving what is required at the same time, unlike in Courts

where the order has to be followed regardless of the circumstances. Alternative Dispute Resolution also ensure that the relationship between the parties stays intact and not become sour after the proceedings. ADR offers a Win-Win situation to both the parties, because of which it is considered as very beneficial. The ADR mechanisms are, thus, much beneficial and time saving.

TYPES OF ALTERNATIVE DISPUTE RESOLUTION:

There are four types under Alternative Dispute Resolution: Negotiation, Conciliation, Mediation and Arbitration. These are the most used types under ADR. Each of them is explained in a nutshell:

a. Negotiation:

Negotiation is the process where both the parties come together and resolve their dispute. In this type of ADR, there is no third party, but the parties can bring their counsels or attorneys for the said procedure. It is a non – binding procedure where the discussion among the parties take place without the intervention of the third party and put forth their views with an intention to reach a settlement.

b. Conciliation:

In Conciliation, a neutral third party, called Conciliator, will be present. They assist the parties in reaching an amicable solution. The conciliator is also in a position to give recommendations, though the parties are not under the obligation to accept the. It is the discretion of the parties to accept it or reject it, but once accepted, the conciliator drafts the settlement agreement and that settlement agreement is binding on both the parties.

c. Mediation:

In a mediation proceeding, an impartial third party, called the Mediator, will be present in the room where they facilitate the parties to reach an agreement. The control of the outcomes is completely in the hands of the parties and the Mediators do not hold the authority to put forth their opinions or give any suggestions to the parties.

d. Arbitration:

The parties will go to an Arbitral Tribunal where a decision is made by the third party. Like a judgment is passed in Courts, an Award is passed in the Arbitral Tribunal. This Award is binding on both the parties. It is less formal than a Court and the rules of evidence is often relaxed. Arbitration has little or no scope of judicial intervention during its procedure.

e. Other ADR Types:

Lok Adalat is one of the mechanisms which is considered under Alternative Dispute Resolution, but has its roots in the Indian Legal system. Lok Adalat means the People's Courts. An Act called the Legal Services Authorities Act, 1987 was passed which encouraged out – of – Court settlements. It is an informal setting which facilitates negotiation among parties in the presence of a Judicial Officer. An order passed on this Court is final and binding on the parties and shall be deemed as a decree of a civil court. It is also important to note that these order passed in Lok Adalat are not eligible for appeals.

The Act that deals with Alternative Dispute Resolution are as follows:

- The Legal Services Authority Act, 1987
- Arbitration and Conciliation Act, 1996
- The Mediation Act, 2023

CONCLUSION:

In conclusion, ADR offers a wide range of mechanisms to resolve a dispute outside the usual and traditional Court proceedings. These types also cater the different preferences of the parties, and addressing their needs. These procedures not only lessen the burden of the Courts, but also foster a culture of collaboration and mutual understanding among the parties of a dispute.