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The 180-Day Clock: How India's New Mediation Act Changes Family Disputes

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Abstract

In this respect, the Mediation Act is a paradigm change in the dispute resolution environment in India, shifting from the adversarial process to a more organised and collaborative approach. The current paper critically analyses the effect of the Act on family/marital disputes, with special regard to the imposition of the 180 days' statutory period. In particular, it considers how the time-based procedure tries to solve the problem of constant delays in family courts while ensuring procedural protection such as pre-litigation mediation, confidentiality, and enforcement of the Mediated Settlement Agreement. Finally, the paper draws attention to the structural problems, such as the lack of mediators and cultural opposition from the side of the bar.

Introduction

The marital and domestic conflicts in India have always implied a trial of endurance. Engaging in any process from divorce to alimony or even custody cases usually turned an emotionally charged dispute into a long-term and exhausting marathon. The conventional way of dealing with such personal conflicts was always associated with the use of overworked family courts where there were thousands of pending cases.

Nevertheless, the major legislative shift has come. With the establishment of the Mediation Act, the Indian judicial system now offers a new solution for the litigators. And at the core of such a legislative amendment lies the idea of a countdown: the 180-day countdown that will completely change the dynamics of resolution of such conflicts.

The 180-Day Mandate: Breaking The Infinite Loop

Previously, mediation under Indian family law was carried out in an arbitrary and discretionary manner. Although Section 89 of the CPC 1908 gave the authority of judicial officers the discretion to order the disputing parties to undergo the process of alternate dispute resolution (ADR), the process was not covered by any systematic and uniform statutory framework. The absence of such a mechanism meant that proceedings could be stretched endlessly, often being resorted to as an instrument for delaying justice by one party over another.

This act effectively breaks this cycle of infinite process through the establishment of systematic statutory guidelines where the mediation process:

- ❖ **Original Deadline:** The process shall be completed within 120 days since the first appearance of the case before the appointed mediator.
- ❖ **Extended Duration:** An extension of up to 60 more days is permitted, provided there is complete written agreement between all the concerned parties.
- ❖ **The Firm Deadline:** This sets a firm deadline of 180 days. In case of failure to resolve the matter by this deadline, the mediation process automatically ends, and the disputing parties are put back in the hands of the court system.

By setting a firm deadline in statute, the legislature hopes to bring urgency into an area which, more often than not, suffers from delay, causing great psychological and economic agony to the litigants. Litigants no longer have a black hole of unlimited sittings but a definite window of time to work in.

Voluntary Pre-Litigation Mediation And Its Safeguards

Amongst the most structural aspects of the Act is the implementation of pre-litigation mediation. Although previous iterations of the legislation suggested making this aspect mandatory for all civil cases, the framework adopted makes pre-litigation mediation an actively encouraged and highly organised voluntary first step towards resolving family conflicts.

A formal process of mediation may be started by any of the parties before filing an application for matrimonial/civil litigation in court. Thus, the point of departure from the usual litigation procedure is transferred from the court to a more controlled setting.

But the cases of family law can be highly unpredictable, often necessitating urgent action from

the courts to protect involved parties from abuse. One of the biggest problems with pre-litigation procedures is that one of the parties can take advantage of the 180-day delay to deprive another party of the property, bank account, or child custody. The Act specifically addresses this problem and allows the parties to turn to the competent court for immediate interim measures in extraordinary situations.

Confidentiality And The Legal Weight Of The Mediated Settlement Agreement

The issues that family disputes involve are very private and sensitive information which may degenerate into defamation and character assassinations when disclosed in open court proceedings. The conventional system tends to exacerbate the animosities between parties due to the fact that pleadings in the case are made part of the public record. This vulnerability is adequately addressed by the Act through the incorporation of legally binding confidentiality clauses.

Moreover, the Act makes an absolute departure from the previous procedure of how the agreement is handled after the end of the mediation process. Traditionally, after a mediation process and reaching an agreement, it would take another round of court proceedings to get the agreement formalised into a consent decree. However, under the new act, the Mediated Settlement Agreement (MSA) is made:

- 1. Binding:** Once signed by both parties and appropriately certified by the mediator, the agreement will be of equivalent legal force and effect to a final judgement or decree rendered by a civil court.
- 2. Direct Enforcement:** In case one of the parties defaults in fulfilling their obligations as stated in the agreement, for instance, child maintenance, child visitation or asset division, the injured party may institute execution proceedings without having to litigate the whole issue in court again.

Overcoming Structural And Cultural Hurdles

Although the legislative framework is sound, its sustainability depends totally on the implementation by the institutions. For a change in the legal culture of India from an adversary system to a collaborative system, there are certain systemic barriers that need to be crossed.

Firstly, there is a serious lack of mediators. There are special skills of psychology and law involved in mediating family matters; it becomes essential for mediators to look beyond legal claims and to identify deeper interests of emotion, finance, and relations. Currently, there is a dire shortage of certified and institution-trained family mediators in India. The new Mediation Council of India (MCI) will need to launch proper accreditation courses to fulfil this gap.

Secondly, there is institutional resistance. Mediation has been looked upon as a challenge to conventional modes of litigation by the legal profession, including the bar association. This can be overcome only through continuous cultural change, which proves that mediation within a fixed period gives the lawyers time to strategise and provide their clients with better solutions.

Conclusion

The 180-day period is not simply a procedural requirement; it signals an important paradigm change in court philosophy. By detaching family law cases from the slow, rigid mechanics of the old civil procedure process, the Mediation Act creates a shorter process toward the end of it all. The result for troubled families is that the time frame in which conflicts are resolved will no longer be counted in decades but months. Whether the process will be a success depends on creating an efficient network of professionals, but the legislative base has certainly been laid down.