

# MEDIATION NEWSLETTER

NEWSLETTER OF THE DELHI MEDIATION CENTRE

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**Chandigarh; 5.9.2009 – 6.9.2009:** A Refresher Course for Advocate Mediators of the Punjab & Haryana, High Court conducted at the Chandigarh Judicial Academy. Seen seated (L-R) are: Mr. V.K. Khanna, AD&SJ and Trainer Mediator, Mr. Dinesh Kumar Sharma, AD&SJ/Member Secretary, Delhi High Court Legal Services Committee and Trainer Mediator and Mr. Girish Malhotra, Advocate Trainer Mediator, all of the Delhi Mediation Centre. Seen are also the participants.



**Surat (Gujarat); 26.9.2009 – 27.9.2009:** A 40 hours intensive Mediation training programme on 'Techniques of Mediation' conducted at the Conference Room of the District Court, Surat (Gujarat). Seen seated (L-R) are: Ms. Jaya Goel, Advocate Trainer Mediator of the Delhi Mediation Centre, Ms. K.M. Vin, Principal Judge, Family Courts, Ahmedabad and Mr. Aditi Chaudhary, AD&SJ, Dwarka, Delhi and Trainer Mediator of the Delhi Mediation Centre.



**5.9.2009:** A Refresher Course for Referral Judges conducted at the Rohini Mediation Centre. Seen seated (L-R) are: Mr. Chander Shekhar, AD&SJ and Full time Coordinator of Rohini Mediation Centre, Ms. Bimla Makin, District Judge-VIII, Rohini Dr. Sudhir Kumar Jain, AD&SJ and Master Trainer Mediator Mr. Sanjay Kumar, AD&SJ and Trainer Mediator and Mr. Ravinder Dudeja, AD&SJs and Judge Mediator of the Delhi Mediation Centre.



**25.9.2009:** A Refresher Course for Advocate Mediators of the Karkardooma Mediation Centre: Seen seated (L-R) are: Mr. K.K. Makhija, Dr. Renu Aggarwal, Advocate Mediator/Associate Trainer, Sh. V.K. Khanna, Ms. Aditi Chaudhary, AD&SJs Trainer Mediator, Mr. A.K. Chawla, AD&SJ/Judge Incharge, Karkardooma Mediation Centre and Mr. Rajiv Mehra, AD&SJ Trainer Mediator.

## TIS HAZARI MEDIATION CENTRE

3<sup>rd</sup> Floor, Tis Hazari,  
District Courts, Delhi.

Telephone No. 23961909 Extn. 1325

Judge in Charge

Telephone No. : 23975030 Extn. 1326

FAX No. 23961909

## ROHINI MEDIATION CENTRE

3<sup>rd</sup> Floor, Rohini, Room No.306  
District Courts, Delhi.

Telephone No. 27555536

Judge in Charge

Telephone No. : 27554459

FAX No. 27555536

E-mail : delhimediationcentre@nic.in

Website : www.delhimediationcentre.gov.in

## KARKARDOOMA MEDIATION CENTRE

Ground Floor, B Block,  
Karkardooma, Delhi.

Telephone No. 22309085

Judge in Charge

Telephone No. 22301970

FAX No. 22309086

*Flexibility of the process of mediation, which can be conducted in any manner to which the parties agree i.e. which may be as casual as the discussion round a conference table or as structured as a private Court trial coupled with its ingredients of confidentiality, has resulted into continuously increased recourse to mediation as a mode of additional dispute resolution.* The pendency of litigation in the District Courts at Delhi after the advent of institutionalized mediation from 2<sup>nd</sup> August 2005 has been decreased by 10% by the increasing number of amicable settlements arrived at between the disputing litigants through which process all parties to mediation come out as winners.

The Delhi Mediation Centre under the aegis of the Hon'ble Mediation & Conciliation Project Committee, Supreme Court of India, continues to strive in its efforts to contribute to peaceful dispute resolution through the process of mediation, all in accordance with law, by taking the benefits of mediation across the country and its nuances in the form of Intensive Mediation Training Programmes and Refresher Courses for judicial mediators and advocate mediators through its own faculty of trainers, as depicted herein below:

**Ahmedabad (Gujarat): 19.9.2009 – 21.9.2009:** The first phase of an intensive mediation training programme was conducted at the Family Courts Ahmedabad (Gujarat) for advocates practicing in the Family Courts at Ahmedabad. The training programme was inaugurated by Hon'ble Mr. Justice Mohit S. Shah, Judge High Court of Gujarat who highlighted the benefits of mediation in His Lordship's address to the participants. The target group here was 15 advocates practicing in the Family Courts at Ahmedabad. The Resource Persons here were Ms. Aditi Chaudhary, AD&SJ and Judicial Trainer Mediator and Ms. Jaya Goel Advocate Trainer Mediator, both of the Delhi Mediation Centre. Ms. K.M. Vin, Principal Judge, Family Courts, Ahmedabad, Mr. O.L. Pandey, Ms. S.A. Dave and Mr. T.R. Gurmani, Judges of the Family Courts, Ahmedabad also gave their valuable inputs during the training programme. As reported by Ms. Jaya Goel, Advocate Trainer Mediator, the participants were informed about the Alternative Disputes Resolution mechanism, Conflict mechanism and the various techniques of mediation, its definition and its stages. The report of Ms. Jaya Goel is as below:-

*"The participants were taught about the alternative dispute resolution mechanism, conflict mechanism and various techniques of mediation including the definition of mediation and its various stages. The participants were taught about the negotiations, bargaining, communication (verbal and non-verbal), types of disputes, which can be referred to mediation and types of disputes, which cannot be referred to mediation and about the various stages of referral of mediation. The participants also participated in the role-plays in an enthusiastic manner. The copies of the role-play were got translated in Gujarati for the better understanding of the Trainees. After the conclusion of the First Phase of Training, it was felt that there was a total change in their attitude and learning about mediation."*

The second phase of this intensive training programme is to be conducted from 2.10.2009 – 4.10.2009.

**Raigarh (Chhattisgarh): 12.9.2009 – 13.9.2009:** An awareness programme on Mediation for Advocates on 12.9.2009 and for Referral Judges on 13.9.2009 was conducted at Raigarh, which was inaugurated by Hon'ble Mr. Justice Dhirender Mishra, Judge, High Court of Chhattisgarh. The target group was 40 Advocates of the Raigarh Bar Association and of other parts of Chhattisgarh and 25 Referral Judges. The participants were introduced to mediation and were explained the concept of ADR with specific reference to Section 89 of the CPC and also about the benefits of mediation and its components. A role-play was also conducted to sensitize the Referral Judges to refer appropriate cases to mediation. The Resource Persons here were Mr. Rajiv Mehra, AD&SJ and Judicial Trainer Mediator and Mr. Rajesh Gupta, Advocate Trainer Mediator, both of the Delhi Mediation Centre. As reported by the Resource Persons, the responses from the participants were enthusiastic and they were keen to implement the process of mediation.

**Raipur (Chhattisgarh) : 19.9.2009 – 21.9.2009 :** The first phase of a 40 hours intensive mediation training programme was conducted at the Chhattisgarh Judicial Academy which was inaugurated by Hon'ble Mr. Justice Cyriac Joseph, Judge Supreme Court of India and Hon'ble Member of the Mediation & Conciliation Project Committee. Hon'ble Mr. Justice Dhirender Mishra, Judge High Court of Chhattisgarh and Executive Chairman of the State Legal Services Authority, Chhattisgarh, Hon'ble Mr. Justice Agnihotri, Judge High Court of Chhattisgarh and Chairman of the Monitoring Committee of the Mediation Centre and Hon'ble Mr. Justice Sharma, Judge High Court of Chhattisgarh and Member of the Monitoring Committee of the High Court of Chhattisgarh graced the occasion. The target group here comprised of 16 advocates and 16 judicial officers. After the inaugural session, the participants were divided into two groups consisting of 16 participants each (8 Judicial Officers and 8 lawyers) The Resource Persons for one group were Ms. Neena Bansal Krishna, AD&SJ and Master Trainer Mediator and Mr. K.K. Makhija, Advocate Associate Trainer, both of the Delhi Mediation Centre and the Resource Persons for the other group were Dr. Sudhir Kumar Jain, AD&J and Master Trainer Mediator and Dr. Renu Aggarwal, Advocate Associate Trainer, both of the Delhi Mediation Centre.

*The report of Ms. Neena Bansal Krishna brings forth that conducting an Awareness Programme, initially before the commencement of the Intensive Mediation Training created a perceptible advantage in bringing about acceptability of the awareness of the process of the mediation and helped in dissolving the initial resistance to the mechanism of mediation and also generated a desire to learn more about the process of mediation:-*

*"Hon'ble Mr. Justice Agnihotri in his welcome address besides making a reference to the initiative of the MCPC, Supreme Court of India in introducing mediation in a structured manner in India following the amendment of Section 89 CPC, pointed out that mediation was not a means of avoiding litigation but an alternative or additional mechanism for dispute resolution. It was highlighted that the mediation centre at Chhattisgarh had been inaugurated at Bilaspur on 12.1.2008 by Hon'ble Mr. Justice Sinha, Judge, Supreme Court of India. Ten centres have been set up in various districts since then, 307*

cases were referred to the various mediation centres, out of which 36 cases have been resolved. It was highlighted that though the success rate was only 18% but it was a good beginning.

The inaugural note was delivered by Hon'ble Mr. Justice Dharendra Mishra, Executive Chairman State Legal Services Authority, Chattisgarh, who pointed out that eight awareness programmes have been conducted in eight districts while this present program was the first 40 hours training program which was being conducted in which the participants from all the districts had been called so that there would be at least one judge mediator and one lawyer mediator in each district.

Hon'ble Mr. Justice Cyriac Joseph in his key note address referred to the preamble to the Constitution of India where one of the constitutional goals is to secure justice; social, economic and political to all. It was highlighted that the responsibility lies on the legislature, executive and judiciary equally to strive to achieve this goal. It was stated that for smooth functioning of society, disputes have to be resolved in which what has to be tackled is the root cause. The judiciary has been burdened since long with delays and huge pendency leading to frustration and resorting to extra judicial methods for resolution. It has become a cause of alarm and led to the amendment of Section 89 CPC wherein mediation was introduced as one of the methods of ADR. It was pointed out that mediation as introduced under Section 89 CP was qualitatively different from the previous methods of Panchayat as the decision making was not that of the mediator but of the parties. Mediator is neither a judge nor an adjudicator. Various advantages of mediation being a settlement of parties, which was speedy and cheaper and in the best interest of parties besides reducing animosity, were pointed out.

The mediator was described as a peace maker and for lawyers it was said, should be motivated by "occasionally I must also do something good". It was pointed out that it is not the honorarium but the satisfaction from the mediation that is of prime importance. It was further pointed out that training is absolutely essential for imparting the skills so as to the shape a person from "butcher" to "surgeon".....

The first phase was concluded with the concluding session, which was chaired, by Justice Sharma, Judge, High Court of Chattisgarh and Member Monitoring Committee, Mediation Centre, Chattisgarh, who had made a reference to spirituality and to Karma in the concept of mediation.

The first phase of training was received well by the participants. The enthusiasm of the participants could be noted as they expressed eagerness to be a part of the II<sup>nd</sup> phase of the training, which is to be conducted in future.

It is worthwhile to point out that Chattisgarh was one State where the awareness programmes had been first conducted to create acceptability and awareness about the process of mediation before the task of imparting training to advocates and Judges in Mediation Techniques was taken up. This had an added advantage as the initial resistance to the mechanism of mediation has somewhat been answered and the curiosity to learn more about this process of mediation was generated".

**Surat (Gujarat): 26.9.2009 - 27.9.2009:** The first phase of the 40 hours intensive Mediation Training Programme on 'Techniques of Mediation' was conducted at Conference Room of the District Court, Surat (Gujarat). The Resource Persons here were Mr. Harish Dudani, AD&SJ/OSD, Delhi Legal Services Authority and Master Trainer Mediator and Ms. Poonam Mendiratta, Advocate Trainer, both of the Delhi Mediation Centre. 25 participants consisting of judicial officers and advocates practicing at Surat formed the target group. The training programme was inaugurated by Hon'ble Mr. Justice Mohit S. Shah, Judge, High Court of Gujarat on 26.9.2009. As reported by Mr. Harish Dudani, the participants took keen interest in the training programme and raised several questions and expressed that had enjoyed the programme and the techniques learnt by them were useful to them not only in conducting mediation but in their personal lives also and would help evolve them as better human beings. One of the participants who is an Executive Member of the Bar Council of Gujarat and also on the board of Governing Bodies of many educational institutions expressed that the techniques acquired by him during the mediation training would be very helpful in better administration of the institutions with which he is associated.

The 2<sup>nd</sup> and 3<sup>rd</sup> phases of this training programme are to be conducted from 2.10.2009 - 3.10.2009 and 10.10.2009 - 11.10.2009.

**Chandigarh: 5.9.2009 - 6.9.2009:** A Refresher Course for advocate mediators of the Punjab & Haryana, High Court was conducted at the Chandigarh Judicial Academy. The target group consisted of 30 Advocate Mediators. The Resource Persons were Mr. Dinesh Kumar Sharma, Mr. V.K. Khanna, AD&SJs and Trainer Mediators and Mr. Girish Malhotra, Advocate Mediator and Associate Trainer, all of the Delhi Mediation Centre. As reported by Mr. V.K. Khanna, the programme was conducted in 8 sessions wherein the aspects of: communication verbal and non-verbal; negotiation; breaking impasses; apology and impact of spirituality were taken up and all the participants actively participated in the same and expressed their satisfaction at the end of the programme and appreciated the utility of the course. Role-plays were also conducted.

**Delhi (Karkardooma Mediation Centre): 8.9.2009:** A Refresher Course for Referral Judges of the East District was conducted in the Conference Hall, 3<sup>rd</sup> Floor, Karkardooma Courts. Mr. Rajiv Mehra and Mr. V.K. Khanna, AD&SJs and Judicial Trainer Mediators were the Resource Persons.

**25.9.2009:** A Refresher Course for Advocate Mediators of the Karkardooma Mediation Centre was conducted. Mr. Dilbagh Singh Punia, Mr. Rajiv Mehra and Mr. V.K. Khanna, AD&SJs and Judicial Trainer Mediators were the Resource Persons. The participants were enthusiastic and raised several queries. Mr. A.K. Chawla, AD&SJ/Judge Incharge, Karkardooma Mediation Centre answered the diverse queries of the participants. 2 cases settled at the Karkardooma Mediation Centre, reported by the media highlighted that mediation resolves the root of cause of discord miraculously, as depicted herein below:-

## एक केस के फैसले ने किए छह मुकदमे खत्म

वीर अर्जुन संवाददाता  
नई दिल्ली। एक केस में एक फैसला मिला है यह तो सभी जानते हैं पर एक केस के एक फैसले से अगर छह केस हल हो जाए तो आप क्या कहेंगे? यह चमत्कार नहीं बल्कि भारतीय न्याय व्यवस्था के नवीनतम प्रयोग मध्यस्थता केंद्र के सकारात्मक प्रयासों का नतीजा है।

हुआ यूं कि सलमान (बदला हुआ नाम) और शबनम (बदला हुआ नाम) का विवाह लगभग पांच वर्ष पूर्व इस्लामिक रीति-रिवाजों के अनुसार हुआ था। उनके एक बेटी भी पैदा हुई परन्तु छोटे-छोटे अहम के टकरावों ने सलमान और शबनम को एक दूसरे से दूर कर दिया और शबनम ने अपने पति पर दहेज हेतु प्रताड़ित करने के साथ-साथ धरंलू हिंसा, भ्रमण पोषण और 406 व अन्य धाराओं में छह केस

डाल दिए।

महिला अदालत के सकारात्मक सुझावों से यह मामला कड़कड़दूमा के मध्यस्थता केंद्र में लाया गया।

मध्यस्थ ने दोनों पक्षों को सुनी और उन्हें मुकदमेबाजी के नुकसानों से बचने के लिए प्रेरित किया और एक हल ढूँढ़ने के लिए कहा। तुरन्त ही पति और पत्नी ने एक दूसरे के साथ रहने की असहमति जताई और पति सलमान ने मध्यस्थ व परिवार जनों के सामने तलाक़। तलाक़। तलाक़। कहकर पत्नी से अलग रह अपना ली। पत्नी शबनम के अधिकारों की सुरक्षा के लिए मध्यस्थ के प्रयासों से सलमान ने शबनम को डेढ़ लाख रुपये देने पर सहमति जता दी। उधर पत्नी ने भी पति पर लगाए गए सभी छह मुकदमे वापस लेने के लिए तैयार हो गई।

समाचार दासगाँव, नई दिल्ली, जनसंख्या 8 फ़रवरी 2009

## मां की प्रॉपर्टी में मिला 14 साल बाद हिस्सा

गजेश सरोहा : कड़कड़दूमा कोर्ट

दो भाइयों और उनकी बहन को अपनी मां की प्रॉपर्टी में हिस्सा पाने के लिए 14 साल तक इंतज़ार करना पड़ा। कोर्ट के तहत काम करने वाले मध्यस्थता सेंटर ने महज चार सुनवाई में इस मामले को निपटा दिया। मां का फ्लैट होने के बावजूद दोनों भाई बहन के साथ अपने मामा के घर रह रहे थे और वहाँ से कानूनी लड़ाई लड़ रहे थे। इन बच्चों ने अपनी मां पर हुए जुल्म-सितम को अपनी आंखों से देखा था। 1995 में पिता की फ्लैट बेचने की कोशिश को नाकाम करने के लिए इन्हें कोर्ट जाना पड़ा था।

पेश मामले के मुताबिक पंजाब नेशनल बैंक में सोनियर पोस्ट पर तैनात वीर भान गुलाटी की दूसरे पत्नी सुदेश की 26 नवंबर 1991 में जौटीबी हॉस्पिटल में मौत हो गई थी। सुदेश के मायके वालों ने उस पर दहेज हत्या का मुकदमा दायर किया था। 19 मार्च 2005 को अडिशनल मैजिस्ट्रेट जे.एम. मलिक की अदालत ने उन्हें दहेज प्रताड़ना का दोषी करार देते हुए दो साल सश्रम कैद की सजा सुनाई थी। कुछ समय बाद उन्हें जमानत मिल गई थी। फिलहाल दोनों तरफ से हाई कोर्ट में अपील की गई है।

जमानत पर छूटने के बाद वीरभान ने दिलशाद गार्डन स्थित एलआईजी फ्लैट को अपनी तीसरी पत्नी के नाम कराकर उसे बेचना चाहा। उन्होंने प्रॉपर्टी डीलर से उसका बयाना भी ले लिया था। यह सूचना जब उनके बच्चों को मिली तो उन्होंने अपने मामा के साथ मिलकर

### अच्छी कोशिश

- ▶ पिता को दहेज हत्या मामले में सुनाई जा चुकी है दो साल की सजा।
- ▶ मध्यस्थता सेंटर ने महज चार सुनवाई में सुना दिया अपना फैसला

अदालत में याचिका दाखिल कर अपने पिता को फ्लैट बेचने से रोकने की अपील की।

बच्चों की दलील थी कि यह फ्लैट उनकी मां का नाम है। उनकी मौत के बाद उनके पिता ने गलत तरीके से यह फ्लैट अपनी तीसरी पत्नी के नाम कराया है। मामले की गंभीरता को देखते हुए अदालत ने फ्लैट बेचने पर रोक लगा दी। 15 अक्टूबर 2005 को अभिनव, वैभव और उनकी छोटी बहन ने अपने मामा को मदद से फ्लैट में हिस्सा पाने के लिए सिविल सूट फाइल किया। ट्रायल कोर्ट से उन्हें ईसाफ नहीं मिला।

11 अगस्त 2009 को ट्रायल कोर्ट ने केस मध्यस्थता सेंटर में भेज दिया। सेंटर में वकील आलोक चौधरी ने बच्चों का पक्ष रखा। मध्यस्थता करने वाले अधिकारी ने पिता वीर भान को फ्लैट बेचने का निर्देश दिया। उन्होंने कहा कि डीडीए के ड्यूज देने के बाद जो पैसा बचेगा, उसके चार हिस्से किए जाएं। एक हिस्सा खुद रखें जबकि बाकी तीन हिस्से अपने बच्चों को दें। इसके लिए उन्हें 90 दिन का समय दिया गया है।

Rohini Mediation Centre: 5.9.2009: A Refresher Course for Referral Judges was conducted. Dr. Sudhir Kumar Jain, AD&SJ and Master Trainer Mediator and Mr. Chander Shekhar, AD&SJ and full time Coordinator of Rohini Mediation Centre were the Resource Persons.

19.9.2009: An Advance Course for judicial mediators and advocate mediators was conducted. Ms. Anju Bajaj Chandna and Mr. Sanjay Kumar, AD&SJs, Trainer Mediators and Mr. Chander Shekhar, AD&SJ and full time Coordinator of Rohini Mediation Centre were the Resource Person.

The effectiveness of this process for multi parties' dispute resolution has tremendous success.

The benefits of the process of mediation are brought forth through a successful settlements arrived at the Tis Hazari Mediation Centre where 4 parties were involved. One of the defendants had taken a loan from one of the other defendants and another defendant took a loan from the plaintiff against the same properties in which the first person who had taken a loan stood as guarantor. The first loan taker and the last loan taker declared that the papers of the properties in question had been lost and it was subsequently learnt by the plaintiff that the papers had been mortgaged by the first loan taker who had taken a loan from one of the defendants. The first loan taker filed a suit for release of these papers against the defendants, from whom he had taken loan. The matter was settled with a total of Rs. 9.5 lakh being paid towards the full and final payment. Significantly, the process of mediation took just one day.

### ACCOMPLISHMENTS TILL 30.9.2009

The Delhi Mediation Centre has till 30.9.2009 settled 16071 cases (including 3916 connected cases) amicably and finally. The statistics this month reflect the continuously increasing expeditious efficacy of the benefits of mediation:-

Tis Hazari Mediation Centre (01.9.2009 30.9.2009)	Rohini Mediation Centre (01.9.2009 30.9.2009)	Karkardooma Mediation Centre (01.9.2009 30.9.2009)
Cases Referred - 687	Cases Referred - 168	Cases Referred - 328
Cases Disposed of - 410	Cases Disposed of - 65	Cases Disposed of - 198
Cases Settled - 251	Cases Settled - 59	Cases Settled - 158
(Significantly, these include 29 matrimonial matters, 19 petitions for maintenance U/s 125 Cr. P.C., 4 custody and guardianship matters, 38 suits for injunction/possession/ damages, 86 suits for recovery, 4 suit for partition and, 2 Probate case and 11 Rent Cases	(Significantly, these include 12 matrimonial matters, 3 MACT matters, 14 suits for Recovery, 5 Criminal Compoundable cases and 7 cases under Section 138 of NI Act & 4 suits for Injunction/possession/ damages and 3 other civil suits.	(Significantly, these include 11 labour and management disputes, 37 matrimonial matters, 29 cases under the Negotiable Instruments Act, 17 suits for injunction/possession/ damages, 16 petitions for maintenance U/s 125 of the Cr. P.C., 14 MACT matters, 16 suits for Recovery and 1 custody and guardianship matter.
Connected Cases Settled - 100	Connected Cases Settled - 21	Connected Cases Settled - 62
Total settled - 351	Total settled - 80	Total settled - 220