

PROCEDURE TO BE ADOPTED FOR SUCCESSFUL EXECUTION
OF THE "SCHEME" FOR IDENTIFICATION OF CASES FOR
MEDIATION REFERENCE

1. The Scheme of Identification of Cases for mediation reference is described in Hindi at page no. 107 of Handbook & Action Plan-2014 (**Annexure-A**) and in English at page no. 89 (**Annexure-B**), similarly the Mediation Rules, 2006 is described from page no. 190 to 200 (**Annexure-C**). Implementation of this process shall have to be executed keeping in mind the aforesaid scheme & Rules. The scheme for Identification of Cases for Mediation Reference is being addressed as "**I.C.M.R.**", in short.

2. For successful implementation of the I.C.M.R. Scheme and with a view that its process could be executed smoothly & in a easy going way, this process has been prepared for Co-ordinator (Registrar, High Court Legal Services Committee), Mediators & Staff.

3. The Co-ordinator shall constitute, amongst from the High Court Mediators, a panel of 15 Mediators including Advocates & Social Workers with their consent. The panel shall be given final shape by the Main Mediation Monitoring Committee, upon recommendation of High Court Mediation Monitoring Sub-Committee.

4. If sufficient numbers of trained Advocates are not available for membership of Main Mediation Monitoring Committee, then those Advocate Mediators shall be considered who will have atleast 15 years of permanent standing practice. In this regard, page no. 81 of Handbook & Action Plan on Mediation, 2014 (**Annexure-D**) and page no. 191 (**Annexure-E**), Rule 05 of Mediation Rules, 2006 are observational.

5. For execution of the scheme in next month, the Co-ordinator shall conduct a meeting of the Mediators of the constituted panel in last week of the current month and shall apprise them about the following important points by giving information of I.C.M.R.:-

- a. Each mediator is supposed to go to the Sections of High Court & identify the cases as per the calendar prepared according to aforesaid scheme, prior to identify a case, the mediator shall peruse each & every case very well and shall ensure that the case consists some elements of settlement and the case is fit for Mediation Reference and there is no possibility of hearing of such pending cases in the High Court within one year.

- b. At start, the mediator shall identify those cases in which both parties are resident of near Districts, so that, there is no delay in service of notices issued to them.
- c. It is necessary to apprise mediators as such type of cases they have to opt in which possibility of settlement must be available. These cases may be as under;-
- (i) ***First Appeal (FA)***- Matters pertain to section 9 & 13 of Hindu Marriage Act, various Civil cases for Proclamation, Permanent Injunction, possession, partition and execution of sale-deed on the basis of agreement, in which First Appeal has been filed. Matter relates to Land Acquisition.
 - (ii) ***Miscellaneous Appeals (MA)***- Appeals, filed against Award under the Motor Vehicles Act, but only those cases shall be opted in which appellant has filed appeal for enhancement of amount of Award passed by the Trial Court or Insurance Company has filed appeal for rate of interest or awarded amount. The matters pertain to Workman's Compensation, Railway claims, Adoption and Maintenance Act, Guardian and Wards Acts may also be opted.
 - (iii) ***Writ Petition (WP)*** - Appeal (Bank Loan) preferred against order of Debts Recovery Tribunal, matters pertain to Income Tax, Wealth Tax, Central Sales Tax, Central Excise Service Tax etc. and service matters may also be opted.
 - (iv) ***Second Appeal (SA)***- While considering the Second Appeals, the case is required to be perused very well and with satisfaction that there could be possibility of settlement between parties in the Second Appeal. The matters pertain to proclamation, permanent injunction, possession, partition and matters of relief regarding execution of sale-deed may also be opted.
 - (v) ***Criminal Revision (Cr. R.)***- Criminal Compoundable Cases under Indian Penal Code which are described in the table of Section 320 of Code of Criminal Procedure (**Annexure-F**). Apart from these, the matters pertain to Section 138 of Negotiable Instruments Act may be taken-up for settlement.

6. Calendar shall be prepared by the Co-ordinator for that month for Identification of Cases by the mediators according to the I.C.M.R. Scheme. The Calendar shall contain the information for the mediators as to the date and types of cases they have to identify. A mediator can identify the cases in the Section in one or two days. To maintain the quantum & balance of the work, it would be appropriate that each mediator be directed to identify only 10 cases per month. Sitting of the mediators in the Sections for the coming months, shall be changed by the Co-ordinator, so that, all mediators can get opportunities of Identification of Cases in all Sections.
7. The Calendar (**Annexure-G**) prepared by the Co-ordinator shall be placed before the Principal Registrar (Judicial), so that, direction to make the records available to the mediators on concerned date, could be given by sending copies of the Calendar in all Sections.
8. The Co-ordinator shall direct the mediators to identify the cases in concerning Sections as per Calendar. In this regard, he shall give the Letter (**Annexure-H**) along with Calendar (**Annexure-G**) & Proforma of list of identified cases.
9. It would be necessary for the mediators to mention date by writing "I.C.M.R." on the cover page of the case identified by him/her, so that, in future while identifying the cases, it could be find out that this case was earlier taken into consideration under the I.C.M.R. Scheme.
10. Mediators shall submit with details, the list (**Annexure-I**) of cases identified from the Sections as per Calendar, in the office of Co-ordinator. The Co-ordinator shall call the cases as per list from concerned Section and shall make entries of these cases in the Register Proforma (**Annexure-J**), thereafter, notices (**Annexure-K**) shall be issued to both the parties to appear in the cases in which date of presence of parties shall not exceed the period of 10-15 days from the date of issuance of notices. The cases in which notices have been issued shall be sent back to the concerned Section.
11. Note-sheet (**Annexure-L**) of identified cases shall be drawn in the Co-ordinator office wherein the Co-ordinator shall decide the date of issuance of notices and presence of parties. Consent for the name of mediator shall be obtained from the parties so presented, if they give consent, then Co-ordinator shall issue Referral Order (**Annexure-M**) to the mediators. In this regard, the situation of issuing Referral Order (**Annexure-N**) by the Co-ordinator is clarified in the Annexure-N according to which upon getting

permission of Hon'ble President, the Co-ordinator only can refer the case to the mediators. After that, the referred cases shall be registered (under the I.C.M.R. Scheme) in the Mediation Register (**Annexure-O**) which are maintained in the office for registration of those cases which are sent by the Hon'ble Court for settlement.

12. During the mediation proceedings, concerned case shall be called from the Section and the mediators shall execute the proceedings of mediation in continuation of the note-sheet (**Annexure-L**) earlier drawn for that cases. If mediation succeeds in the case, then mediator shall send the case (through Co-ordinator) with his report to the concerned Hon'ble Court for further proceedings. If mediation is not successful then the case shall be send back to the concerned Section.
13. It would be noticeable that just like the report of cases received from the Hon'ble Court for mediation use to be sent to the Principal Registrar (Judicial), similarly, the report of successful or unsuccessful cases (**Annexure-P**) under the I.C.M.R. Scheme, shall be sent to the Principal Registrar (Judicial) alongwith copy of mediator's report & note-sheet.
14. Under the I.C.M.R. Scheme, in which case the party or parties has/have not given consent, the Co-ordinator shall file the note-sheet of that case mentioning the fact of non-consent. If, in some cases the service of notices have not been done properly, notices shall be issued again in those cases but if the service report is given like that incomplete address of party, gone somewhere leaving the place or any other reason has been shown wherein it shows that service of the notice is not possible upon them, then the pending note-sheet can be filed by the Co-ordinator in such cases.
15. Accordingly, following the aforesaid procedure, the execution of I.C.M.R. Scheme will be done every month.