

COMPLETE STUDY BUNDLE

Alternate Dispute Resolution System

KSLU — Semester IV

Medha-academy.in · Exam Edition · May 2026

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UNITS

15

SECTIONS

35+

MERMAID CHARTS

30+

IRAC PROBLEMS

UNIT I — GENERAL (ADR)

Alternate Dispute Resolution System

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This master document contains, in order:

1. **Visual Notes** — Conceptual maps with Mermaid charts
2. **Answer Bank** — Frequent KSLU questions answered
3. **Problem Solver** — IRAC method applied

UNIT I — GENERAL (Visual Notes)

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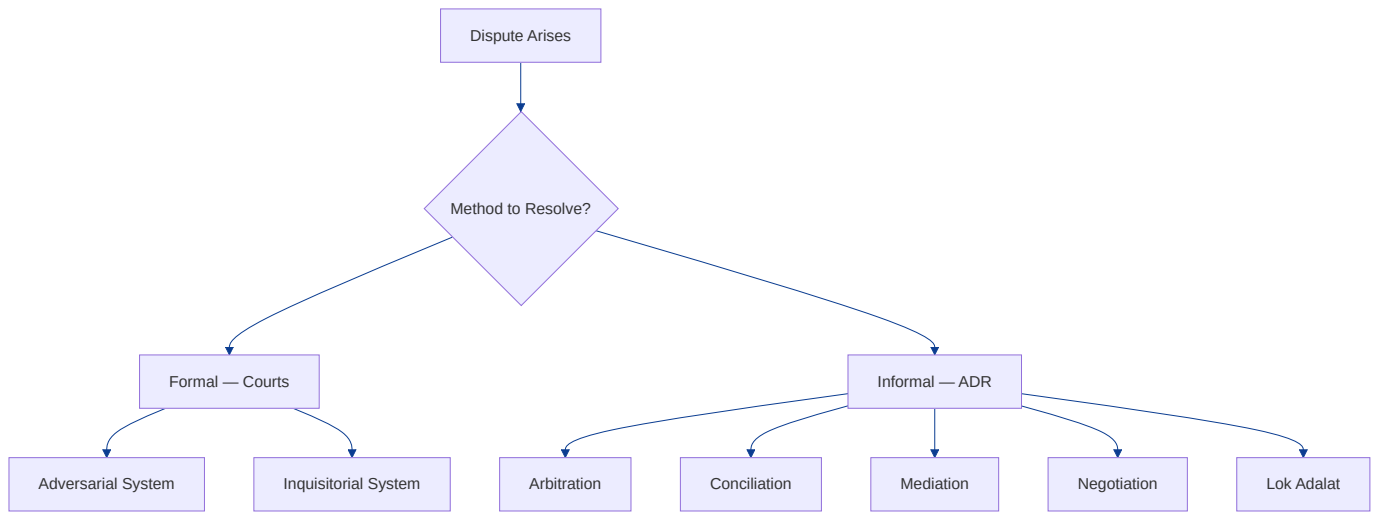
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1. Hook: Why ADR Matters

Landmark Case: *Salem Advocate Bar Association v. Union of India (2005) 6 SCC 344* The Supreme Court declared that **Section 89 CPC is mandatory**. Every civil court **MUST** try ADR methods first before pure litigation. Pendency of 4 crore+ cases pushed India to make ADR a legal duty, not a luxury.

2. What is Dispute Resolution?

Definition (Simple Terms): Any process used to solve a fight between two or more people, organisations, or states.



3. The Adversarial System

Meaning: A "fight-based" system. Two opposing lawyers argue. The judge is a **neutral umpire** who decides who wins. Used in India, UK, USA.

Key Features

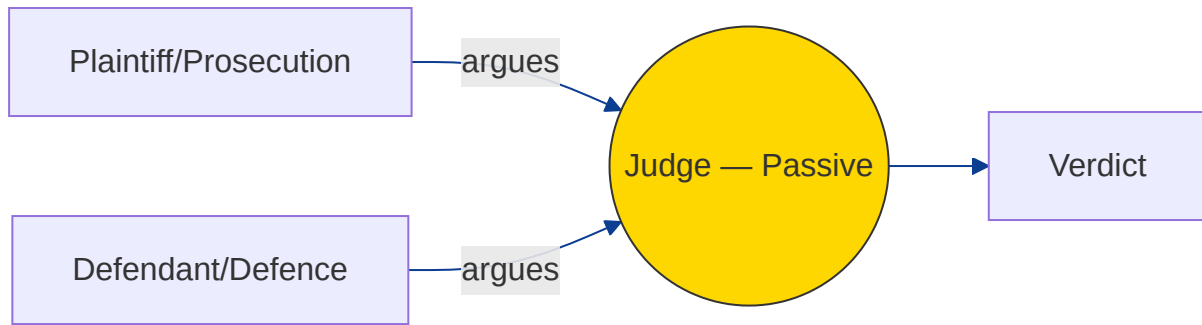
- Two parties fight as **opponents**.
- Each side presents its **own evidence and witnesses**.
- The judge is **passive** — just listens and judges.
- Strict rules of evidence and procedure.
- Cross-examination is the heart of the trial.

Advantages

- Fair to both parties (equal chance to argue).
- Lawyers do thorough preparation.
- Protects the rights of the accused (*audi alteram partem* [hear the other side]).
- Public trial = transparency.

Disadvantages

- Slow and expensive.
- Truth may lose to better lawyering.
- Promotes hostility, not harmony.
- Judge cannot ask questions freely.



4. The Inquisitorial System

Meaning: A "search-based" system. The judge is the **active investigator** who finds the truth. Used in France, Germany, Italy.

Key Features

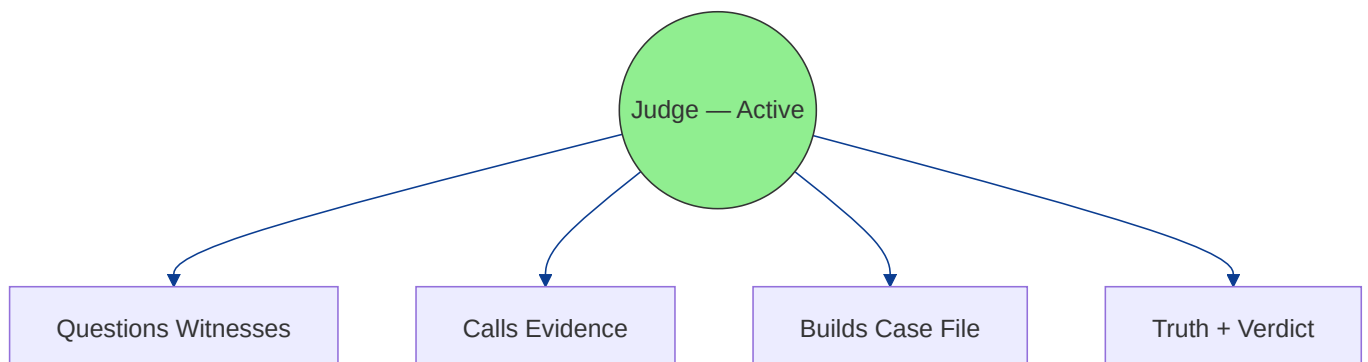
- Judge actively investigates, asks questions, calls witnesses.
- Lawyers are assistants, not gladiators.
- The case file (*dossier* [bundle of documents]) is supreme.
- Less cross-examination.
- Focus: discover the truth, not win a contest.

Advantages

- Faster and cheaper.
- Judge controls the case — less delay tactics.
- Truth-seeking, not winning.
- Less hostile.

Disadvantages

- Judge may become biased ("I already investigated").
- Less protection for the accused.
- Heavy burden on the judge.
- Reduced role for defence lawyers.



5. Adversarial vs Inquisitorial — Quick Compare

Point	Adversarial	Inquisitorial
Judge's role	Passive umpire	Active investigator
Driver of case	Lawyers	Judge
Goal	Win the case	Find the truth
Used in	India, UK, USA	France, Germany
Cross-examination	Strong	Weak
Speed	Slow	Faster
Cost	High	Lower

6. What is ADR?

ADR (Alternate Dispute Resolution): Any method **outside the regular court** used to resolve a dispute.

Statutory recognition: Section 89 of the Civil Procedure Code, 1908 (inserted by CPC Amendment Act, 1999) and the **Arbitration and Conciliation Act, 1996**.

In Simple Terms: ADR = settling fights outside court using Arbitration, Conciliation, Mediation, Negotiation, or Lok Adalat.

7. Methods of ADR

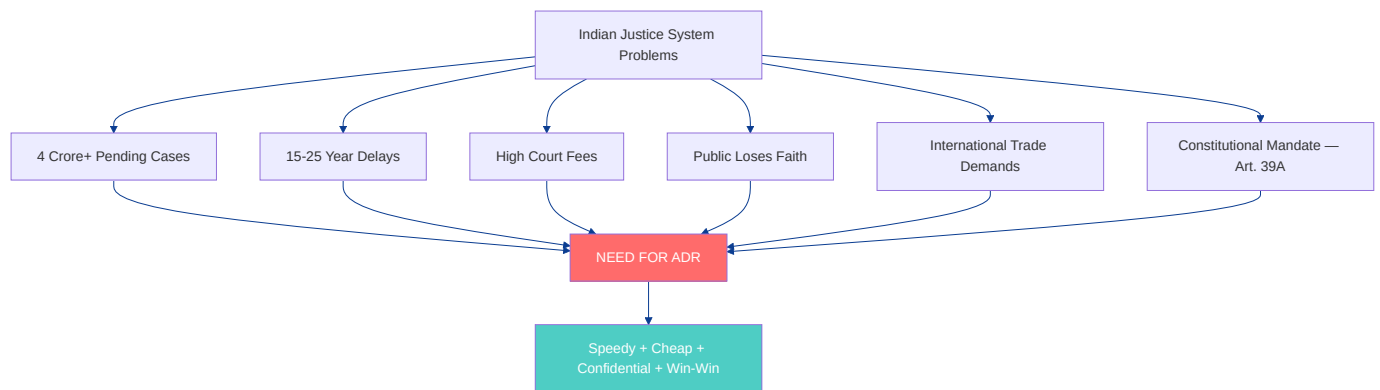


Brief Definitions

- **Arbitration:** A private judge (arbitrator) hears the case and gives a **binding award**.

- **Conciliation:** A neutral helper (conciliator) **suggests** settlement terms.
- **Mediation:** A neutral helper (mediator) **facilitates** talks but does NOT suggest solutions.
- **Negotiation:** Parties talk **directly** without a third party.
- **Lok Adalat:** Statutory people's court under the Legal Services Authorities Act, 1987.

8. Need for ADR



Domestic Needs

- **Pendency:** Over 4 crore cases pending across all courts.
- **Cost:** Court fees + lawyer fees beyond common person's reach.
- **Time:** A simple civil suit takes 10–20 years to finish.
- **Justice for All:** Article 39A of the Constitution demands equal justice and free legal aid.

International Commitments

- **UNCITRAL Model Law on International Commercial Arbitration, 1985** — India incorporated it in the 1996 Act.
- **New York Convention, 1958** — for enforcement of foreign arbitral awards.
- **Geneva Convention, 1927.**
- WTO + globalisation = foreign investors demand neutral, fast ADR.

9. Advantages & Disadvantages of ADR

□ Advantages

- **Speed:** Resolved in months, not decades.
- **Cost:** Far cheaper than court litigation.
- **Confidentiality:** Private; not in public record.
- **Flexibility:** Parties choose procedure, language, arbitrator.
- **Win-Win:** Preserves business and family relationships.
- **Expert Decision-Maker:** Parties choose a domain expert (e.g., engineer for a construction dispute).
- **Less Hostile:** No "winner-loser" feel.

- **Reduces Court Burden.**

□ Disadvantages

- **No appeal in most cases:** Final award is hard to challenge.
- **Not for criminal/serious offences.**
- **No precedent value:** Awards are private; do not develop the law.
- **Powerful party may dominate** (in negotiation/mediation).
- **Limited discovery:** Less ability to extract documents.
- **Cost of arbitrator:** Famous arbitrators charge crores.
- **Enforcement issues if losing party resists.**

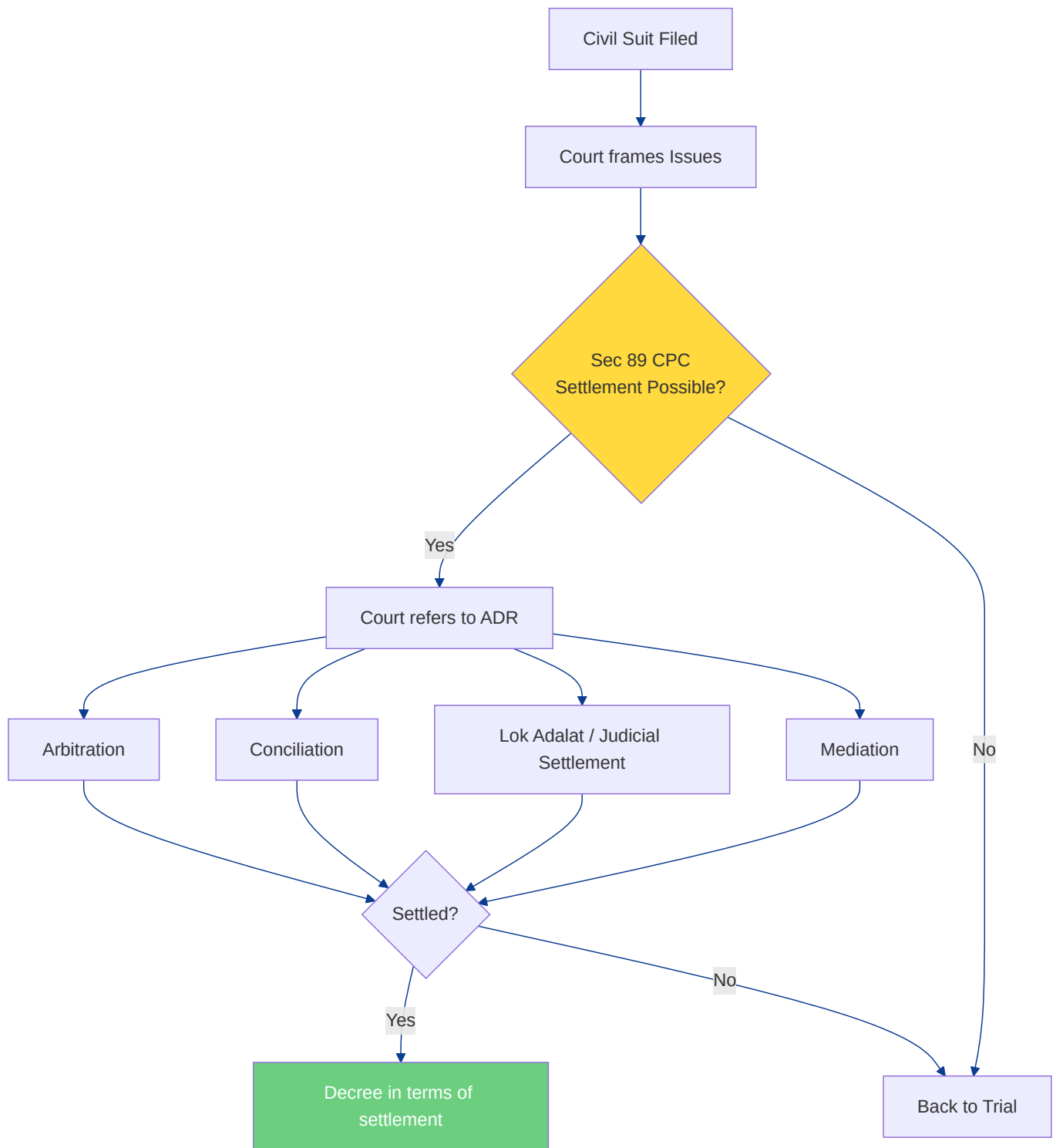
10. Suitability of ADR to Different Disputes

Dispute Type	Best ADR Method	Reason
Commercial / Contract	Arbitration	Binding, expert, confidential
Family / Divorce	Mediation/Conciliation	Preserves relationships
Labour / Industrial	Conciliation	Statute mandates (ID Act, 1947)
Small money matters	Lok Adalat	Free, quick
Cross-border trade	International Arbitration	Neutrality
Construction / IPR	Arbitration	Technical expertise
Petty offences (compoundable)	Lok Adalat	Compromise allowed
NOT SUITABLE	—	—
Murder / Rape / Treason	Court only	Non-arbitrable
Insolvency, Winding-up	Court only	Public interest
Matrimonial status (decree)	Family Court	Status questions

11. Section 89 CPC — The Gateway

Section 89 CPC, 1908: "Where it appears to the court that there exist elements of a settlement which may be acceptable to the parties, the court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the observation of the parties, the court may reformulate the terms of a possible settlement and refer the same for — (a) arbitration; (b) conciliation; (c) judicial settlement including settlement through Lok Adalat; or (d) mediation."

In Simple Terms: - Before deciding a civil case, the judge MUST check if it can be settled outside court. - The judge can send the case to one of 4 ADR routes. - Made mandatory by *Salem Advocate Bar Assn. v. UOI* (2005).



12. Lok Adalat — The People's Court

Statute: Legal Services Authorities Act, 1987 (Section 19–22)

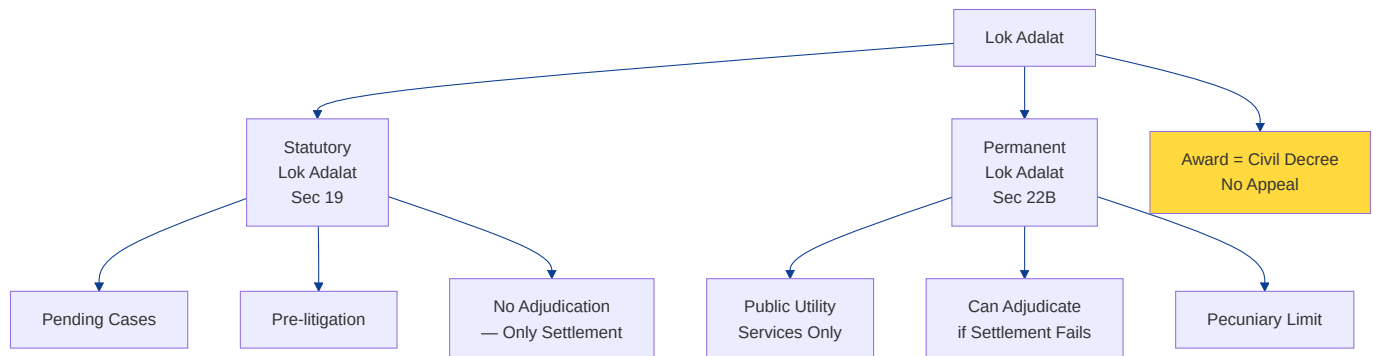
Key Features

- Organised by **State / District / Taluk Legal Services Authorities**.
- Members: a sitting/retired judicial officer + 2 members (lawyer + social worker).
- **No court fee** (refunded if pending case).

- **Award = decree of a civil court** (Section 21).
- **No appeal** against Lok Adalat award (Section 21(2)).
- Can handle: pending cases + pre-litigation matters.
- **Compoundable offences only** in criminal side.

Permanent Lok Adalat (PLA) — Section 22B

- For **public utility services** (transport, postal, water, power, hospital, insurance).
- Has adjudicatory power if conciliation fails.
- Pecuniary limit: up to ₹1 crore (varied by notification).



Landmark Case

- *State of Punjab v. Jalour Singh (2008) 2 SCC 660* — Lok Adalat award based on compromise; cannot adjudicate without consent.

13. Constitutional & International Mandate

Constitutional Basis

- **Article 14:** Equality before law → demands speedy justice.
- **Article 21:** Right to life → includes **speedy trial** (*Hussainara Khatoon v. State of Bihar, 1979*).
- **Article 39A:** Equal Justice and Free Legal Aid.
- **Article 51:** Promote international peace and respect for international law.

International Instruments

- UNCITRAL Model Law on International Commercial Arbitration, 1985.
- UNCITRAL Conciliation Rules, 1980.
- New York Convention on Recognition and Enforcement of Foreign Arbitral Awards, 1958.
- Geneva Protocol on Arbitration Clauses, 1923 and Geneva Convention on Execution of Foreign Arbitral Awards, 1927.

14. Quick Recap (Exam Capsule)

□ 1-Liner Definitions for Last-Minute Revision

- **ADR** = Out-of-court dispute resolution.
 - **Adversarial** = Lawyers fight, judge watches.
 - **Inquisitorial** = Judge investigates.
 - **Arbitration** = Private judge, binding award.
 - **Conciliation** = Neutral suggests settlement.
 - **Mediation** = Neutral facilitates talks.
 - **Negotiation** = Direct party-to-party talks.
 - **Lok Adalat** = People's court; award = decree; no appeal.
 - **Section 89 CPC** = Court must try ADR first.
 - **Salem Advocate Case** = Section 89 is mandatory.
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Next Read: [Unit 1 Answer Bank](#) | [Unit 1 Problem Solver](#)

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UNIT I — ANSWER BANK

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Hot Topics (Based on KSLU 2011–2021 papers): Adversarial vs Inquisitorial, Need for ADR, Advantages/Disadvantages of ADR, Lok Adalat, Section 89 CPC.

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Q1. Adversarial System — Advantages & Disadvantages

(Asked: June 2011, Jan 2012, Dec 2013, June 2014, June 2016, June 2017, June 2018)

Synopsis

The adversarial system is the dominant model in India. Two opposing parties present their cases, and a passive judge decides. While it protects rights and ensures transparency, it suffers from delay, cost, and a "winner-loser" mindset.

Statutory Provision

- **Code of Civil Procedure, 1908** (governs civil trials).
- **Code of Criminal Procedure, 1973** (Sections 225–235 for trial procedure).
- **Indian Evidence Act, 1872** (relevancy, examination, cross-examination).

Essential Ingredients (Features)

- **Two opposing parties** present their cases.
- **Lawyers drive** the process — gather evidence, examine witnesses.
- **Judge is neutral & passive** — does not investigate, only decides.
- **Cross-examination** is central to test truth.
- **Burden of proof** rests on the party who asserts.
- **Strict procedural & evidentiary rules.**

- **Audi alteram partem** [hear the other side] is the cornerstone.

Advantages

- Equal opportunity for both sides.
- Best evidence comes out through cross-examination.
- Judge cannot be biased — only neutral.
- Public, transparent process.
- Protection of accused under Article 21.

Disadvantages

- **Delay** — average civil case takes 10–20 years.
- **High cost** — court fees, lawyer fees.
- **Truth may lose** to better-resourced party.
- **Hostility** — destroys relationships.
- **Judge cannot ask** independent questions.
- **Technical loopholes** can defeat substantive justice.

Landmark Case Law

- *Hussainara Khatoon v. State of Bihar (1979) AIR SC 1369* — Speedy trial is a fundamental right; adversarial delays violate Article 21.
- *Ranjit Thakur v. Union of India (1987) 4 SCC 611* — Stressed neutrality of the adjudicator.

Critical Analysis

The adversarial system, inherited from British rule, is structurally weak for a 140-crore population country. Its emphasis on procedure over substance has produced a backlog of over 4 crore cases. The 2003 Justice Malimath Committee Report recommended **mixing inquisitorial features** with adversarial system to balance speed and fairness.

Conclusion

While the adversarial system protects rights through neutrality and equal opportunity, its delays and costs have pushed India toward ADR mechanisms under Section 89 CPC. It remains the **default** for serious criminal matters, but commercial and family disputes are better routed to ADR.

Q2. Inquisitorial System — Advantages & Disadvantages

(Asked: June 2011, Dec 2013, June 2014, Dec 2014)

Synopsis

In the inquisitorial system, the judge is the active investigator and the truth-seeker. Used in civil-law countries (France, Germany, Italy). Faster and cheaper, but raises concerns about judicial bias.

Statutory Provision

- Not applied as pure model in India.
- **Indian elements:** Section 165 Indian Evidence Act, 1872 (judge may ask any question); Sections 311, 165 CrPC (judge may summon any witness); Inquiry under Section 202 CrPC.

Essential Ingredients (Features)

- **Judge is active** — investigates, questions, controls.
- **The dossier** (case file) is built up over time.
- **Lawyers are assistants**, not gladiators.
- **No formal cross-examination** dominance.
- **Truth-seeking**, not winning-driven.
- **Continental Europe model** — France, Germany, Italy.

Advantages

- **Faster** — no theatrics.
- **Cheaper** — fewer hearings.
- **Truth-focused.**
- **Judge controls delay tactics.**
- **Less adversarial atmosphere** — preserves relationships.
- Suitable where parties cannot afford strong lawyers.

Disadvantages

- **Judicial bias** — investigator becomes decider.
- **Less protection for the accused** — limited cross-examination.
- **Heavy burden on judges.**
- **Reduced role of defence lawyers.**
- **Secret investigation** can undermine fairness.

Landmark Case Law

- *Ram Chander v. State of Haryana (1981) 3 SCC 191* — Judge has a duty to actively elicit truth; passive role criticised.
- *Zahira Habibulla Sheikh v. State of Gujarat (2004) 4 SCC 158* (Best Bakery Case) — Endorsed active judicial role for truth-discovery.

Critical Analysis

India has **partly absorbed** the inquisitorial spirit through provisions like Section 165 Evidence Act. The Justice Malimath Committee (2003) recommended deeper inquisitorial features — judge-led investigation in serious crimes. The hybrid model is the practical answer for India.

Conclusion

Inquisitorial system saves time and cost but raises bias concerns. A balanced **hybrid system** — adversarial for trial, inquisitorial for fact-finding — is the future of Indian judicial reform.

Q3. Need for ADR

(Asked: Jan 2012, June 2014, June 2017, June 2018, June 2019)

Synopsis

ADR is no longer optional but a **constitutional and practical necessity** in India. Court delays, costs, globalisation, and Article 39A have driven the legal system to embrace arbitration, conciliation, mediation, and Lok Adalat.

Statutory Provision

- **Arbitration and Conciliation Act, 1996.**
- **Section 89, Code of Civil Procedure, 1908.**
- **Legal Services Authorities Act, 1987** (Lok Adalat).
- **Article 39A, Constitution of India** (Equal justice and free legal aid).

Section 89 CPC, 1908: *Where it appears to the court that there exist elements of a settlement which may be acceptable to the parties, the court shall formulate the terms of settlement and refer the case to (a) arbitration, (b) conciliation, (c) judicial settlement / Lok Adalat, or (d) mediation.*

In Simple Terms: Before deciding a civil case, the judge **MUST** try to settle it through ADR.

Essential Ingredients (Need-Drivers)

- **Massive pendency** — over 4 crore cases.
- **Delay** — 15–25 years for a simple civil suit.
- **High cost** — beyond a common citizen.
- **Article 21** — speedy trial is a fundamental right.
- **Article 39A** — equal justice obligation.
- **International commitments** — UNCITRAL Model Law, New York Convention.
- **Globalisation** — foreign investors demand neutral, expert forums.
- **Confidentiality** — business and family disputes need privacy.
- **Preserving relationships** — win-win solutions.
- **Specialised disputes** — IPR, construction, banking need expert decision-makers.

Landmark Case Law

- *Salem Advocate Bar Association v. Union of India* (2005) 6 SCC 344 — Section 89 CPC is mandatory; ADR is a constitutional necessity.
- *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co.* (2010) 8 SCC 24 — Categorized cases suitable / unsuitable for ADR.
- *Hussainara Khatoon v. State of Bihar* (1979) AIR SC 1369 — Speedy trial = Article 21.

Critical Analysis

Without ADR, India faces a **collapse of the justice delivery system**. The Law Commission of India's 222nd Report (2009) underscored ADR as the "only practical answer" to pendency. The COVID-19 pandemic further pushed ADR through virtual hearings.

Conclusion

ADR is no longer "alternative" — it is **appropriate dispute resolution**. The Constitution, statutes, and international commitments all converge on ADR as the future of Indian justice delivery.

Q4. Advantages & Disadvantages of ADR

(Asked: June 2011, Dec 2013, June 2014, June 2015, June 2016, Dec 2018, June 2019, Dec 2019, Nov 2021)

Synopsis

ADR offers speed, cost-saving, confidentiality, and flexibility — but at the cost of limited appeal rights and unsuitability for serious offences. The modern legal system uses ADR as a **first option** for civil and commercial matters.

Statutory Provision

- Arbitration and Conciliation Act, 1996.
- Section 89 CPC.
- Legal Services Authorities Act, 1987.

Essential Ingredients

□ Advantages

- **Speed** — months instead of decades.
- **Low cost** — no heavy court fees.
- **Confidentiality** — Section 75, A&C Act protects privacy.
- **Flexible procedure** — parties decide rules.
- **Expert decision-maker** — engineer for construction, doctor for medical.
- **Preserves relationships** — win-win.
- **Less hostile** — no winner-loser binary.
- **Reduces court burden.**
- **Convenient location and language.**
- **Finality** — limited grounds of challenge.

□ Disadvantages

- **No precedent value** — does not develop law.
- **No appeal generally** — error of law goes unchecked.

- **Unsuitable for criminal matters.**
- **Powerful party may dominate** in negotiation/mediation.
- **Limited discovery** — fewer tools to extract evidence.
- **Cost of senior arbitrators** can be very high.
- **Enforcement issues** if loser resists.
- **Lack of public scrutiny** — transparency reduced.
- **No third-party rights** protected.

Landmark Case Law

- *Booz Allen and Hamilton Inc. v. SBI Home Finance Ltd. (2011) 5 SCC 532* — Listed disputes NOT suitable for ADR.
- *Vidya Drolia v. Durga Trading Corporation (2021) 2 SCC 1* — Refined the arbitrability test.

Critical Analysis

ADR's biggest strength — **finality** — is also its weakness. Without robust judicial oversight, ADR can become a tool of the powerful. Hence Section 34 of the 1996 Act allows setting aside awards on limited grounds (fraud, public policy, etc.).

Conclusion

ADR's advantages decisively outweigh its disadvantages for most civil and commercial disputes. The legislative trend is to **strengthen ADR** (e.g., 2015, 2019, 2021 Amendments to the A&C Act).

Q5. Suitability of ADR to Different Disputes

(Asked: Nov 2021)

Synopsis

Not every dispute is fit for ADR. The Supreme Court in *Afcons Infrastructure (2010)* laid down clear categories. ADR fits commercial, family, and small disputes; courts are essential for criminal, status, and public-interest matters.

Statutory Provision

- Section 89 CPC.
- Section 2(3), A&C Act, 1996 (excluded matters).

Essential Ingredients

Suitable for ADR: - Commercial disputes (contract, sale, partnership). - Family disputes (divorce, maintenance, custody). - Labour and industrial disputes. - Construction, IPR, banking matters. - Compoundable petty criminal offences (Lok Adalat). - Motor accident claims. - Consumer disputes.

NOT suitable for ADR (per *Booz Allen & Vidya Drolia*): - Criminal offences (murder, rape, treason). - Matrimonial status questions (annulment, divorce decree itself). - Insolvency and winding-up of companies. -

Testamentary matters (probate). - Guardianship of minors / persons of unsound mind. - Eviction / tenancy under rent control acts. - Disputes involving public rights.

Landmark Case Law

- *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (2010) 8 SCC 24* — Laid down "suitable / unsuitable" categories under Section 89.
- *Booz Allen and Hamilton Inc. v. SBI Home Finance Ltd. (2011) 5 SCC 532.*
- *Vidya Drolia v. Durga Trading Corp. (2021) 2 SCC 1* — Modern arbitrability test (4-fold).

Critical Analysis

The 4-fold test from *Vidya Drolia* (rights *in rem*, sovereign functions, public-interest, mandatory non-arbitrability under statute) provides clarity. Yet, the Court continues to extend ADR scope (e.g., tenancy disputes were made arbitrable in *Vidya Drolia*).

Conclusion

ADR is broadly suitable for **private rights** but excluded for **public rights and serious crime**. The trend is to maximise ADR's reach where consent of parties exists.

Q6. Lok Adalat — Detailed Note

(Asked: June 2011, Jan 2012, Dec 2014, June 2015, June 2018, Dec 2019)

Synopsis

Lok Adalat (People's Court) is a **statutory ADR forum** under the Legal Services Authorities Act, 1987. Its award has the same force as a civil court decree and is **non-appealable**.

Statutory Provision

Section 19, Legal Services Authorities Act, 1987: "Every State Authority or District Authority or the Supreme Court Legal Services Committee or every High Court Legal Services Committee or, as the case may be, Taluk Legal Services Committee may organise Lok Adalats at such intervals and places..."

Section 21(1): Every award of the Lok Adalat shall be deemed to be a decree of a civil court.

Section 21(2): No appeal shall lie to any court against the award.

In Simple Terms: - Lok Adalats can be organised by Legal Services Authorities. - Their award = civil court decree. - No appeal — but parties can challenge by writ if no consent.

Essential Ingredients

- **Constitution:** A judicial officer + 2 members (lawyer & social worker).
- **Jurisdiction:**
- Pending court cases (if both parties agree).
- Pre-litigation matters.

- Compoundable criminal offences.
- NOT non-compoundable offences.
- **Procedure:** Simple, conciliatory, no strict evidence rules.
- **Award binds** both parties; deemed civil decree.
- **No court fee** (refunded for pending cases).
- **Permanent Lok Adalat (Sec 22B):** For public utility services (postal, transport, water, hospital, insurance) — has adjudicatory power.

Landmark Case Law

- *State of Punjab v. Jai Singh (2008) 2 SCC 660* — Award must be based on free consent of parties.
- *Bar Council of India v. Union of India (2012) 8 SCC 243* — Validated Permanent Lok Adalat's adjudicatory power.
- *K.N. Govindan Kutty Menon v. C.D. Shaji (2012) 2 SCC 51* — Lok Adalat award is enforceable as civil decree even in cheque-dishonour cases.

Critical Analysis

Lok Adalats have **disposed of over 8 crore cases** since inception. Permanent Lok Adalats, however, have been criticised for adjudicating without true party consent — diluting the conciliatory spirit.

Conclusion

Lok Adalat is India's **most successful ADR institution** — free, fast, and final. It is the practical embodiment of Article 39A.

Q7. Section 89 CPC

(Asked: Jan 2012, Dec 2013)

Synopsis

Section 89 is the **gateway** between courts and ADR. Inserted by the CPC Amendment Act, 1999, it makes ADR a **mandatory option** for all civil cases.

Statutory Provision

Section 89 CPC, 1908: "(1) Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the observations of the parties, the Court may reformulate the terms of a possible settlement and refer the same for — (a) arbitration; (b) conciliation; (c) judicial settlement including settlement through Lok Adalat; or (d) mediation. (2) Where a dispute has been referred — (a) for arbitration or conciliation, the provisions of the Arbitration and Conciliation Act, 1996 shall apply..."

In Simple Terms: - Step 1: Judge sees if settlement is possible. - Step 2: Judge writes the terms of settlement. - Step 3: Parties give input. - Step 4: Judge refers to one of 4 ADR modes.

Essential Ingredients

- **Mandatory** at the issue-framing stage.
- **Four routes:** Arbitration, Conciliation, Judicial settlement (Lok Adalat), Mediation.
- **Court retains supervisory role.**
- **Order XA, CPC** lays down procedural steps.
- Settlement → Decree in terms of compromise (Order XXIII Rule 3 CPC).

Landmark Case Law

- *Salem Advocate Bar Association v. UOI (No. 2) (2005) 6 SCC 344* — Upheld Section 89 as mandatory; framed model ADR Rules.
- *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (2010) 8 SCC 24* — Practical guidelines for applying Section 89.

Critical Analysis

Despite being mandatory, courts often skip Section 89 due to overload. The Afcons Court called for **trained mediators and dedicated ADR centres** in every court complex. The success of court-annexed mediation in Delhi, Bengaluru, and Mumbai proves the section's potential.

Conclusion

Section 89 is the **constitutional bridge** between formal courts and ADR. Strict implementation can reduce pendency by 30–40 % in civil matters.

Q8. Delay in Administration of Justice & Reforms

(Asked: Dec 2016)

Synopsis

India's justice system suffers from **systemic delays** caused by judge shortage, procedural complexity, frequent adjournments, and lawyer-driven tactics. Reforms include ADR, fast-track courts, technology, and Section 89 CPC.

Statutory Provision

- Article 21 + Article 39A, Constitution.
- Section 89 CPC.
- Arbitration and Conciliation Act, 1996.
- Commercial Courts Act, 2015.
- Gram Nyayalayas Act, 2008.
- Legal Services Authorities Act, 1987.

Essential Ingredients (Causes of Delay)

- **Judge-population ratio:** ~21 per million in India vs. recommended 50.
- **Vacancies** in High Courts (~30 % unfilled).
- **Frequent adjournments** despite Order XVII Rule 1 limits.
- **Procedural complexity** of CPC and CrPC.
- **Lawyer strikes & ego-clashes.**
- **Government as biggest litigant** (~46 % of cases).
- **Lack of infrastructure** in lower courts.
- **Appeal culture** — case travels 4 levels.
- **Delayed investigation** by police.

Reform Efforts

- **Section 89 CPC** — mandatory ADR referral.
- **Arbitration & Conciliation Act, 1996** (Amended 2015, 2019, 2021).
- **Lok Adalat & Permanent Lok Adalat.**
- **Fast-Track Courts** for special cases (POCSO, NDPS).
- **Commercial Courts Act, 2015** — disputes ≥ ₹3 lakh.
- **E-courts Project & Virtual Hearings.**
- **Mediation Act, 2023** (institutional mediation).
- **National Judicial Data Grid.**
- **Plea Bargaining** (Sec 265A–L, CrPC).
- **Gram Nyayalayas** at village level.

Landmark Case Law

- *Hussainara Khatoon v. State of Bihar* (1979) AIR SC 1369 — Speedy trial = Art. 21.
- *All India Judges' Association v. UOI* (1992) 1 SCC 119 — Directives to increase judge strength.
- *Imtiyaz Ahmad v. State of UP* (2017) 3 SCC 658 — Concerns over case-pendency in subordinate courts.

Critical Analysis

Reforms have been many, but implementation is patchy. The National Court Management Systems Policy and AI-led case-flow management (announced 2023) may finally bring data-driven reform. ADR, however, remains the **single most cost-effective lever** for reducing delay.

Conclusion

Delay denies justice and violates Article 21. The combined strategy of **ADR + Technology + More Judges** is the only sustainable answer.

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UNIT I — PROBLEM SOLVER (IRAC Method)

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Method Used: IRAC — Issue → Rule → Analysis → Conclusion.

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P1. Illegal Earnings Settled in Lok Adalat

(Asked: Dec 2014, June 2019)

☐ Fact Pattern

A and B together earned ₹10 lakh through an **illegal business** (say, smuggling). They quarrel over how to divide the money. They approach the Lok Adalat to settle the distribution dispute. Advise.

☐ I — Issue

Can the Lok Adalat entertain and settle a dispute arising out of an **illegal contract or illegal earnings**?

☐ R — Rule

- **Section 23, Indian Contract Act, 1872:** Any agreement whose object or consideration is forbidden by law, or fraudulent, or against public policy, is **void**.
- **Section 20(2)(ii), Legal Services Authorities Act, 1987:** Lok Adalat shall NOT take up a matter relating to an offence which is NOT compoundable.
- **Section 65, Indian Contract Act:** When an agreement is **discovered to be void**, the party who received any advantage must restore it — but this rule does not apply where the agreement was illegal from the start.
- **Principle:** *Ex turpi causa non oritur actio* [no action arises out of an illegal cause].

☐ A — Analysis

- The income comes from an **illegal source** — smuggling/abduction money.
- The very subject of the dispute is the **fruit of a crime**.
- Courts and Lok Adalats cannot lend their authority to **enforce or distribute illegal gains** — to do so would be against public policy.
- Even by mutual settlement, parties cannot validate an illegal transaction.

- In *Sundara Gounder v. Bala Suba Reddy (1935) ILR 58 Mad 116*, the Court held it will not aid parties in dividing illegal earnings.
- Moreover, the underlying offence (smuggling) is **non-compoundable** under the IPC/applicable statute — barring Lok Adalat jurisdiction under Section 20(2)(ii).

□ C — Conclusion

The Lok Adalat **cannot entertain** this dispute. Any award passed would be a nullity, being against public policy and Section 23 of the Indian Contract Act. The parties should be advised to abandon the claim; in fact, the matter may be reported to law-enforcement authorities.

P2. Criminal Offence — Compromise / Settlement

(Asked: June 2016, June 2018, Nov 2021)

□ Fact Pattern

X is charged with abduction (or simple hurt / assault) of Y. Both parties want to compromise and settle the dispute before the court or in a Lok Adalat. Decide the validity.

□ I — Issue

Can a criminal offence be settled or compromised through Lok Adalat / mutual settlement? Which offences are compoundable?

□ R — Rule

- **Section 320, Code of Criminal Procedure, 1973:** Lists offences that may be compounded — some with permission of the court, others without.
- **Section 19(5), Legal Services Authorities Act, 1987:** A Lok Adalat shall have jurisdiction over **(i) any case pending before any court, or (ii) any matter falling within the jurisdiction of any court** for which it is organised; but **Section 20(2)(ii)** carves out an exception — Lok Adalat **shall NOT deal with non-compoundable offences**.
- **Simple hurt (Sec 323 IPC)** — compoundable without court permission.
- **Assault (Sec 352 IPC)** — compoundable without court permission.
- **Abduction (Sec 363, 366 IPC)** — generally **NON-compoundable**.
- **Landmark: Gian Singh v. State of Punjab (2012) 10 SCC 303** — High Courts may quash non-compoundable offences under Section 482 CrPC in personal-natured disputes, but **NOT for heinous offences**.

□ A — Analysis

Two situations:

Case (a) — Simple hurt / assault (compoundable): - These are personal-natured, compoundable offences listed in Section 320 CrPC. - Both parties may compromise; Lok Adalat may record settlement. - Award binds both; deemed civil-court decree under Section 21(1) LSA Act. - Accused stands acquitted.

Case (b) — Abduction (non-compoundable): - Lok Adalat has **no jurisdiction** (Sec 20(2)(ii) LSA Act). - Settlement is barred by public policy — the State, not the victim alone, is the aggrieved party. - The accused must face full trial. - Only the High Court, in exceptional circumstances, may quash under Sec 482 CrPC — and only when the offence is essentially private and continued prosecution would be a futile exercise (*Gian Singh*).

□ C — Conclusion

- **Simple hurt / assault:** Lok Adalat **CAN** record the settlement; the case stands closed.
- **Abduction or any non-compoundable offence:** Lok Adalat **CANNOT** entertain a settlement; criminal trial must proceed. The parties may only seek quashing before the High Court in deserving cases.

P3. Challenging a Lok Adalat Award

(Asked: June 2015)

□ Fact Pattern

A and B settle their civil dispute through the Lok Adalat. The Lok Adalat passes an award based on the settlement. Later, A is dissatisfied and wants to challenge the award. Advise.

□ I — Issue

Can a Lok Adalat award be challenged in appeal or otherwise?

□ R — Rule

- **Section 21(1), LSA Act, 1987:** Every award of the Lok Adalat shall be **deemed to be a decree of a civil court**.
- **Section 21(2), LSA Act, 1987:** **No appeal shall lie** to any court against the award of a Lok Adalat.
- **Article 226 / 227, Constitution of India:** Writ jurisdiction of High Court available against any quasi-judicial authority.
- **Landmark:** *State of Punjab v. Jalour Singh (2008) 2 SCC 660* — A Lok Adalat award is based on **consensus**; if there is **no consent**, the award is a nullity and a writ lies.
- *P.T. Thomas v. Thomas Job (2005) 6 SCC 478* — Restated finality of Lok Adalat awards.

□ A — Analysis

- A Lok Adalat does not adjudicate; it only **records the settlement**.
- The award binds the parties because **they themselves agreed** to its terms.
- Section 21(2) bars any appeal — to preserve the conciliatory, final nature of the forum.
- However, if the award is challenged on grounds of —
- **Fraud, coercion, or misrepresentation,**
- **Lack of consent** of either party,
- **Jurisdictional defect** (e.g., non-compoundable offence),

- **Violation of natural justice**, — a **writ petition** under Article 226/227 to the High Court is maintainable.
- An aggrieved party may also file a **civil suit** challenging the settlement on contract-law grounds (Section 19, ICA — coercion, undue influence, fraud).

□ C — Conclusion

- Direct appeal is **NOT** available (Sec 21(2) LSA Act).
- A can challenge only by: 1. **Writ petition** before the High Court under Article 226/227 — alleging absence of consent, fraud, or jurisdictional defect. 2. A **separate civil suit** to set aside the settlement on grounds of vitiated consent.

P4. Divorce on Mutual Consent — Wife Appeals Later

(Asked: June 2019)

□ Fact Pattern

H (husband) and W (wife) file a joint petition for divorce by **mutual consent** under Section 13B, Hindu Marriage Act, 1955. The Family Court grants the decree. Later, W files an **appeal before the High Court** challenging the decree. Decide.

□ I — Issue

- Can a party who consented to a mutual-consent divorce later appeal against the decree?
- Is the appeal maintainable before the High Court?

□ R — Rule

- **Section 13B(1), Hindu Marriage Act, 1955:** Joint petition for divorce by mutual consent.
- **Section 13B(2):** After 6 months (cooling-off period) and within 18 months, parties **must reappear** and reaffirm consent before the court grants the decree.
- **Section 19, Family Courts Act, 1984:** Appeal lies to the High Court from every judgment or order of a Family Court — **except** an order passed with the **consent of parties**.
- **Section 96(3), CPC: No appeal shall lie** from a decree passed by the court with the **consent of parties**.
- **Landmark Cases:**
 - *Sureshta Devi v. Om Prakash* (1991) 2 SCC 25 — Consent must subsist till the decree.
 - *Smt. Sureshta Devi* applied in *Smruti Pahariya v. Sanjay Pahariya* (2009) 13 SCC 338.
 - *Amardeep Singh v. Harveen Kaur* (2017) 8 SCC 746 — Cooling-off period under Sec 13B(2) is **directory, not mandatory**; can be waived.

□ A — Analysis

- A mutual-consent decree is essentially a **consent decree**.
- Section 96(3) CPC and Section 19 Family Courts Act both bar appeal from a consent decree.

- W cannot ordinarily appeal — she herself joined the petition and reaffirmed consent at the second motion.
- BUT, if W's consent was vitiated by —
- **Fraud** (e.g., husband misrepresented assets),
- **Coercion / undue influence**,
- **Mistake**, — the decree is voidable.
- The remedy in such cases is **not appeal**, but a **separate suit** under Section 44 of the Evidence Act / Order XXIII Rule 3 CPC to set aside the decree, OR a writ petition.
- Mere change of mind, regret, or unilateral withdrawal AFTER the decree is **NOT** a ground.

□ C — Conclusion

- W's appeal is **NOT maintainable** before the High Court because the decree was passed with her consent (Sec 96(3) CPC, Sec 19 FC Act).
- W's only remedy is to file a **fresh suit / writ** to set aside the decree on grounds of fraud or coercion, if any.
- If consent was free and subsisting at the time of decree, the divorce is final.

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