



Mediation

S. 110. 178

R.O.C.No:190/2010/TNMCC/Hct,Ms.

Date: 14.09.2010

From

Thiru. S.Udayan, B.A., B.L.,
Registrar (Administration),
High Court, Madras – 600 104.



To

The Principal District Judge,
Pudukkottai.

Sir,

Sub: Tamil Nadu Mediation and Conciliation Centre, High Court,
Madras – working of District Mediation Centres - Instructions
– Reg.

As directed by the Committee of Hon'ble Judges of Tamil Nadu Mediation and Conciliation Centre, High Court, Madras and approved by the Hon'ble the Chief Justice you are requested:

- to give appropriate instructions to all the Judicial Officers within the purview of your District to take all efforts to refer Cases for Mediation, in accordance with the Practice Directions issued for Court-Annexed Mediation;
- to send a report every month to the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras, furnishing details about the Number of Cases referred for mediation and their result; and

- to ensure that the District Mediation Centre of your District (either established or in the process of being established) follows the 'routine procedures' enclosed, utilizes the 'forms' and maintain the 'Registers'.

I am to forward herewith the Mediation Forms 1 to 9 and 12 to 14 and Format of Mediation Referral Register, Mediation Case Register, Mediation Adjournment Register and Mediation Despatch Register. Necessary steps may kindly be taken as per the procedure and compliance report thereafter periodically.

I am also to forward the list of Advocates, who are trained as Mediators for Pudukkottai District, in the Mediation Training Programme conducted by the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras, from 27.08.2010 to 29.08.2010 at the Tamil Nadu State Judicial Academy, Chennai.

| | Pudukkottai | |
|---|-------------------|-----------------------------|
| 1 | Mr.S.Sridaran | 04371-271489,270489 |
| 2 | Mr.S.M.Kumar | 9443601099 220244(04322) |
| 3 | Mr.A.Abdul Rahman | 04322222558, 9842412130 |
| 4 | Mr.A.Khan Mohamed | 04371-222035, 9688708021 |
| 5 | Mr.A.Palanichamy | 9442410931 |
| 6 | Mr.M.Zafarulla | 4322261301, 9443593059 |
| 7 | Mr.P.Elanchezhian | 9344275234, 9443837404 |
| 8 | Mr.C.Thirumurthi | 04322260849, 9443593099 |

| | | |
|----|--------------------------|--|
| 9 | Mr.M.Hajee Mohamed | 9842699836, 9842699836, 9842699836 |
| 10 | Mr.T.Panneer Selvam | 04322-262226, 9865349545 |
| 11 | Mr.T.Nagarajan | 9787755485 |
| 12 | Mr.K.Nallathambi | 04371, 9894414262 |
| 13 | Mrs.K.Renga Bathaga Devi | 04322-324610, 9750184709 |
| 14 | Mr.A.Murugesan | 9443807544 |

The receipt of this letter along with enclosures required to be acknowledged.

Yours faithfully,

[Signature]
REGISTRAR (ADMINISTRATION)

Encl.:

1.Mediation Forms 1 to 9 and 12 to 14.

2.Format of Mediation Referral Registers, Mediation Case Register, Mediation Adjournment Register and Mediation Despatch Register.

R.No.5445/2010, dated 05-10-2010.

Principal District Court,
PUDUKKOTTAI.

A xerox copy communicated to all Courts of this District for information and necessary action.

/t.c.f.b.o/

Sd/-A.AYYAPPAN,
PRINCIPAL DISTRICT JUDGE,
PUDUKKOTTAI.

[Signature]
CHIEF ADMINISTRATIVE OFFICER,
PRINCIPAL DISTRICT COURT,
PUDUKKOTTAI.

[Signature]
15-10-10

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MEDIATION FORMS

FORM 1 - INFORMATION ON MEDIATION

FORM 2- NOTICE TO PARTIES

FORM 3 - CONTACT DETAILS OF PARTIES AND COUNSEL AND CONSENT

FORM 4 - MEDIATION SESSION NOTES (for internal use only)

FORM 5 - REPORT TO COURT

FORM 6 -MEDIATOR REPORT TO CENTRE (for internal use only)

FORM 7 - FEEDBACK FROM PARTIES

FORM 8 - LIST OF MEDIATORS AND CASES ASSIGNED.

✓ FORM 9 - STATISTICS

FORM 12 - FORM OF CAUSE LIST

FORM 13 - NOTE FOR HON'BLE JUDGES

FORM 14 -INSTRUCTIONS TO REGISTRY IN MEDIATION CASES

MEDIATION REGISTERS

(A) MEDIATION REFERRAL REGISTER

(B) CASE REGISTER

(C) ADJOURNMENT REGISTER

(D) MEDIATION DESPATCH REGISTER

MEDIATION PROCEDURES

- (A) As soon as the Hon'ble Judges refer suitable cases to the Centre for Mediation, the concerned section has to send a copy of the order to the Centre along with a photocopy of the relevant case papers. (Petition & Counter / Complaint and Written statement).
- (B) On receipt of the Referral order, matter has to be numbered as Mediation case (e.g. M.F.No.1/2009) in the 'Mediation Referral Register (A)' and the Co-ordinator shall appoint two mediators (drawn from the panel) per case, on a roster system, to mediate the case. The statistics of cases allotted to Mediators should be maintained as per format '8' enclosed.
- (C) The Mediation case is then listed in the cause-list (Form 12). If the parties do not appear, then written notices are sent to the parties by post and to their counsel by special messenger, informing them the date and time of Mediation session.
- (D) The cases then appear in the cause-list. When the parties appear on the allotted day, they are given information sheet (Form-1) on Mediation to familiarize them on the process. The contact details are to be obtained in the Form No.3 in the first session itself. The Mediators have session with the parties and their lawyers. The Mediators have to record in Form - 4, the names of parties and also what happened briefly (not confidential facts). The Mediation sessions are held usually after Court-working hours in the mediation halls. The adjournment of Mediation cases shall be posted in 'Adjournment Register (c)'.
- (E) On conclusion of the mediation, if a settlement is reached, the parties sign a "Mediation Agreement", which is sent to the referring Court along with the Mediation Report (Form - 5) of the Mediators after making an entry in 'Despatch Register (D)'. The Court then passes orders enforcing the agreement. Even if the mediation fails, a report of the same is sent to the Court in Form - 5, for further suitable orders.
- (F) A 'Case Register (B)' has to be maintained for all the Mediation cases. This register given details as to the number of effective sessions, the outcome of the Mediation and the eligibility / non-eligibility of the Mediators for payment of Honorarium.
- (G) Some of the procedures to be followed for referrals and for payment of honorarium are detailed in the 'Practice Direction' enclosed herewith..

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FORM 1 - INFORMATION ON MEDIATION

PAMPHLET

INFORMATION ON THE TAMIL NADU MEDIATION AND CONCILIATION CENTRE

WHAT IS MEDIATION?

Mediation is a process in which a mediator, a neutral third party, helps the parties to the dispute to reach a settlement by identifying their long term interests and exploring their options. It is a confidential process. It is voluntary i.e any party has the right to terminate the mediation at any time

Mediation/conciliation is being conducted with the purpose of arriving at an acceptable resolution by settling the dispute in a co-operative manner. Parties should participate in this in good faith.

WHY MEDIATION?

It saves time and costs and helps to preserve personal and business relationships. The power to make decisions is retained by the parties.

IN WHICH CASES IS MEDIATION SUITABLE?

Civil, Company, Partition, Partnership, Matrimonial, Custody, Bank, Negotiable Instruments Act, Dowry Harassment, Labour and Insolvency cases, Family and Commercial Disputes, Testamentary Matters, Dowry Harassment cases and Arbitration including Section 11 applications are suitable for mediation.

WHAT DOES THE TAMIL NADU MEDIATION AND CONCILIATION CENTRE DO?

The Tamil Nadu Mediation and Conciliation Centre has been set up by the Madras High Court to facilitate the settlement of disputes pending in courts. It is supervised by a committee of Hon'ble Judges of the High Court and run by an Organising Committee of lawyers.

HOW DOES THE PROCESS OF MEDIATION WORK?

1. The Court will refer appropriate cases for mediation to the Centre under Section 89 of the Code of Civil Procedure preferably after obtaining the **consent of the parties**. The Court may formulate the area of dispute for reference to mediation.
2. Mediator/s from the Centre's panel will be appointed to mediate the dispute.

3. The Case will appear in the Cause List (Miscellaneous List), for the first time only on Mondays.
4. Parties and their Lawyers have to appear before the Centre on that day at 4.p.m.
5. The Case will go through an orientation procedure wherein the concept of mediation will be explained to the parties and their Counsel.
6. Immediately thereafter the allotted Mediator/s appointed by the Centre will begin the first session with the parties and their counsel at 4.45 p.m. The parties will each present their case and the Mediators will identify the issues and interests involved and facilitate settlement. This may take a few sessions.
7. On conclusion of Mediation if settlement is reached, parties sign an agreement, which is sent to the referral Court and the Court will pass orders enforcing the agreement. If settlement is not reached, the matter is referred back to the Court, which will hear and decide the matter.
8. If a party fails to attend two consecutive mediation sessions, or if any party is not willing for mediation, the Case will be sent back to the Hon'ble Court.
9. Ordinarily the time limit for mediation will be 30 days. On expiry the same, the mediators will make a report to the Court on the outcome of mediation.
10. The mediation report will be placed before the Hon'ble Judge who made the order of referral. If the concerned Judge is not available the report will be placed before the Judge holding the relevant portfolio.
11. Mediations will be held at the premises of the Mediation Centre and other notified places at the notified timings ensuring privacy for the parties.

WHO ARE THE MEDIATORS?

The Mediators are mostly lawyers and some retired judges. All of them have received training in mediation skills and techniques. If a party has any objection to the appointed mediator, the Centre should be informed with brief reasons.

WHAT IS THE ROLE OF LAWYERS DURING MEDIATION?

Lawyers render their professional service of assisting their clients during the mediation process. They protect their client's rights and also promote the clients interests in reaching a good settlement.

HOW IS CONFIDENTIALITY PROTECTED?

1. The Mediator/Conciliator shall respect the confidentiality of information that the parties request him/her to keep confidential.
2. The parties shall not rely or introduce as evidence in any proceedings the views, suggestions or admissions expressed or made by a party, the proposals made by the mediator/Conciliator and indication of acceptance by a party during the course of the mediation proceedings.
3. The parties agree not to call the Mediator/Conciliator as a witness or as an expert in any proceeding relating in any way to the dispute, which is the subject of mediation.

CONTACT DETAILS OF THE TAMIL NADU MEDIATION AND CONCILIATION CENTRE:

Address: The Tamil Nadu Mediation and Conciliation Centre,
High Court, Madras,
High Court Buildings, Chennai – 600 104.
Tel: 044-65252729, 25301271, 25330565.
E-mail: tnmacc@gmail.com



Tamil Nadu Mediation and
Conciliation Centre

File No. /2010
Date; / /2010

To

Dear Sir/Madam,
The Tamil Nadu Mediation and Conciliation Centre has been formed by the High Court of Madras to promote and facilitate Court referred Mediation and Conciliation.

This notice is to inform you that the following case has been referred by the Court to the Centre for Mediation/Conciliation.

Case No. :
Names of Parties :
Referred by (Judge) :
Date of referral :
Mediation File No. :
Mediator(s) name :
Date and time of
mediation session :

Information on mediation : Please see attached sheet

You are hereby directed to present yourself / along with the Defacto Complainant
before the District Mediation Centre..... onat..... without fail.

OR

The matter has already been posted on..... Since you have not appeared
on the above said date / dates, you are hereby directed to present yourself / along with the Defacto
Complainant before the District Mediation Centre.....
on.....at.....without fail.

Thanking you,

Yours sincerely,

ASSISTANT REGISTRAR,
Tamil Nadu Mediation and Conciliation Centre

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FORM 3 – CONTACT DETAILS OF PARTIES AND COUNSEL AND CONSENT

Kindly furnish name, address, telephone no, mobile phone no and email of the parties and their counsel in the following order (in serial order as per cause title):

Please fill in below:

| NAME | TELEPHONE NUMBER (Land line and Mobile Phone number) | ADDRESS | EMAIL |
|------|--|---------|-------|
|------|--|---------|-------|

1.

2.

3.

4.

5.

6.

The parties abovementioned confirm that they have read the "Information on Mediation" and are willing to participate in the mediation.

NAME

SIGNATURE

DATE

P.T.O.

MEDIATION REPORT

Mediation Case No : /2010 Date: /04/2010
Case Details :
Referred by : Hon'ble Mr. Justice
Date of Order :
Parties Name : -

-Vs-

- Petitioner

-- Respondent

Counsel Name : , Advocates for Petitioner.
: Advocate for Respondent.

Parties arrived at an amicable settlement. Hence the matter is sent back to the Hon'ble Court.

Or

Parties unable to arrive at an amicable settlement. Hence the matter is sent back to the Hon'ble Court.

Mediators:

FORM 4 – MEDIATION SESSION NOTES (for internal use only)

DATE:

MEDIATION CASE NO:

MEDIATORS:

PARTIES PRESENT (mention only as P1 etc / D or R1 etc in serial order as per FORM 3)

SESSION NOTES (in brief):

Time:- From 4.45 PM to _____

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FORM 6 – MEDIATOR REPORT TO CENTRE (for internal use only)

MEDIATION CASE NO:

MEDIATORS:

COMMENTS ON THE MEDIATION (this is for the purpose of feedback and learning only.
Parties names shall be avoided. No confidential information to be mentioned.

FORM 7 - FEEDBACK FROM PARTIES

(Parties are requested to give feedback on the mediation. Parties may withhold their name if they so wish).

MEDIATION CASE NO:

MEDIATORS:

NAME OF PARTY:

WAS THE MEDIATION HELPFUL?

WOULD YOU USE MEDIATION AGAIN?

DID THE MEDIATOR-EXPLAIN THE PROCESS, LISTEN TO PARTIES, HELP YOU TO REACH AGREEMENT?

DO YOU THINK THE MEDIATOR WAS NEUTRAL AND IMPARTIAL?

ANY OTHER COMMENTS

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FORM 8 – LIST OF MEDIATORS AND CASES ASSIGNED.

(To be updated daily - for internal use only).

| 1. NAME - | TOTAL CASES | PENDING CASES |
|-----------|-------------|---------------|
| | FILE Nos. | FILE Nos. |

FORM 12 – FORM OF CAUSE LIST

AT THE TAMIL NADU MEDIATION AND CONCILIATION CENTRE

S. No. Court Case No. Parties name Mediators Time
Mediation File No. Counsel's name

| Sl.No | Mediation File No. | Parties Name | Counsel Name | Mediators Name | Time |
|-------|-----------------------|--------------|--------------|-------------------|------|
| | | | | | |

(911)

FORM 14 -INSTRUCTIONS TO REGISTRY IN MEDIATION CASES

1. As soon as the orders are passed by the Hon'ble Judges referring the matters to the Tamil Nadu Mediation and Conciliation Centre, the Registry shall send a copy of the Order to the Centre.
2. Within one week of the order of referral, the Registry shall send to the Centre a photocopy of the relevant case papers as follows:
 - a) in the case of original matters like suits- copy of the plaint and written statement
 - b) in the case of original applications - copy of the application and counter-affidavit.
 - c) in the case of appeals - the order of the Court below.
3. The original case papers shall be retained with the office of the Registrar (Judicial). If requisition is made by the Mediation Centre for inspection or copies of other pleadings or documents, the same shall be complied with.
4. On completion of the mediation the Mediator's report, with the agreement if any, shall be sent to the Registry. The Registry shall thereupon have the matter posted before Court.
5. For all further orders after the order of referral, the matter shall be posted before the Hon'ble Judge who has referred the matter so that there may be continuity. If the referring Hon'ble Judge is not available, orders of the Hon'ble the Chief Justice may be obtained for posting the matter before any other Hon'ble Judge. If no agreement is reached in the mediation, the matter will be placed before the Hon'ble Judge handling the relevant portfolio.
6. The Registrar (Judicial) shall liaise with the Organising Secretaries of the Tamil Nadu Mediation and Conciliation Centre.
7. Any difficulties with the implementation of this order, and any further directions as may be needed, shall be brought to the attention of the Hon'ble Judge who is the Chairperson of the Supervising Committee of Judges for the Tamil Nadu Mediation and Conciliation Centre for suitable directions.

FORM 13 - NOTE FOR HON'BLE JUDGES

Hon'ble Judges who refer cases for mediation to the Tamil Nadu Mediation and Conciliation Centre may kindly adopt the following procedure:

- a. It is preferable that all the parties consent to the referral to mediation. This may also be recorded in the Order of referral.
- b. At the time of passing the Order of referral, the Court shall fix the date for appearance of parties before the Mediation Centre. This date shall normally be about 3 weeks from the date of the Order of referral so that parties have sufficient time to prepare for the mediation. The Court may fix a shorter date if deemed fit.
- c. In appropriate cases where the stakes are substantial, the Court may, at the time of referral or thereafter, fix a fee to be paid to the Mediation Centre. Such fee shall be paid equally by the parties, unless the Court directs otherwise. The fee is to be deposited in the Mediation Centre and a receipt obtained.
- d. For all further orders after the order of referral, the matter shall be posted before the Hon'ble Judge who has referred the matter so that there may be continuity. If the referring Hon'ble Judge is not available, orders of the Hon'ble Chief Justice may be obtained for posting the matter before any other Hon'ble Judge. If no agreement is reached in the mediation the matter will be placed before the Hon'ble Judge handling the relevant portfolio.

TMCC

:SPATCH REGISTER

Status

Settled

Partial Settlement

Failure

Unwilling

Signature for
receipt of
report

Date of
Despatching
the Report

Date of Report

НСТ -

(4) MEDIATION DE

S.N

Mediation File No.

High Court case No.

Names of the Mediators

513

275
28

HCT - TNMCC

(3) ADJOURNMENT

[illegible]

REGISTER

[illegible]