

Summary of the workshop on Mediation conducted by the BBA in association with the AMP

A workshop on "Mediation, Creating a win-win situation, Skillfully" was organised by BBA jointly with AMP on 30th June 2018. The workshop was attended by more than 150 people, mostly lawyers, law faculty and law students. Four topics were covered in the workshop, namely: 1) Why Mediation 2) Casual Mediators vs Trained Mediators 3) Role of Advocates in a Mediation and 4) Neutral Evaluation.

AMP was honoured that 4 eminent speakers accepted AMP's request to address the gathering. The first speaker was Justice A.P.Shah, Former C.J of The High Court of Delhi, whose career began as a lawyer of the Bombay High Court. The second speaker was Mr Rafiq Dada, an eminent trained Mediator and Senior Counsel of the Bombay High Court. The third speaker was Mr Nitin Thakker, again a senior counsel and Trained Mediator. The fourth speaker was Mr D. S. Parikh, a doyen of the Courts, senior counsel and now President of AMP.

Topic 1. Why Mediation :

Justice A.P. Shah opened his speech by saying that it was a pleasure to return to the Bombay high court and be a part of this workshop. He remembered how the mediation movement was pioneered in this very High Court in the early 2000's and named some of the lawyers who were a part of this initiative. He further opined that today the Delhi High Court Mediation Centre is regarded as one of the finest in the country. Justice Shah has been credited with supporting and building the Delhi and Chennai Centres. He then went on to give his real life experience and

narrated a few stories which were awe-inspiring. He quoted Mahatma Gandhi as one of the pioneers in the field of mediation. He talked about what Mediation is, its ingredients, its benefits, the factors which make Mediation a success and finally why pre-litigation mediation should be encouraged. He finally concluded by saying that Court Litigation system and Arbitration have been insufficient to provide speedy justice and that the time had come for Mediation to be adopted to bring about speedy, win win and amicable dispute resolution practices to disputants. He exhorted Trained Mediators to work with passion and spirit to bring about a change in the society.

Topic 2: Casual Mediators vs Trained Mediators

Mr. Rafique Dada spoke on this subject. He started by saying that addressing this gathering brought back memories of the year 2002 where he was a part of this Court which was the first to introduce Mediation. He went on to remember the early struggle of how this was a completely new field and how lawyers were hesitant to be a part of it. He urged all the people sitting here as well as all the lawyers of the court to infuse themselves with the concept of mediation as it helps to improve oneself and become a better person. He then went on to state several grounds as to why trained mediators can play a much better, successful and satisfactory role as Mediators than untrained mediators. He emphasized on those aspects which a trained mediator can bring on the table and which an untrained mediator cannot. He then concluded by giving a few real life examples of how he as well as others have helped assist the parties to settle the dispute by the means of Mediation.

Topic 3: Role of Advocates in a Mediation

Mr. Thakker opened his speech by thanking the AMP for forming the said association, training mediators and for spreading awareness about mediation and its benefits. He then went on to define mediation and its ingredients and started to explain the same. He mentioned about section 89 of the CPC inserted by the amendment act of 2002 which comprises of various modes of settlement of disputes, mediation being a part of them. He also touched upon the recent amendment of Commercial Courts Act, making the introduction of Pre-litigation

Mediation a mandatory provision under law. Hethen went on to give a broad and detailed view of the advocates role in the process of mediation. He stated that the first advice which a lawyer must give to his client is to suggest him to take advantage of the various ADR's provided by law. The lawyers should be candid in his advise to the client. e went on to give several excellent tips for advocates to present themselves in a Mediation. He finally concluded by saying that an advocate, after playing an active role in mediation, and assisting his client in arriving at a settlement should feel the inner satiation that he did his best to help his client to the full possible extent.

Topic 4: Neutral Evaluation

Mr. D.S. Parikh started his speech by briefly explaining about the neutral evaluation process with reference to Mediation. He also gave a brief introduction of what mediation is and explained its process. He stated that Neutral Evaluation is like taking an Opinion under law. However, when both parties engage an Evaluator together, and confidentially seek their individual evaluation, then it becomes much easier for the parties to decide whether they wish to go for Mediation or not. In Neutral Evaluation, parties are expected to submit their facts to the Neutral Evaluator after they decide on a common respected Evaluator. He went on to explain the neutral evaluation process in detail and specified that each party has to present their case in the form of written submission simultaneously, unlike the court system. The evaluator makes a detailed study of the facts himself. He finally disclosed the evaluator's process in three stages and then concluded with the parties' role in this entire process.

The program was well received. AMP was supported by the presence of two ex judges of the Bombay High Court, namely Justice Nishita Mhatre and Justice Roshan Dalvi.

Felicitations of speakers was done by AMP and BBA members . The program ended with a lot of good wishes for AMP to build a successful Mediation Practice in Bombay.