# Arbitration, Mediation or Lok Adalat? Choosing the Right Out-of-Court Route in India

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**Keywords:** arbitration in India, Arbitration and Conciliation Act 1996, Mediation Act 2023, section 12A Commercial Courts Act, Lok Adalat award, section 34 challenge, online dispute resolution, arbitration clause drafting



**Figure 1.** Many disputes are better settled across a table than in a courtroom.

A supplier chasing unpaid invoices, partners falling out, a homebuyer fighting a builder over delay: none of these needs to become a decade-long lawsuit. Each can often be settled faster, more privately and more cheaply outside the courtroom. But "alternative dispute resolution" is not one thing. Arbitration produces a binding decision that can be

enforced like a decree. Mediation produces only what the parties agree. A Lok Adalat award cannot be appealed at all. Choosing the wrong route, or missing a deadline on the right one, can cost you the dispute. Here is how each route works under the law in force as of late 2026.

## Arbitration: a private court with public teeth

Arbitration is governed by the Arbitration and Conciliation Act, 1996.[1] The parties hand their dispute to one or more arbitrators, whose award binds them and is enforced by the courts.

### The arbitration agreement

Under section 7, an arbitration agreement must be in writing, but "writing" is broad: a signed contract, an exchange of letters or emails, or pleadings in which one side asserts the agreement and the other does not deny it. If one party sues despite a valid clause, the other can seek reference to arbitration under section 8, no later than its first statement on the substance of the dispute.

A well-drafted clause should cover:

- **Scope:** "all disputes arising out of or in connection with" the contract.
- **Seat:** the legal home of the arbitration, which decides which courts supervise it.
- **Number of arbitrators:** an odd number; if silent, the default (section 10) is a sole arbitrator.
- **Appointment:** a neutral mechanism, such as an institution, not one party's unilateral choice.
- **Rules, language and any pre-arbitration step**, such as a fixed period for negotiation or mediation.

### Appointment and section 11

If the parties cannot agree on an arbitrator, or a party simply fails to appoint one within 30 days of a request, the other may apply under section 11 to the High Court (for domestic arbitrations) or the Supreme Court (for international commercial arbitrations). The law asks the court to try to dispose of such applications within 60 days of notice to

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the other side.

Under section 12(5) and the Seventh Schedule, people closely linked to a party, such as its employees, cannot act unless both sides waive this in writing after the dispute arises. In *Central Organisation for Railway Electrification vs. ECI SPIC SMO MCML (JV)* (2024 INSC 857), a five-judge bench held that equal treatment applies at the appointment stage, that a clause allowing one party to appoint a sole arbitrator unilaterally raises justifiable doubts about independence, and that unilateral appointment clauses in public-private contracts violate Article 14 of the Constitution.[2] For three-member tribunals, the ruling applies to appointments made after 8 November 2024.

### Interim protection: sections 9 and 17

Section 9 lets a party ask the court for interim measures (preserving goods, securing the amount in dispute, injunctions, a receiver) before the arbitration, during it, or after the award but before enforcement. If relief is granted before arbitration begins, proceedings must start within 90 days or such further time as the court sets. Once the tribunal is constituted, the court will not entertain a section 9 application unless the tribunal's own remedy under section 17 would not be efficacious. Interim orders made by the tribunal under section 17 are enforceable as if they were orders of a court.

### The clock: section 29A

Pleadings must be completed within six months of the arbitrators receiving notice of appointment (section 23(4)). In domestic arbitrations, the award is then due within 12 months, extendable by consent for six more. After that, only the court can extend the mandate, for sufficient cause, and it may cut the arbitrators' fees by up to five per cent a month where the tribunal caused the delay. For international commercial arbitrations, 12 months is only a target. The fast-track procedure under section 29B requires an award within six months.

### Challenging an award: section 34

An award can be set aside only on narrow grounds: incapacity, an invalid agreement, lack of proper notice or a fair hearing, decisions beyond the reference, an improperly composed tribunal, a non-arbitrable dispute, or conflict with the public policy of India. Domestic awards may also fall for patent illegality on their face, but not for a mere error

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of law or a different view of the evidence.

The deadline is strict. An application must be filed within **three months** of receiving the award (or of the disposal of a request for correction under section 33). The court may allow a further **30 days** for sufficient cause, "but not thereafter". Miss that window and the challenge is lost.

Courts generally cannot rewrite an award. In *Gayatri Balasamy vs. ISG Novasoft Technologies Ltd* (2025 INSC 605), a five-judge bench held by majority that the power to modify is limited: for example, severing an invalid part of an award, correcting clerical, computational or typographical errors, and in some circumstances adjusting post-award interest.[3]

### Enforcement as a decree

Under section 36, once the time for a challenge has expired, or a challenge has been dismissed, the award is enforced under the Code of Civil Procedure "in the same manner as if it were a decree of the Court". Filing a section 34 application does not by itself stop enforcement. The losing party must separately apply for a stay, and the court can impose conditions, such as depositing the amount awarded.

### Institutional or ad hoc?

In ad hoc arbitration, the parties and the tribunal run everything themselves. It can be cheaper for small disputes, but every gap (fees, venue, a defaulting party) must be resolved by agreement or by the court. Institutional arbitration hands administration to a body with published rules, fee schedules and appointment mechanisms, such as the India International Arbitration Centre or the Mumbai Centre for International Arbitration. For contracts of real value, an institutional clause usually reduces the risk of a stalled start. (A draft amendment Bill released for consultation in October 2024 has not been enacted.)

## Mediation and the Mediation Act, 2023: what is actually in force

The Mediation Act, 2023 is India's first standalone mediation statute.[4] Its headline features include voluntary pre-litigation mediation, a 120-day time limit (extendable by up to 60 days), confidentiality, online mediation, and mediated settlement agreements enforceable like court decrees. **Most of those provisions are not yet in force.**

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By notification S.O. 4384(E) of 9 October 2023, only sections 1, 3, 26, 31 to 38, 45 to 47, 50 to 54, and 56 and 57 came into force: broadly the definitions, the saving for Lok Adalats, the Mediation Council of India and administrative matters. The Council was established by a notification of 27 August 2026. In November 2026, the Manipur High Court observed that only 21 of the Act's 65 sections had commenced and that, because section 27 is not in force, a mediated settlement cannot yet be enforced as a decree under the Act.[5]

In practice, court-referred mediation continues under existing court schemes, and a settlement reached there is turned into a court order or decree. Private mediation is lawful, but its settlement is enforceable only as a contract unless a court records it. The Act's amendments to other laws, including those affecting conciliation and section 12A, have not commenced.

## Pre-institution mediation for commercial suits: section 12A

For commercial disputes of a specified value (currently not less than three lakh rupees), section 12A of the Commercial Courts Act, 2015 says a suit "which does not contemplate any urgent interim relief" shall not be instituted until the plaintiff has exhausted pre-institution mediation.[6] The Supreme Court held in *Patil Automation Pvt Ltd vs. Rakheja Engineers Pvt Ltd* (2022) that this is mandatory, and that suits filed in breach of it from 20 August 2022 onwards are liable to be rejected.[7]

The mediation is conducted through the authority the Central Government has notified for the purpose and must be completed within three months of the application, extendable by two months with both parties' consent. The time spent in mediation is excluded when calculating limitation. A settlement must be in writing and signed by the parties and the mediator, and it has the same status as an arbitral award on agreed terms. That means it is enforceable as a decree. The Government reaffirmed this framework in Parliament in August 2026.[8]

If you genuinely need urgent interim relief, you can go straight to court, but expect the court to test whether the urgency is real.

## Conciliation

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Conciliation under Part III of the 1996 Act remains available. One party sends a written invitation; the process begins only if the other accepts in writing, and silence for 30 days may be treated as rejection. The conciliator helps the parties toward a settlement and may propose terms. Under section 74, a signed settlement agreement has the same status as an arbitral award on agreed terms, making conciliation one of the few purely consensual routes whose outcome is directly enforceable today. Proceedings are confidential (section 75).

## Lok Adalats

Lok Adalats are established under the Legal Services Authorities Act, 1987. They settle cases by compromise. They do not adjudicate disputes, and they have no jurisdiction over offences that are not compoundable. Under section 21, every award of a Lok Adalat is deemed to be a decree of a civil court, and is "final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award".[9] Where a pending case referred by a court is settled, the court fee already paid is refunded under the Court-fees Act, 1870. If no settlement is reached, the record goes back to the referring court. Because there is no appeal, agree only to terms you can live with permanently.

## Online dispute resolution

Much of the above can now happen online. The 1996 Act recognises arbitration agreements made by electronic communication, and video hearings are routine. Since 2023, SEBI has channelled disputes between investors and market intermediaries or listed companies through a common online portal: online conciliation first, then online arbitration if that fails.[10] The Mediation Act's online mediation provision (section 30) is not yet in force, though online mediation happens by agreement and under court schemes.

## Comparing the routes

| Route | Who decides | Outcome | Key time limits |
|---|---|---|---|

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| | | | |
|---|---|---|---|
| Arbitration | Arbitrator(s) | Binding award, enforced as a decree; challenge only under s. 34 | Award 12 months after pleadings, +6 by consent, then court; challenge within 3 months + 30 days |
| Pre-institution mediation (s. 12A) | The parties, with a mediator | Settlement with the status of an arbitral award | 3 months, +2 by consent |
| Court-referred or private mediation | The parties, with a mediator | Court decree if recorded by the court; otherwise a contract | Mediation Act limits not yet in force |
| Conciliation | The parties, with a conciliator | Settlement with the status of an arbitral award (s. 74) | Invitation lapses after 30 days' silence |
| Lok Adalat | The parties, by compromise | Deemed decree, no appeal; court fee refunded for referred cases | Unsettled cases return to court |
| Online dispute resolution | As in the underlying process | As in the underlying process | Set by sector rules, such as SEBI's |

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## Choosing well

- If assets are at risk, seek interim relief under section 9 at once, and note the 90-day window to start arbitration.
- For a commercial claim without real urgency, budget three to five months for section 12A mediation before any suit.
- If you receive an award you think is wrong, diarise the section 34 deadline the day it arrives.

## How Vakil Dial can help

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Vakil Dial's Arbitration & ADR division (https://vakildial.com/services/arbitration-and-adr) helps individuals and businesses choose the right route and follow it through. The team can review your contract and its dispute clause, assess whether arbitration, section 12A mediation, conciliation or a Lok Adalat settlement suits your situation, and help prepare arbitration notices, section 9 and section 11 applications, mediation submissions or a section 34 challenge. Where representation is needed, Vakil Dial connects you with an independent legal professional from its privately managed network, whose credentials, such as Bar Council enrolment, its operations team has verified. Drafting a new contract? The team can help you build a clause that avoids the appointment and enforcement traps described above.

Start with a free enquiry on the guided Free Legal Advice page at https://vakildial.com/advice. Sending it does not commit you to any paid service: the team reviews it and replies, and if a paid service would help, explains it first. You can follow your matter in "My Conversations" after signing in. To understand terms such as "seat" or "award on agreed terms" first, MAATRA, Vakil Dial's intelligent AI legal-information persona at https://vakildial.com/maatra, explains concepts and procedure in general terms; it does not give legal advice.

This is general legal information, not legal advice; every matter depends on its facts.

## Conflicts of interest

This guide is published by Vakil Dial, which offers the services it describes.

## Notes


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