

MEDIATION AS AN EFFECTIVE MECHANISM FOR RESOLVING REAL ESTATE DISPUTES IN INDIA

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ABSTRACT

India's real estate sector, contributing 7% to GDP, faces frequent disputes over delayed possession, contractual breaches, and lease terms, exacerbated by a judicial backlog of 4.5 crore cases in 2025 (Narayan, 2020; NJDG, 2025). This paper evaluates mediation's effectiveness as an Alternative Dispute Resolution (ADR) mechanism for resolving such disputes, emphasizing its speed, cost-efficiency, confidentiality, and ability to preserve stakeholder relationships. Using a doctrinal approach, it analyses legal frameworks like RERA, 2016, the Arbitration and Conciliation Act, 1996⁶⁷⁷, and CPC⁶⁷⁸ Section 89, alongside case studies from MahaRERA (500+ resolutions in 2023), UP RERA, and Delhi High Court mediation (MahaRERA⁶⁷⁹, 2023; UP RERA, 2024). Despite mediation's success, challenges like low awareness, mediator shortages, and non-binding outcomes limit its adoption (Kumar, 2018). Recommendations include mandatory ADR clauses, enhanced mediator training, Online Dispute Resolution (ODR) platforms, and public awareness campaigns, drawing on Singapore's model (Singapore Mediation Act, 2017⁶⁸⁰). By reducing litigation and fostering amicable resolutions, mediation strengthens India's real estate sector. This study advocates for reforms to integrate mediation into standard practices, contributing to judicial efficiency and sectoral resilience.

GRASP - EDUCATE - EVOLVE

⁶⁷⁷ Arbitration and Conciliation Act, 1996

⁶⁷⁸ Code of Civil Procedure, 1908 (Section 89)

⁶⁷⁹ Maharashtra Real Estate Regulatory Authority (MahaRERA 2017)

⁶⁸⁰ Singapore Mediation Act, 2017

INTRODUCTION

Real estate plays a vital part in India's economic development, making up close to 7% of the country's GDP, contributing to building new cities, roads and creating jobs (Narayan, 2020). As a sector worth over ₹12 lakh crore in 2024, it covers residential, commercial and industrial projects and it includes several stakeholders, for example, developers, homebuyers, landlords, tenants and governing organizations (IBEF, 2024). Even so, there are many disputes in this field due to breaking contracts, delays in projects, issues with titles and not abiding by the Real Estate (Regulation and Development) Act, 2016 (RERA). Such disagreements, between developers and buyers over taking possession on time and landlords and tenants over lease conditions, threaten the stability of commercial activities and lower confidence between stakeholders.

Litigation has not been successful in dealing with the challenges faced by real estate professionals. In 2025, there were over 4.5 crore pending cases in Indian courts which made judicial processes slow, often resulting in judgments delayed by years (NJJDG, 2025)⁶⁸¹. Where litigation is used, real estate's key relationships such as those of developers and buyers or between landlords and tenants, may suffer. Because of the large number of complaints, rising legal expenses make it harder for individual homebuyers and small-scale developers to enforce their rights through the justice system. Thus, it is necessary to provide alternative ways that solve problems fast, at a lower cost and work with partners.

Mediation and similar mechanisms have been found to help solve the challenges found in litigation. During mediation, a neutral party assists both parties in negotiating so they may settle their dispute amicably (Arbitration and Conciliation Act, 1996). Unlike when they go to court, parties to a real estate dispute in mediation benefit from easy communication, personal confidentiality and adaptable rules

that prioritizes preserving good relationships. Its capacity to give resolutions within weeks or months, unlike courts taking years, is important in construction, as quick dispute resolution is necessary to finish projects and keep stakeholders trustful (NITI Aayog, 2021)⁶⁸². Furthermore, because mediation is less expensive and conducted in private, it helps protect business details that companies want to keep secret. This paper reviews how mediation works as a means to settle real estate disputes in India, by assessing its process, laws, how it is practiced, the problems it faces and areas where it could improve.

How successful is mediation in settling real estate disputes and what needs to happen to improve the use of mediation in India? By applying a doctrinal approach, this study examines regulations such as RERA, 2016, the Arbitration and Conciliation Act, 1996 and Section 89 of the Code of Civil Procedure, 1908, while using *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (2010)*⁶⁸³ as a judicial precedent. It also looks into articles written by specialists and reports from conciliation forums such as MahaRERA and UP RERA, to see how mediation has worked. International approaches like those used in Singapore aid in recommending ways to develop ADR services in India. This paper works to improve how disputes are resolved in the Indian real estate sector by emphasizing mediation.

MEDIATION PROCESS IN REAL ESTATE DISPUTES

In mediation, a neutral mediator joining the dispute talks helps disputing parties resolve their issues amicably. While arbitration brings a final and forced decision and litigation involves opponents battling each other, mediation focuses on negotiations, keeping things flexible and emphasizing teamwork, making it ideal for resolving issues between developers, buyers, landlords and tenants. Many of the issues in

⁶⁸¹ <https://doj.gov.in/the-national-judicial-data-grid-njdg/>

⁶⁸² <https://www.businesstoday.in/latest/economy-politics/story/robust-online-dispute-resolution-can-ensure-cheaper-justice-delivery-niti-aayog-ceo-269511-2020-08-08>

⁶⁸³ *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co.*, (2010) 8 SCC 24 (India).

India's real estate industry, like late building completion, sale contract breaks, errors in title documents or lease breaches, are often settled efficiently and neutrally by mediation which matches the sector's demands. This section describes how mediation unfolds, its different stages and how it is useful in real estate matters, stressing its positive procedures and suitability. The process is generally arranged in a fixed yet flexible format, so parties remain in charge and get assistance in their negotiations. According to India's laws and RERA conciliation, the main process consists of:

1. Mediation process is initiated when the involved parties agree and choose to take part voluntarily. A written document, known as a consent form or agreement, usually describes the job of the mediator, confidentiality issues and the procedure to be used. Since some homebuyers or developers are not familiar with ADR, it is important to discuss it in real estate. As an example, under RERA's rules, MahaRERA tries to educate both parties on the use of mediation in conciliation talks, so they only consent if they wish to.
2. The mediator first talks about the process, stressing that he or she is impartial, what is said in mediation is confidential and that all parties can stop the process at any time. It is established that everyone remains respectful and gets a chance to speak without being interrupted. At this point, it is important to ensure everyone is cooperative, as disputes in real estate often become heated when, for example, a buyer cannot get their property in time.
3. To start, each party discusses their view on the issue without interruption which enables the mediator to identify their main concerns. As an example, in a problem where a developer and a buyer disagree, the buyer might point out the financial consequences of project delays and the developer could argue that regulations blocked some work. During this step, it is possible to see where everyone has a common interest such as finishing the project.
4. The mediator takes the time to summarize what each party says to discover the main points and areas of concern and then creates a list of the topics that will be discussed. Some examples of issues in real estate are obtaining compensation for delays, understanding the title or adjusting when a lease ends. Instead of letting disputes continue as adversarial, the mediator proposes a new way to look at them, one that helps people work together.
5. A private meeting: A mediator might hold meetings behind closed doors with each party to discuss private matters, consider offers and answer questions not mentioned in the joint sessions. If a landlord and tenant are in a disagreement, the tenant might tell the mediator they would be willing to continue the lease if rent is altered. During caucuses, keeping information private helps participants be more open which is beneficial in most real estate business deals.
6. Through mediation, the parties involved are helped to find a resolution through discussions. Concerned parties agree on solutions based on the dispute such as setting a new timeline or giving back a part of the purchase. If a resolution is found, it gets put into writing in a settlement agreement. Then, as per Section 74 of the Arbitration and Conciliation Act, 1996, the settlement agreement may be enforced in court (Arbitration and Conciliation Act, 1996). Parties may use arbitration or resort to litigation even if they have not come to an agreement and without jeopardizing their dispute.

It is easier to use mediation in real estate disputes because it allows for flexibility and helps preserve relationships. With regards to disputes between developers and buyers about delayed delivery of a property, mediation might suggest methods such as splitting the payments or offering warranty extensions, while the courts are unlikely to suggest these ideas. Similarly, landlord-tenant disputes can be resolved through mediation so that the tenant does not need to be evicted and the relationship remains (Galanter & Henderson, 2006)⁶⁸⁴. MahaRERA's conciliation which was introduced by RERA, has managed to settle more than 500 cases during the first half of 2023, demonstrating this process (MahaRERA, 2023). The confidentiality of ADR preserves information on project finances and tenants' histories and its quick decision-making time means real estate deals face less disruption (NITI Aayog, 2021).

Mediation can only be successful if the mediator is experienced and if both parties are cooperative. Those who have received training in real estate law, like the experts on the MCPC, are better prepared to address disagreements in this area. Because mediation is voluntary, it enables the parties to choose solutions that fit their interests, in contrast to the winner-loser approach taken during litigation. Because of legal backing and RERA's actions, mediation can now be used effectively for solving real estate problems in India.

LEGAL FRAMEWORK SUPPORTING MEDIATION IN INDIA

Mediation functions as an effective Alternative Dispute Resolution (ADR) option in India, allowing it to be used in solving real estate issues. Because mediation benefits from official recognition and inclusion in the legal structure, it's generally welcome as a practice instead of litigation in disputes between developers and buyers, as well as between landlords and renters. It examines the main laws, legal rulings

and organizational aspects that form the basis of mediation in India, specifically concerning the real estate sector, where quick and gentle solutions are truly necessary (Narayan, 2020).

1. The Arbitration and Conciliation Act, 1996 is the primary statute in India which links mediation to conciliation as a term under Part III (Sections 61 to 81). The handling of Section 61 explains that, in conciliation, a neutral person aids the involved parties in settling disputes through mediation principles. If parties make a settlement agreement under Section 73, it gains the same enforceability under Section 74 as an arbitral award, just as a court decree (Arbitration and Conciliation Act, 1996). To help resolve real estate problems, enforceable agreements are needed, as they ensure project delay or refund issues are properly followed. Since the Act is flexible, mediation can be applied to many kinds of disputes which is why it is so important in India's ADR scheme.
2. Code of Civil Procedure, 1908: Section 89 of the Code of Civil Procedure (CPC), 1908, introduced through the 1999 amendment, empowers courts to refer disputes to ADR mechanisms, including mediation, when parties consent and a settlement appears feasible. This provision integrates mediation into the judicial process, enabling courts to divert real estate disputes—such as title conflicts or contractual breaches—from litigation to mediation centres (CPC, 1908). The Supreme Court's ruling in *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co.* (2010) reinforced Section 89's mandate, emphasizing mediation's role in reducing judicial backlog and promoting efficient dispute resolution (Afcons, 2010). In real estate, court-annexed mediation has proven effective, as seen in cases referred by High Courts to

⁶⁸⁴<https://www.researchgate.net/publication/228135820> The Elastic Tournament A Second Transformation of the Big Law Firm

mediation centres for resolving landlord-tenant disputes.

3. Real Estate (Regulation and Development) Act, 2016: The RERA, 2016, revolutionized dispute resolution in the real estate sector by establishing conciliation forums tailored to developer-buyer conflicts. Section 32(g) encourages authorities to promote amicable resolutions, while Section 31 authorizes the adjudication of disputes, often preceded by conciliation (RERA, 2016). State-level RERA authorities, such as MahaRERA and UP RERA, have established conciliation forums that mediate disputes within 60 days, addressing issues like delayed possession, defective construction, or refund claims. For instance, MAHARERA's Conciliation Forum resolved over 500 disputes in 2023, demonstrating mediation's scalability and effectiveness (MahaRERA, 2023). RERA's emphasis on conciliation aligns with mediation's principles, offering a sector-specific mechanism to reduce litigation.
4. In 2005, the Supreme Court formed the Mediation and Conciliation Project Committee (MCPC) which established standardized channels for court-annexed mediation in India and supervised training and centres in High Courts and District Courts (MCPC, 2005). The MCPC gives mediators the knowledge to mediate issues related to RERA or different types of property deals. Confidentiality, neutrality and voluntary involvement are the main concepts highlighted in its guidelines, following international mediation standards. Centres linked to MCPC, for example the Delhi High Court Mediation Centre, have effectively resolved many disputes, including in a 2021 case where a tenant and landlord came to an agreement to avoid eviction (Delhi High Court, 2021).

5. The judiciary of India has always supported mediation as a useful form of ADR. The case of Salem Advocate Bar Association v. In Union of India (2005)⁶⁸⁵, the Supreme Court ruled on Section 89, asking courts to encourage using mediation (Salem, 2005). Similarly, Afcons Infrastructure Ltd. (2010) pointed out that mediation is good for cases where the relationship matters such as in the real estate sector (Afcons, 2010). A report prepared by NITI Aayog in 2021 on upgrading Alternate Dispute Resolution calls on authorities to advance mediation by offering mediator training and more information to the public (NITI Aayog, 2021). Having approval in these areas confirms mediation's validity and leads to its increased use in resolving real estate disputes.

The legality of the framework comes from its use of mediation for disagreements in courts and specific sectors, highlighted by RERA's conciliation forums. At the same time, it is challenging that each state may have its own way of applying RERA and that many stakeholders are unaware of it, as your dissertation explains (Kumar, 2018). Still, because of these rules, mediation in real estate is enforceable, accessible to all parties and helps maintain good relationships. India has supported mediation by relying on laws, the support of the courts and various institutions.

EFFECTIVENESS OF MEDIATION: CASE STUDIES AND ANALYSIS

One reason mediation is effective in the Indian real estate industry is that it solves issues common in litigation and provides a quicker, more affordable and consensus-based approach for resolving disagreements such as those between developers and buyers, landlords and tenants and people with title problems. Since there are 4.5 crore pending cases in courts (NJDG, 2025), the settlement process through mediation takes much less

⁶⁸⁵ <https://indiankanoon.org/doc/342197/>

time, preserves ties between parties and reduces expenses. The effectiveness of mediation is checked through its main strengths—saving time and money, maintaining privacy, rescuing relationships and being flexible using examples from conciliation forums connected to RERA and court-annexed mediation, together with a careful evaluation of the outcomes (Narayan, 2020).

1. Mediation saves valuable time when it is compared to using the courts. Mediation concludes much quicker than a court trial in real estate, as mediation forums in RERA have only 60–90 days by law (NITI Aayog, 2021). The quick turnaround is needed for real estate as it can affect how buyers and lenders feel about a project. Last year, MAHARERA's Conciliation Forum dealt with over 500 disagreements, addressing complaints of delayed possession and refund requests (MahaRERA, 2023).
2. Because mediation costs lower than filing in court, it helps the interests of homebuyers and small developers in the real estate industry. Taking a dispute to court through litigation is expensive, while mediation charges usually involve the mediator's fees and little else. UP RERA is an example of a RERA forum that offers free or low-cost mediation to buyers (UP RERA, 2024).
3. Mediation's confidential nature is important in protecting private business information in the competitive environment of real estate. Since everything is private in mediation, neither the financial information about a project nor the backgrounds of tenants are shared (Arbitration and Conciliation Act, 1996). With privacy, parties can talk freely about their matters since they

don't have to worry about being seen in a bad light.

4. With its joint-solution approach, mediation allows for cooperation and maintains healthy relationships essential for future deals in real estate. Disputes between developers and buyers are resolved peacefully thanks to mediation which also stops adversarial events like eviction of tenants in landlord-tenant issues (Galanter & Henderson, 2006). Unlike litigation, arbitration does not always cause the relationship between the parties to end.
5. Mediation is flexible enough to create solutions like revised project schedules or giving back a portion of what was paid, something courts might not handle. Being flexible helps with real estate disputes, allowing for useful answers to each case (Patel, 2017).

Case Studies:

In an important case, an individual living in Mumbai complained that a developer took an extra two years to deliver the flat he had purchased. With the help of MAHARERA, the parties figured out a compensation amount of Rupees 5 Lakh and a fastened timeline for finishing the project, so they can continue to deal together in the future. The case reveals how mediation can save time and flexibility and how it also helps preserve relationships (MahaRERA, 2023).

A group of buyers confronted a developer in Noida because the construction had issues and possession was delayed. Through mediation, the parties agreed on a settlement, with the developer fixing the issues and paying interest for the delay, ending the claim in 60 days. More than 300 disputes have been handled by UP RERA through mediation since 2019, proving that mediation works on a large scale (UP RERA, 2024).

Less than 24 hours after an unpaid rent and lease renewal dispute was filed in Delhi's High Court, the case was sent for mediation. The revised lease with a lower rent was agreed upon, making sure the tenant was not evicted and their tenancy was maintained. The outcome proves that mediation is valuable in maintaining relationships in other cases (Delhi High Court, 2021).

Analysis:

The case studies prove that mediation works for resolving a wide range of real estate issues. MahaRERA and UP RERA achieve a high number of successful resolutions (over 70%) because of their legal foundation and well-trained mediators (MahaRERA, 2023; UP RERA, 2024). It demonstrates how mediation can effectively be used in court-annexed situations due to Section 89 of the Code of Civil Procedure, valid in 1908. According to qualitative analysis, the outcome of mediation depends greatly on meeting the interests of the stakeholders—buyers look for quick delivery or compensation, developers work to avoid the risks of litigation and tenants want to feel secure in their lease.

The privacy of mediation lets people be open during negotiations, while its adaptable nature sometimes brings up ideas such as instalment payments or altering lease schedules, things litigation usually misses. Yet, effectiveness depends on the mediator's ability and the disagreement's level of cooperation, so arbitration can occur if the mediation doesn't result in a solution. Outside India, the approach in Singapore, where mediation is made obligatory by law, gives similar results (Singapore Mediation Act, 2017). Mediation helps clear judicial queues, provide quick solutions and preserve relationships between stakeholders, making it ideal for the Indian real estate sector. But even though it works well in RERA forums and mediation, the lack of many aware participants and its results not being considerations for courts mean the issue still needs to be addressed, as explained further ahead.

RECOMMENDATIONS FOR ENHANCING MEDIATION

Despite mediation being used to settle real estate disputes in India, it is not widely used due to low awareness, the non-binding nature of its conclusions and the lack of qualified mediators (Kumar, 2018). If mediation is to do well in handling problems between buyers and developers, landlords and tenants and other real estate issues, changes must be made directly. Relying on India's laws, practical experiences and best practices from around the globe, this part of the work provides actionable ways to improve access to mediation and ensure its growth and success in the real estate sector (NITI Aayog, 2021).

1. Make ADR Binding in Real Estate Documents: Adding a requirement for mediation in real estate documents encourages using this approach before taking legal matters to court. According to Singapore's Mediation Act, 2017, mediation is the first option for some disputes which has led to high rates of successful settlements (Singapore Mediation Act, 2017). Officials under RERA in India could require a mediation clause in all developer-buyer agreements. As a result, settling disputes would become smoother and limit litigation, focusing on matters such as delayed delivery of the keys.
2. Better prepare mediators: The insufficient number of real estate law mediators cuts down on the positive outcomes achieved by mediation. Programs such as IIAM and the MCPC⁶⁸⁶ of the Supreme Court can be expanded to address this need (IIAM, 2021). It is important to train mediators in RERA rules, property laws and negotiation methods so they can successfully handle difficult cases. Allowing law schools and CREDAI to participate in the

⁶⁸⁶ <https://mcpc.nic.in/>

- training process could increase the numbers of qualified mediators.
3. Educate Homebuyers and Developers: Limited awareness among small developers and home buyers is keeping them from realizing the benefits of mediation (NITI Aayog, 2021). Working with media and real estate groups, the RERA authorities should run digital campaigns, organise workshops and participate in expos to inform stakeholders about the positives of mediation: it is quick, cost-effective and protects any important relationships. CEDR has presented India with a plan using online resources and events, following the approach they developed for the UK (CEDR, 2021). Organizations or companies can use awareness campaigns to share positive examples, like MAHARERA's resolution of over 500 cases in 2023 (MahaRERA, 2023).
 4. Include ODR platforms for real estate: Creating ODR(Online Dispute Resolution) systems aimed at real estate can allow anyone to take part in mediation, regardless of where they are located. Modria (IFC, 2015) is an example of ODR bringing together virtual mediation and AI which reduces both costs and obstacles faced by users. In India, authorities from RERA can team up with technology specialists to develop ODR portals so that online mediation can settle disputes over refund claims and tenant-lessor conflicts. By using an ODR platform, a buyer outside a big city can communicate with a developer and find a solution online without traveling.
 5. Make enforcement easier: Because mediation does not force any agreement, some people might wonder if the settlement will actually be followed by the participants. Mandatory enforcement of mediated settlements, like what is done in Singapore under the Mediation Act of 2017, would improve the

level of trust (Singapore Mediation Act, 2017). Modifying the Arbitration and Conciliation Act, 1996, to streamline the process for turning agreements into enforceable decrees under Section 74 could lead to improved compliance when it comes to disputes between developers and buyers.

6. Give Exclusive Tax Benefits for Using ADR: Adopting mediation may be boosted if a government offers tax relief or cash subsidies for its implementation. State authorities could lower the stamp duty tax when a contract includes mediation, encouraging developers to select ADR. Relying on Singapore's policy model, this plan matches India's aim to ease the burden on the courts.
7. Partnering with real estate bodies such as CREDAI and NAREDCO supports mediation in the usual ways of doing business in the industry. They may also support model agreements for mediation, help their members understand its advantages and join forces with RERA to create more conciliation forums. Their collaboration would make mediation available to both rural and urban real estate stakeholders, handling all types of disputes.

They find solutions to mediation's main problems by building on what India's legal system and structures already have. Moving forward, binding clauses and updates to enforcement target non-binding results and educational programs and ODR support more people and skilled officials. Strong focus on calls for awareness and joint industry action encourages adoption which is adapted from examples worldwide for India's real estate sector. If these measures were used, mediation would become the main way disputes are resolved, taking pressure off courts and making the real estate sector stronger.

CONCLUSION

Mediation is now recognized as an effective method for resolving disputes about real estate

in India, serving as an attractive substitute to the struggles associated with traditional court action. Given that there are nearly 4.5 crore cases pending in Indian courts in 2025, providing timely justice becomes a challenge. For real estate, delays from disputes over delayed possession, contract terms and lease issues often disturb normal business and stakeholder relations (NJDG, 2025). Because of a strong legal basis such as the Arbitration and Conciliation Act and RERA, as well as Section 89 of the Code of Civil Procedure, mediation can address many of these problems through its speed, low cost and confidentiality (Narayan, 2020). Through the examples in this paper, mediation can be seen helping parties resolve problems, like delivering over 500 joint decisions in MahaRERA and helping landlords and tenants settle in Delhi.

Mediation is effective because it brings about resolutions in a short amount of time, helps save money, cloaks confidential commercial information and maintains good relationships between those involved. Review of case studies shows that many difficulties linked to late possession and construction went through mediation which is flexible and can find solutions different from what is offered in courts (UP RERA, 2024). Yet, because some people are not aware of mediation, there are not enough mediators and the results cannot be enforced, more people are not using it (Kumar, 2018). The analysis points out that these barriers prove that extra efforts are necessary to maximize what mediation offers.

A roadmap to reform can be found in the proposed measures: making ADR a requirement, better preparing mediators, producing public awareness campaigns, merging ODR with various systems, tighter regulation, financial support and closer ties among sectors. Taking after Singapore's Mediation Act, 2017 and the UK's CEDR, India's new laws deal with understanding and availability of mediation, thus helping meet the country's aim to relieve the courts of many cases (NITI Aayog, 2021). If these reforms are put

into effect, mediation would become the main method to resolve property disputes, improve efficiency and strengthen trust in real estate, all key for India's growing GDP.

The analysis demonstrates that using mediation can change the real estate sector in India for the better and encourages it to be used more often. Another approach for researchers is to carry out stakeholder surveys about mediation and evaluate how well ODR services can be used in cities seeing significant growth in the real estate sector. As it reduces the number of cases pending in court and supports friendly settlements, mediation supports the sector's health and helps India's real estate market withstand complex issues.