



Arbitration Agreements In Unstamped Contracts Valid

For Prelims: [Arbitration Agreements](#), [Curative Petition](#), [Supreme Court](#), [Chief Justice of India](#), [Arbitration and Conciliation Act, 1996](#), [Article 51](#), [Arbitration and Conciliation \(Amendment\) Act, 2019](#)

For Mains: Impact of Arbitration on Efficiency of Function of Judiciary.

[Source: TH](#)

Why in News?

Recently, a **seven-judge Constitution Bench** of the **Supreme Court (SC)** held that **arbitration agreements** embedded in unstamped or insufficiently-stamped substantive commercial contracts or instruments are not invalid, unenforceable or even non-existent.

- “Arbitration aims to provide **speedy, efficient, and binding resolution** of disputes that have arisen between the parties.

What are the Key Highlights of the SC Decision?

- Delivering the lead opinion in a **curative petition** overruling an earlier **five-judge Bench** verdict of the **Supreme Court** in the **N.N. Global case**, **Chief Justice of India** held that “**non-stamping or inadequate stamping is a curable defect**”.
- Non-payment or insufficient stamping of contracts under the **Indian Stamp Act, 1899**. would not affect arbitration proceedings under the **Arbitration And Conciliation Act, 1996**.
- The Arbitration Act is a self-contained code. Matters governed by the **Arbitration Act** such as the **arbitration agreement, appointment of arbitrators** and competence of the **arbitral tribunal** to rule on its jurisdiction have to be assessed in the manner specified under the law.
 - Therefore, provisions of other statutes cannot interfere with the working of the **Arbitration Act**.
- The judgment gives a significant shot in the arm for India’s ambition to become an **international arbitration hub** to quickly resolve commercial disputes.
 - Earlier, arbitrations on such disputes had struck a **roadblock** owing to **non-payment** of the required **stamp duty** for or **insufficient stamping** of contracts by the parties.

What is Alternative Dispute Resolution (ADR) Mechanism in India?

- **Arbitration:**
 - The dispute is submitted to an **arbitral tribunal** which makes a decision (an "award") on the dispute that is mostly binding on the parties.
 - It is less formal than a **trial**, and the **rules of evidence** are often relaxed.
 - Generally, there is **no right to appeal an arbitrator's decision**.
 - Except for some interim measures, there is very little scope for **judicial intervention** in the **arbitration process**.

- **The Indian arbitration is governed and regulated by the Arbitration and Conciliation Act 1996 (which is amended in 2015, 2019 and 2021),**
 - The **Arbitration and Conciliation (Amendment) Act, 2019** seeks to establish an independent body called the **Arbitration Council of India (ACI)**.
- **Conciliation:**
 - A **non-binding procedure** in which an **impartial third party**, the **conciliator**, assists the parties to a dispute in reaching a mutually satisfactory agreed settlement of the dispute.
 - Conciliation is a **less formal** form of **arbitration**.
 - The parties are free to **accept or reject** the recommendations of the conciliator.
 - However, if both parties accept the settlement document drawn by the conciliator, it shall be final and binding on both.
- **Mediation:**
 - In mediation, an impartial person called a "**mediator**" helps the parties try to reach a mutually acceptable resolution of the dispute.
 - The **mediator does not decide the dispute** but helps the parties communicate so they can try to settle the dispute themselves.
 - Any person who undergoes the required 40 hours training stipulated by the **Mediation and Conciliation Project Committee** of the **Supreme Court (SC)** can be a mediator.
 - He also needs to have at least 10 mediations resulting in a settlement and at least 20 mediations in all to be eligible to be accredited as a qualified mediator.
 - Mediation leaves control of the outcome with the parties.
 - **Mediation Act, 2023** seeks to promote mediation, particularly **institutional mediation**, and provide a mechanism for **enforcing mediated settlement agreements**.
- **Negotiation:**
 - A **non-binding procedure** in which discussions between the parties are initiated without the **intervention of any third party** with the object of arriving at a negotiated settlement to the dispute.
 - It is the most common method of **alternative dispute resolution**.
 - Negotiation occurs in **business, non-profit organizations, government branches, legal proceedings**, among nations and in personal situations such as **marriage, divorce, parenting, and everyday life**.

What is the Arbitration Council of India (ACI)?

- **Constitutional Background:** The **Constitution of India, Article 51**, India is obliged to endeavor to:
 - Foster respect for international law and treaty obligations in the dealings of organized peoples with one country.
 - Encourage settlement of international disputes by arbitration. ACI is a step in realization of this constitutional obligation.
- **Objective:**
 - **ACI** aims to promote **arbitration, mediation, conciliation** and other **alternative dispute redressal mechanisms**.
- **Composition of the ACI:**
 - The **ACI** will consist of a **Chairperson who is either:**
 - A **Judge** of the **Supreme Court/ A Judge** of a **High Court/ Chief Justice of a High Court**.
 - An eminent person with expert knowledge in **conduct of arbitration**.
 - Other members will include an **eminent arbitration practitioner**, an academician with experience in **arbitration**, and **government appointees**.

Legal Insights: [Supreme Judgment on Unstamped Arbitration Agreement](#)

<https://www.drishtijudiciary.com/en>

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Prelims

Q1. With reference to Lok Adalats, which of the following statements is correct? (2010)

- (a) Lok Adalats have the jurisdiction to settle the matters at pre-litigative stage and not those matters pending before any court
- (b) Lok Adalats can deal with matters which are civil and not criminal in nature
- (c) Every Lok Adalat consists of either serving or retired judicial officers only and not any other person
- (d) None of the statements given above is correct

Ans: (d)

Q2. With reference to Lok Adalats, consider the following statements: (2009)

1. An award made by a Lok Adalat is deemed to be a decree of a civil court and no appeal lies against thereto before any court.
2. Matrimonial/Family disputes are not covered under Lok Adalat.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Ans: (a)

Mains

Q. What are the major changes brought in the Arbitration and Conciliation Act, 1996 through the recent Ordinance promulgated by the President? How far will it improve India's dispute resolution mechanism? Discuss. **(2015)**