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Lok Adalat as a Tool for ADR Process

M PRAKASH GEORGE¹

ABSTRACT

India is country where the population is the highest and we are ranking 1st in population. With the increase in population and technology and commercialization its not like that there will be no disputes at all with anybody and all are law abiding citizens. Theoretically this sounds good but practically its not possible in a country like India. When we are in Industrial Revolution 4.0 then and where AI is working then at some point dispute is going to arise which is an indispensable thing. If we take all such small/ big disputes to the court of Law then we can see that there will be a huge number of pending back-log of cases and the case registration number is an enormous one. If we only depend upon court to deliver justice then we don't know when we will get justice. The only way to resolve is through the active participation in Lok Adalat as established under the Legal Service Authority Act and advocating the importance of Lok Adalat and how its functioning and creating an awareness/ sensitization of the people about the Lok Adalat as means of dispute resolution mechanism.

Keywords: ADR, Lok Adalat, Dispute Resolution Mechanism.

I. INTRODUCTION

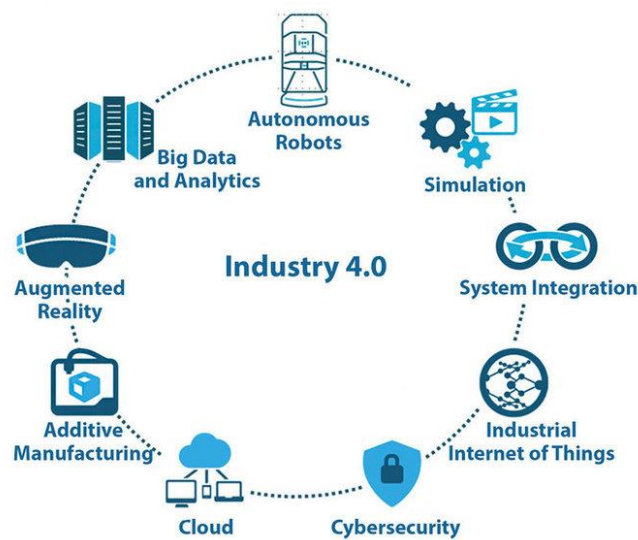
Lok Adalat or people's court is not a new terminology for India as this was done in ancient times but with a different name called as naya panch where a main leader of the village will hear the parties and try to resolve the dispute in an amicable way than straining the relationship between the parties.

As time passed the importance of naya panch was lost and we moved towards the judiciary or in layman's language the court system where an unbiased third party would decide the case that is brought before it. People started gaining confidence in this system and whenever there was a dispute then the matter was taken up-to court for the resolution. The only condition under this system there was only one party winning and the other looser. This resulted in strained relationship between the parties and avarice, vengeance, et al started leading to strained and painful relationship. The repercussion of this system was a huge one. Now when the matter is small one citizen would tend to go to court and try to get a judgement in their favour. In the initial stages or in other words when the system was in its infancy stage there were less problem

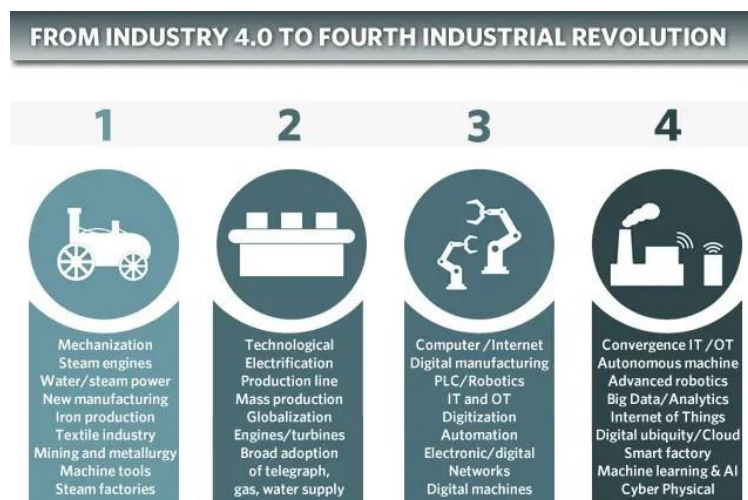
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but as the system grew and as with the development of the country, technology and other means the dispute/ problems/ avarice/profit mentality/ deceiving et al raised in leaps and bounds and still its increasing, no end of this.

If we look in the earlier days then we can see that there were only two types of cases i.e. civil and criminal and that too with a limited matters. But with the advancement of technology and with the initiation of industrial revolution along with civil and criminal matter many other matters were on the rise and many new laws were made for this. At present we are in the industrial revolution 4.0 think at what pace the development has took place. In order to understand for the readers, that what comes under the I R 4.0 the following diagram depicts it²



For the sake of reader the various I R is as follows³:



² Prospects for development movement in the industry concept 4.0, https://www.researchgate.net/figure/Pillars-of-the-fourth-industrial-revolution_fig2_335848695 last accessed on 20/11/2023

³ Industry 4.0 and the fourth industrial revolution explained, Image source: <https://www.i-scoop.eu/industry-4-0/> last accessed on 20/11/2023

Think at what pace the number of litigations has increased. Think at what rate the courts are disposing of the matters per year. Think how much time and energy is being spend to dispose one case. Think of mans mentality at what level man has reached.

Even though we are in the industrial revolution 4.0 but our mentality has not changed when it comes to the dispute resolution. We still cling to the old method of adjudication of the matter i.e., approaching the court for adjudication of the case- where one party will win and the other will loss. Just think that for a small matter of say a civil suit of Rs 10,000/- is filed in court when will the final judgement will and when the execution will be done. If look at present scenario then it will a minimum of 4 to 5 years for the disposal of case. Again, think how much money the party to the litigation has spend on this case for getting a sum of Rs. 10,000/-, at today inflationary price we can say Rs 25,000 to 30,000. This is only the amount spend for getting the judgement in favour what about the advocate fee, what about the loss of salary? what about the mental agony and stress that the person has borne? how many sleepless nights he/she has passed. All this if we put it into monetary terms then the sum would shoot up to Rs 50,000/- against this the sum that has to be claimed from other party is only Rs. 10,000/-

Is there any solution for this is the question of the hour that needs to asked by every person who before initiating the process of litigation in court for dispute resolution. Are there any other alternative dispute method available for resolving a dispute other than the court system. Is there any method of settling the dispute in an amicable way than by straining the relationship etc. All such questions should be asked before proceeding further and filing a suit/ case in the court or in other words the judicial dispute resolution system. For all the mentioned question the answer is YES.

Under our constitution under the preamble one of the mottos is getting justice and says that- JUSTICE, social, economic and political. Again, it says the justice delivery should be done in a speedy way which is mentioned under Article 22 of the Constitution of India. In order to achieve this our parliament has enacted legislation titled as The Legal Service Authority Act 1987 in short called as LSA. Under chapter V covering sections 19 to 22 deals with Lok Adalat's and chapter VI covering sections 22A to 22E which talks about Pre-Litigation Conciliation and Settlement.

II. NEED TO INTRODUCE THE “THE LEGAL SERVICE AUTHORITY ACT 1987”⁴

Towards fulfilling the Preambular promise of securing to all the citizens, Justice – social,

⁴ National Legal Services Authority, <https://nalsa.gov.in/about-us/introduction> last accessed on 21/11/2023

economic and political, Article 39 A of the Constitution of India provides for free legal aid to the poor and weaker sections of the society, to promote justice on the basis of equal opportunity. Articles 14 and 22(1) of the Constitution also make it obligatory for the State to ensure equality before law. In 1987, the Legal Services Authorities Act was enacted by the Parliament, which came into force on 9th November, 1995 to establish a nationwide uniform network for providing free and competent legal services to the weaker sections of the society.

The National Legal Services Authority (NALSA) has been constituted under the Legal Services Authorities Act, 1987 to provide free Legal Services to the weaker sections of the society. The Chief Justice of India is the Patron-in-Chief and the Senior most Hon'ble Judge, Supreme Court of India is the Executive Chairman of the Authority.

Public awareness, equal opportunity and deliverable justice are the cornerstones on which the edifice of NALSA is based. The principal objective of NALSA is to provide free and competent legal services to the weaker sections of the society and to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organize Lok Adalat's for amicable settlement of disputes. Apart from the abovementioned, functions of NALSA include spreading legal literacy and awareness, undertaking social justice litigations etc.

With the aim of reaching out to the diverse milieu of people belonging to different socio-economic, cultural and political backgrounds, NALSA identifies specific categories of the marginalized and excluded groups from the diverse populace of the country and formulates various schemes for the implementation of preventive and strategic legal service programmes to be undertaken and implemented by the Legal Services Authorities at the various levels. In carrying out all these responsibilities, NALSA works in close coordination with the various State Legal Services Authorities, District Legal Services Authorities and other agencies for a regular exchange of relevant information, monitoring and updating on the implementation and progress of the various schemes in vogue and fostering a strategic and coordinated approach to ensure smooth and streamlined functioning of the various agencies and stakeholders.

(A) Objective of Legal Aid Service Act

The following chart depicts the objective of legal services⁵

⁵ Karnataka State Legal Services Authority, <https://kslsa.kar.nic.in/aboutus.html> last accessed on 21/11/2023



Objective

The following are the major objectives of LSA 1987:

1. Lok Adalat
2. Mediation- Conciliation
3. Victim Compensation
4. Legal Aid- free
5. Legal Advice- free
6. Legal Literacy Camp

Of the 6 major objectives of the LSA, one of the objectives of the Legal Service Authority Act is to have Lok Adalat and Mediation-Conciliation process of settling the disputes which is a welcoming factor and which indeed helps the parties to resolve the dispute in an amicable manner without disturbing the relationship between them and there is no strain relationship between them. This should be advocated in all the parts of our country. Once the Lok Adalat is established in every district of our Country then the dispensing of justice can be done in a speedy way as many small matters/ cases where compromise can be easily done can be settled in Lok Adalat's in less time period than the regular court proceedings. This will ease the process of normal judicial process as one can take many of the cases to Lok Adalat and for Mediation Conciliation. Again, this will ease the parties their waiting period for getting justice in normal process as in Lok Adalat the parties can receive their judgement within one week time if they

reach to a compromise or settlement. Every court should encourage parties who are having small matter and where a substantial question is not involved to resolve their matter in Lok Adalat and also the court should encourage the advocates of the clients to encourage their clients to take the Lok Adalat or mediation process.

III. TYPES OF LOK ADALAT

(A) Permanent Lok Adalat's

Under section 22B of the Legal Service Authority act says about the composition of Permanent Lok Adalat. Section 22B(1) of the act reads as follows-“Notwithstanding anything contained in section 19, the Central Authority or, as the case may be, every State Authority shall, by notification, establish Permanent Lok Adalat's at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification.” The section clearly mentions that either the central or the state authority can establish a Permanent Lok Adalat at such place for any public utility services and such other areas as may be necessary for resolving the dispute in an amicable manner. Presently there are 344 permanent Lok Adalat's in all the States and Union Territories of India. The list of permanent Lok Adalat's in India⁶is as follows:

S. No	State Legal Service Authority	PLAs Functioning	Sitting During the year
1	Andaman & Nicobar Islands	1	0
2	Andhra Pradesh	9	1204
3	Arunachal Pradesh	0	0
4	Assam	20	350
5	Bihar	9	1688
6	Chhattisgarh	5	995
7	Dadra & Nagar Haveli	0	0
8	Daman & Diu	0	0

⁶ Permanent Lok Adalat, April 2018 to March 2019, <https://nalsa.gov.in/statistics/permanent-lok-adalat-april-2018-to-march-2019> last accessed on 21/11/2023

9	Delhi	2	502
10	Goa	2	0
11	Gujarat	4	23
12	Haryana	21	3501
13	Himachal Pradesh	4	35
14	Jammu & Kashmir	0	0
15	Jharkhand	24	1668
16	Karnataka	6	1615
17	Kerala	3	273
18	Lakshadweep	0	0
19	Madhya Pradesh	50	304
20	Maharashtra	4	723
21	Manipur	0	0
22	Meghalaya	0	0
23	Mizoram	2	0
24	Nagaland	0	0
25	Odisha	14	705
26	Puducherry	0	0
27	Punjab	22	3336
28	Rajasthan	35	3765
29	Sikkim	0	0
30	Tamil Nadu	0	0
31	Telengana	4	222

32	Tripura	5	189
33	U. T. Chandigarh	1	247
34	Uttar Pradesh	47	4956
35	Uttarakhand	4	314
36	West Bengal	0	0
	Grand Total	298	26615

Even though the data is of the year 2019 still we can find that the functioning of Lok Adalat's is not that much as it should be and for the reason it has been established. The comparative outcome is very less. In some state though they have enough permanent lok Adalat's but still the number of cases disposed is much less running in hundreds only. Time has come to make the Lok Adalat's to functions more efficiently and dispense more of the awards than the normal judicial process give. The award awarded by the Lok Adalat's are considered as final decree as per the provisions contained in civil procedure code. Hence it is considered equivalent to a normal courts order and is as much as enforceable as a normal courts order.

The other type of Lok Adalat is temporary Lok Adalat where the Lok Adalat is organized on a special day or on some occasion and this will either will last for a day or max month time period. Here the President will be District Judge of the particular period.

(B) Composition of Permanent Lok Adalat:

The composition of Lok Adalat is mentioned in section 22B (2) of the LSA 1987 which reads as follows:

“Every Permanent Lok Adalat established for an area notified under sub-section (1) shall consist of:

(a) a person who is, or has been, a district judge or additional district judge or has held judicial office higher in rank than that of a district judge, shall be the Chairman of the Permanent Lok Adalat; and

(b) two other persons having adequate experience in public utility service to be nominated by the Central Government or, as the case may be, the State Government on the recommendation of the Central Authority or, as the case may be, the State Authority, appointed by the Central Authority or, as the case may be, the State Authority, establishing such Permanent Lok Adalat and the other terms and conditions of the appointment of the Chairman and other persons

referred to in clause (b) shall be such as may be prescribed by the Central Government”.

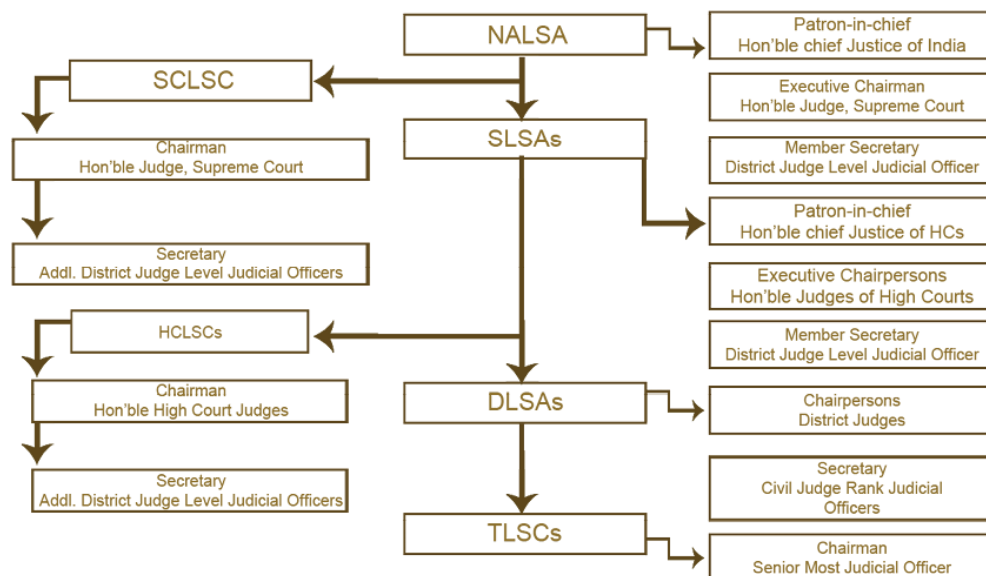
In nutshell the composition of the Permanent Lok Adalat (PLA) is consist of one chairman and two member and the qualification for becoming a chairman is that the person should be a retired District Judge or additional District Judge. There is no mention of qualification of becoming a member, it only state that adequate experience in public utility service.

Now here is a conflict between two sub-section- 22B (1) and 22B (2). If we read section 22B(1) of the act, part b, then it clearly mentions about that ... any matter of public utility service or any such other services as may be specified in notification; while on reading of section 22B(2) it says the member should be possess adequate experience in public utility services. This is a clear-cut clash between the two sub sections. On One side it says that matters related to Public Utility Services as well as other services at the same on the other side it says that for becoming members they should have experience in public utility service, indirectly matters can be dealt of public utility services. Again, the act is not mentioning about the number of years of experience for becoming a member it means that any member who has got an experience of one year can become a member. There should be some clarifications in this regard as when we are submitting the case to Lok Adalat (LA) then its not always necessary for have the cases of Public Utility Services, there can be cases related to Motor Accident Claim, Consumer Cases, Family Issues etc. and if one wants to hear the case related to all this then the qualification specifying that adequate experience in public utility experience should be removed. Because of this qualification many a time it happens that the vacant position of member/s is not filled and hence the Lok Adalat cannot function properly. If we want to make the functioning of the LA more effective then the qualification for becoming member/s of the Lok Adalat should be amendment and priority should be given that any person who has practiced in District court f or at least 5 years and/or a person who is serving in the public for the last 8 years can become a member of PLA. This will ensure a smooth functioning of the system and justice can be seen to done when the matter is brought before LA is related to other than public utility services.

(C) Levels of Lok Adalat’s:

- State Authority Level
- High Court
- District court
- Taluka level

In pictorial form we can see the levels along with the organization of the Adalat is as below:



(D) Matters referred to Lok Adalat:

The following are the matters that can be brought before Lok Adalat as per section 18(1) of the LSA 1987.

Any case pending before any court

Any dispute which has not been brought before any court and is likely to be filed before the court

Provided that the Lok Adalat shall have no jurisdiction in respect of matters relating to divorce or matters relating to an offence not compoundable under any law.

Here the any case pending is mentioned which means that both civil and criminal where compromise can be done and which are compoundable respectively.

Again, in actual practice some of the other types of cases that are brought before the Lok Adalat are

Motor Accident claim cases:

MAC Cases where the matter is related to injury and where the claim amount is of one lakh to two lakhs such cases should be/ can be directly dealt by the LA as this will ease the process of the normal court. If we take a look at such cases then the maximum amount of compensation that the MACT gives if the amount of claim is 1,00,000/- then it's up to 70,000/- maximum along with the NFL (No Fault Liability). Such matter can be done in LA and the best way to resolve is by way of compromise, without taking the matter to the normal court process and waiting for one- two years for the disposal of the case. This will ease the party, the court and its procedure. The best advantage is that if we take such matter to the LA then to a great extent

the burden of the normal court would be decreased and the pending back log will be reduced to an extent.

Consumer cases.

According to section 37 of the consumer protection act 2019 “Reference to mediation.

(1) At the first hearing of the complaint after its admission, or at any later stage, if it appears to the District Commission that there exists elements of a settlement which may be acceptable to the parties, except in such cases as may be prescribed, it may direct the parties to give in writing, within five days, consent to have their dispute settled by mediation in accordance with the provisions of Chapter V.

(2) Where the parties agree for settlement by mediation and give their consent in writing, the District Commission shall, within five days of receipt of such consent, refer the matter for mediation, and in such case, the provisions of Chapter V, relating to mediation, shall apply”

The process is same as that of LA and in many cases the parties don't take the matter to mediation but they take the matter to LA for settlement. This again will reduce the burden of Consumer Commission for District level, State Level and National Level.

(E) Advantages of Lok Adalat:

According to section 18 sub section 1 clause 1 of the LSA 1987 any case pending before any court can be brought before the LA for the disposal. Under this circumstance the party to the litigation has already paid the stamp duty, but if the matter is brought to the LA, then whatever amount is paid as stamp duty the whole amount would be refunded to the party which an advantage to the party to the litigation. If not and if the party directly brought the matter before the LA for the disposal of the matter, then there is no stamp duty to paid by the party. This will reduce the financial burden of the party and can save some amount of this.

The second advantage of the LA is that the award given by the LA is final and not an appealable one. This is the best part of the LA as the party cannot take the award pronounced by the LA to higher court for appeal. The award of the LA is full and final one. The only thing that the party can do is that if there any typographical error in the award given then such error can be rectified and no other things can be done.

The third advantage of the LA is that the matter is settled in an amicable manner and no stain in relationship is caused. This will keep the relationship of the parties in-tact and move further as they used to be before and seems that there was no dispute at all. It's a totally a stress-free concept, no stress is caused to either of the parties to the matter brought before the LA.

The fourth advantages of having Lok Adalat Settlement is that Lok Adalat are not to follow strictly the procedural laws and Evidence act adherently but the sine-qua-non is the follow the principle of Natural Justice.

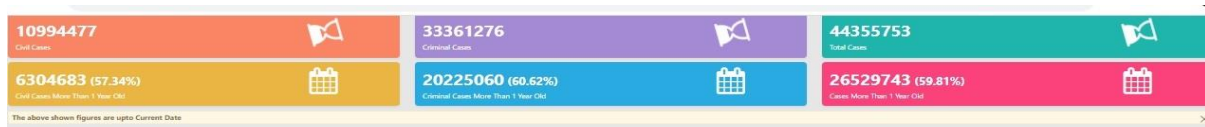
(F) Limitations of LA

The only limitations of the LA is that the members are not fully trained for the purpose of settling the dispute as advocates/ president/ members who work for the LA needs to convenience the parties to reach to a settlement and this need various soft skills. Many a times it happens that the members of the LA can decide the case in normal court proceedings but find it difficult to settle the cases in LA.

Sometimes it may so happen that they get biased over the subject matter later-wards when the matter is in the mid stage of the process or may have some kind of interest in the subject matter. This can be removed if we give proper training and practical demo sessions to the members who are interested in becoming the members of the LA and they should be placed as an assistant position before giving the full matter to them.

IV. PENDING CASE STATUS IN INDIA- PRESENT SCENARIO

The present pending case status in our country both civil and criminal from lower judiciary to the apex court is as follows:



Source: National Judicial Data Grid.

Saffron indicates the civil cases; violet indicates the criminal cases and green indicates the total number of cases

Yellow indicates the civil cases pending for more than one year; blue criminal cases pending for more than one year and pink total cases pending for more than one year.

Segment wise classification of cases and their pending status:

Particulars	Civil	Criminal	Total
0 to 1 Years	4689794(42.66%)	13136216(39.38%)	17826010(40.19%)
1 to 3 Years	2182070(19.85%)	6503898(19.5%)	8685968(19.58%)
3 to 5 Years	1726435(15.7%)	5301094(15.89%)	7027529(15.84%)

5 to 10 Years	1652690(15.03%)	5330840(15.98%)	6983530(15.74%)
10 to 20 Years	611583(5.56%)	2629886(7.88%)	3241469(7.31%)
20 to 30 Years	102753(1.12%)	394787(1.12%)	497540(1.12%)
Above 30 Years	29152(0.27%)	64555(0.19%)	93707(0.21%)

Particulars	Civil	Criminal	G Total
Total	10994477	33361276	44355753
Original	8132260	30019965	38152225
Appeal	474996	406983	881979
Application	661901	2488928	3150829
Execution	1502284	66506	1568790
Appearance/Service Related	2660151	15413281	18073432
Compliance/Steps/stay	1909630	2071784	3981414
Evidence/Argument/Judgement	4324464	10440842	14765306
Pleadings/Issues/Charge	1478254	2667785	4146039
Cases Instituted in Last Month	288782	1328543	1617325
Cases Disposed in Last Month	264514	962420	1226934
Filed Cases By Senior Citizen	2130317	674376	2804693
Filed Cases By Woman	1733632	1896305	3629937
Delay Reason	4777357	15819353	20596710

Source: National Judicial Data Grid as on November 21, 2023

From this we can see that there is a huge gap in disposal of cases and the highest rate of pendency can be found in cases pending for more than one year. But here there is no bifurcation of the cases type i.e., which type of cases. If on an assumption if we presume that some of the cases are such cases where compromise can be made or where settlement can be made then the

best option is to take such matter before the Lok Adalat and can settle such matters instantly.

Now in order to settle this huge backlog then as per one survey it will take another 500 years to resolve these backlog cases provided that if we don't take any new cases from this day onwards. This is theoretical possible and not practically. Everyday new cases are increasing and on the other hand the disposal rate is less compared to the institution of suits.

Here the main problem is that the litigant parties doesn't want to take the matter for settlement in a mediation center or through the Lok Adalat as they are conservative mind settled people that only can court can resolve this kind of disputes. Under such circumstances the only rescue to clear all the backlog of cases is to have a Lok-Adalat's at every court so that maximum number of small matters can be settled in Lok Adalat's and even the consumer cases. This will encourage the litigants to get speedy disposal of cases and early relief to the parties rather than waiting for a long period to get the disposal of the case. The advocates has to convenience the clients to get the matter disposed under the Lok Adalat's system of dispute resolution as the matter is a small one and not a matter where there is substantial question is involved in the case/suit. If there is a substantial question involved then it's the right of the parties to hear the matter before the court and get an adjudication of the matter.

V. SUGGESTIONS

If we look in totality then it emphasis should be given on Lok Adalat's where the matter can be easily resolved in Lok Adalat's/Mediation/ Conciliation etc, once it is found that there exists a chance for settlement in LA.

Pre-litigation settlement should be given more importance before filing of the case in court for trail purposed and the court should insist the parties to go for Mediation/Conciliation/ Compromise/Settlement so that the time and money of the parties to the dispute can be saved and more particularly the relationship can be maintained.

Training programmes should be arranged with live practical demo session so that the whole process of mediation/ Lok Adalat and settlement can be understood by the person who are interested in becoming members of LAs before giving them the posting.

Awareness should be made in the public about the advantages of the having and conducting Lok Adalat's so that the people themselves will support the LA and take imitative for brining their cases to LA instead of fighting in the court and spoiling the relationship.
