

ODR : An Effective Technological Advanced Mechanism for Resolving Disputes

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ABSTRACT

With the increasing use of worldwide Internet, the number of disputes arising from Internet commerce is on the rise. Several websites have been established to help resolve these online disputes as well as to make possible the resolution of offline disputes. It is to be finding out further that cyber-mediation is in its early stages of development. It will likely become an increasingly effective mechanism for resolving disputes as technology advances. The traditional dispute resolution mechanisms supplemented with online technologies. The new hi-tech and stipulated system emerges to solve the internet related dispute is rightly known as Online Dispute Resolution.

Keywords: E-Commerce Transactions, Online Resolution, Expeditious Way, Cyber-Mediation, Cyber Settle.

Introduction:

"Justice Is Paramount And Should Be Available To All".

ODR or Online Dispute Resolution is a pioneer technique to resolve complaints, issues or disputes which are especially arising out of e-commerce transactions or dealings on the Internet. Legal action may neither easy nor be the most suitable remedy for such disputes. This kind of new effective technological advanced mechanism for resolving such disputes play vital role in Morden epoch. In a hi-tech aeon matters need resolve technically with technical expert. It is chiefly connected with negotiation, mediation or arbitration, or a combination of all three.

ODR is an online solution equivalent of Alternative Dispute Resolution (ADR). It can also add to this traditional means of resolving disputes by applying innovative techniques and online technologies to the process. Online Resolution of Disputes can be addressed with traditional dispute resolution mechanisms harmonized with online technologies. ODR are less time consuming, less expensive and does not raise jurisdictional problems as the parties themselves refer dispute for online resolution to be resolved either through mediator or through arbitrator.

Definition:

Online Dispute Resolution is a branch of dispute resolution, which uses technology to facilitate the resolution of dispute between parties. It primarily involves negotiation, mediation or arbitration or a combination of all three. In this respect, it is often seen as being the online equivalent of alternative dispute resolution. However, ODR is also enhancing these traditional means of resolving disputes by applying innovative techniques and online technologies to the process.

Areas may be resolved on-line1:

- i. Commercial Agreements
- ii. Money matters where negotiation is necessary.
- iii. Accidental Claims
- iv. Civil Disputes
- v. Contracts
- vi. Consumer Act
- vii. Succession
- viii. Dissolution of marriage - Issuance of legal notice, which is mandatory under the statute.
- ix. Real Estate
- x. Documentation and so on.

Importance of ODR in Recent Era:

Online dispute resolution is simple, speedy and provides an easy and expeditious way of resolving problems for parties which are in different parts of the world. Delhi High Court has E- Courts but they are not as functional as they ought to be. But once they are utilized properly, it will be possible to have a successful arbitration system. The Supreme Court has already decided upon this issue and held that choosing an umpire online is valid². ODR is a highly recommended method because it is not as time consuming as normal litigation, disputes are easily documented and the person need not submit to the jurisdiction of any court.

There are three main models of online dispute settlement:

1. Cyber settle: wherein there is automated negotiation mechanism
2. Online mediation: wherein there is live mediation
3. Online adjudication: wherein there is online arbitration

The Arbitration and Conciliation Act, 1996, and the Information Act, 2000, are well equipped to cater to the online system of dispute resolution. The steps that need to be taken are:

1. Create more awareness
2. Draft rules in case of any ambiguity
3. Extend the system by promoting it in all legislations
4. Parties should be made to sign a binding agreement before they enter into the online dispute resolution system³.

India has already distinguished itself in Information technology affairs. Even the Information Technology Act is supportive of this system. If the courts liberally interpret the various provisions in the Information Technology Act and the other legislations, the ODR system can be easily brought in. Certain questions that need to be taken care of are: whether the Indian Courts will enforce foreign awards that are given online and whether the clause 'original award or the copy thereof' can be construed to include the judgment given online. Such problems should be solved in a proper way considering that ODR holds the future⁴.

Conclusion:

ODR was born from the synergy between ADR and ICT, as a method for resolving disputes that were arising online, and for which traditional means of dispute resolution were inefficient or unavailable. The introduction of ICT in dispute resolution is currently growing to the extent that the difference between off-line dispute resolution and ODR is unclear. It has been observed that it is only possible to distinguish between proceedings that rely heavily on online technology and proceedings that do not. ODR exclusively as the use of ADR assisted principally with ICT tools. In ODR, the information management is not only carried out by physical persons but also by computers and software⁵.

Suggestion:

In a high-tech era, the Expeditious Way like ODR plays vital role in resolution the dispute online accordingly the online tribunals should be established in a same manner of ADR.

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