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SPEECH OF HON'BLE MR. JUSTICE VIJENDER JAIN, CHIEF JUSTICE, PUNJAB AND HARYANA HIGH COURT, CHANDIGARH IN A SEMINAR ON ***“ROLE OF COURTS IN ALTERNATIVE DISPUTE RESOLUTIONS”*** ON 21.3.2008 AT CHANDIGARH

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Right Hon'ble Lord Nicholas Addison Phillips, Lord Chief Justice of England and Wales; Hon'ble Dr. Hans Raj Bhardwaj, Chairman, International Centre for Alternate Dispute Resolution and Union Minister of Law and Justice; Hon'ble Justice M.M.Kumar, President, International Law Association, Chandigarh Chapter; Hon'ble Justice Surya Kant, President, Asia Pacific Jurists Association, Punjab and Haryana Chapter, Hon'ble Judges of Punjab and Haryana High Court; Advocates General of Punjab and Haryana; Shri Atul Lakhanpal, Secretary General, APJA, Punjab and Haryana Chapter; Shri Ashwine Kumar Bansal, Founder Member, ICADR; former Judges, senior lawyers, distinguished audience; members of the legal fraternity; ladies and gentlemen.

“My joy was boundless. I had learnt the true practice of law. I had learnt to find the better side of human nature

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and to enter men's hearts. I realized that the true function of a lawyer is to unite parties' riven asunder. The lesson was so indelibly burnt into me that a large part of my time during the twenty years of my practice as a lawyer was occupied in bringing about private compromises of hundreds of cases. I lost nothing thereby- not even money, certainly not my soul.”

-Mohandas K.Gandhi

Alternate Dispute Resolution or “ADR”, as it is more commonly known, means the wide variety of methods by which conflicts and disputes are resolved other than through litigation and in a country like ours, where the backlog of cases is ever increasing and the common man is capable of losing his faith in the system of administration of justice, it is imperative that this faith be restored and a mechanism be adopted which does not have the complexities of long drawn litigation procedures but be as effective and binding on the parties adopting it. ADR is a non-

judicial means of settling disputes outside the courtroom, avoiding costly and time-consuming litigation after a complaint or dispute arises. The use of ADR mechanisms is intended to supplement, not supplant, other enforcement mechanisms.

ADR has gained widespread acceptance among both the general public and the legal profession in recent years. In fact, some courts now require some parties to resort to ADR of some type, usually arbitration, mediation and conciliation before permitting the parties' cases to be tried. ADR is usually considered to be alternative to litigation. It also can be used as an expression for allowing a dispute to be resolved without court intervention or as an alternative to other crude methods of concluding litigation.

Thus, the goals of ADR can be summarised for reference as hereunder:

- i. Early resolution of disputes
- ii. More satisfying procedure for dispute resolution
- iii. An outcome that reflects the parties' interests and values

- iv. Litigant's satisfaction and result oriented compliance
- v. Finality of resolution of disputes
- vi. Win-win situation and preservation of relationship
- vii. Reducing backlog and freeing judicial resources
- viii. Cost Savings for parties and Courts

Alternative dispute resolution in India is not new and it was in existence even under the previous Arbitration Act, 1940. The Arbitration and Conciliation Act, 1996 has been enacted to accommodate the mandates of the UNCITRAL Model. To streamline the Indian legal system, the traditional civil law in the Code of Civil Procedure, (CPC) 1908 has also been amended and Section 89 was introduced.

ADR is by no means a recent phenomenon in India, though now it has been organized and systematized, expressed in clearer terms and employed more widely in dispute resolution in recent years than before. In earlier times, there were Nyaya panchayats at grassroots level before the advent of the British

system of justice. Later on, Lok Adalats (people's courts) have provided speedy and inexpensive justice in both rural and urban areas in India. The resolution of disputes forms a large part of the justice delivery system. India has a long tradition of resolving disputes through ADR methods viz Nyaya Panchayat System. Institutions such as Lok Adalats have been given statutory recognition by the Legal Services Authorities Act, 1987. The need of the hour is to create an awareness of ADR methods among the people and to prepare a large pool of trained professionals in the field of ADR who will be able to practice these ADR methods to resolve disputes.

The Constitution of India has defined and declared the common goal for all of us as - “to secure to all the citizens of India social justice, economic and political; liberty; equality and fraternity”. ADR is a vehicle to achieve these principles and objectives.

In India, laws relating to resolution of disputes have

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been amended from time to time to facilitate speedy dispute resolution. The Judiciary has also encouraged out of court settlements to alleviate the increasing backlog of cases pending in the courts. To effectively implement the ADR mechanism, organisations like ICA and International Centre for Alternative Dispute Resolution (ICADR) were established, besides, Consumer Redressal Forums and Lok Adalats were revived.

With all this, let us on this day re-dedicate ourselves to serve the society, particular the poor and disadvantaged sections of the society, to ensure social justice to all and take all steps to provide speedy and inexpensive justice.

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