

News

Cases will not be mechanically brought to mediation: CJI Surya Kant [Interview]



A team of internal experts will identify whether a case is fit for mediation, the CJI said in a short, exclusive interview with Bar & Bench.

Chief Justice of India (CJI) Surya Kant has said that while he is an advocate of mediation, it does not mean that cases coming up before courts would be mechanically directed to mediation.

"There is an internal exercise carried out by a team of experts who identify whether a case is fit for settlement through mediation. Only such cases are referred to

mediation," he said.

Further, courts are willing to adjudicate disputes on merits when mediation does not succeed, he underlined.

Speaking directly to Bar & Bench's Debayan Roy, the Chief Justice said,

"We have to be mentally prepared that where mediation does not succeed, the matter has to come back to court. We do not shy away from our responsibilities."

The CJI was speaking on the sidelines of the Mediation Awareness Walk and the National Conference and Symposium on Mediation held in Goa by the Bar Council of India Trust, Pearl First and the India International University of Legal Education and Research (IIULER).

The Mediation Awareness Walk and the two-day national conference at IIULER tried to highlight the growing role of mediation in the justice delivery system.

The event was held at Kala Academy at Panaji's Campal and was visited by several judges of the Supreme Court and High Courts including Justices JK Maheshwari, PS Narasimha, Prashant Kumar Mishra, Ujjal Bhuyan and N Kotiswar Singh.

Excerpts from the talk follow.

Debayan Roy (DR): When mediation is unsuccessful, the argument often returns to court and adds to the docket. How do you handle concerns around finality?

CJI Surya Kant: We have to be mentally prepared that where mediation does not work, the case has to come back to court and we do not shy away from that responsibility. We are absolutely ready to decide cases on their grounds, whether before the district courts or the Supreme Court.

At the same time, there are other alternative dispute resolution methods available and we are not ignoring or overlooking them. Arbitration is one such choice. Where parties can afford arbitration and are willing to opt for it, why not? That mechanism is very much available.

If parties are willing to go in for conciliation, we encourage that as well. If a dispute can be resolved at the level of the local court, that route is equally open. The introduction

of mediation as a dominant mechanism does not mean that other alternative modes of dispute resolution are being sidelined or ignored. All available mechanisms have to work together.

DR: Is there a judicial yardstick that you adopt to determine which cases are suitable for mediation and which are not?

CJI Surya Kant: Yes, certainly. There is an internal exercise carried out by a team of experts. They examine matters and identify whether a case is suitable for exploring settlement through mediation. Only then is it referred for mediation. There is no mechanical or automatic listing of cases for mediation. I want to be very clear about that