

Mediated Settlement Agreement [MSA]

**What should be the language
of MSA?**





**Reaching the stage of
MSA is a big milestone
for parties**





Because through MSA, parties:

- resolve their conflict with the help of the mediator
- get their interests met
- save the cost, time and energy of going to the court
- achieve a win-win outcome, and
- enter into an agreement that defines their new, conflict free relationship



**What is then the
exact definition of MSA?**





It is defined under **The
Mediation Act, 2023** as:

An Agreement

in writing

between some or all parties

settling some or all disputes

authenticated by the mediator



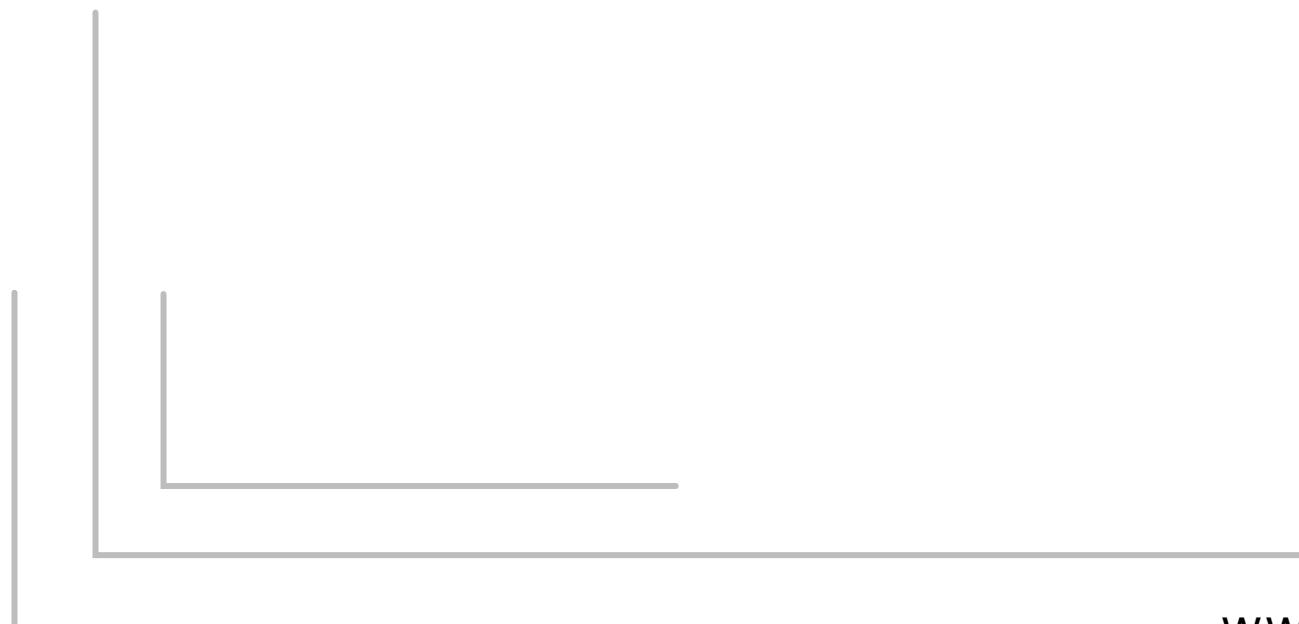
Mediator is required to choose the language of the mediation process after taking the consent of the parties.

Section 15
The Mediation Act, 2023





**But the law has no clear directions on
the language of MSA**





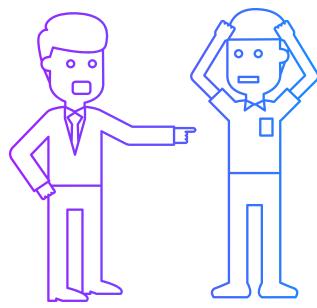
**Mediator can play a crucial role in
coming up with a settlement with the
help of lawyers in which the meeting
of the minds is ensured**





**Or else the settlement can be
challenged by the parties in future**



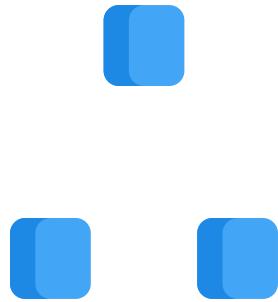


For effective enforcement
of MSA

It is important to have

a common understanding of
parties on essential conditions

intentions/commitments
expressed through clear and
concise language



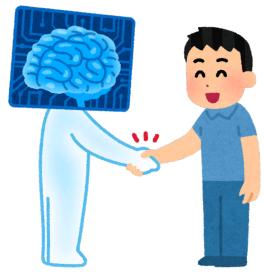
Before putting the terms on paper

The Mediator must consider

background and capacity of the
parties &

their linguistic capabilities

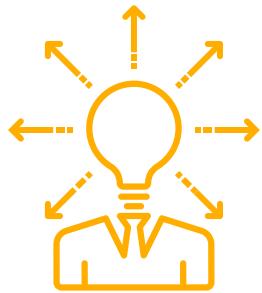
and take all necessary steps to draft
the agreement in the language of
the parties



Mediator can also take the help of:

- Professional Translators
- Translation Software
- Artificial Intelligence





If these resources are not available the Mediator must:

- ensure that **parties are fully aware of the content** present in MSA and its effect on them
- take the help of a lawyer and make him/her **explain the entire agreement clause by clause** to the parties in their own language
- ensure that before signing, parties are ready to go ahead with MSA having understood it completely



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