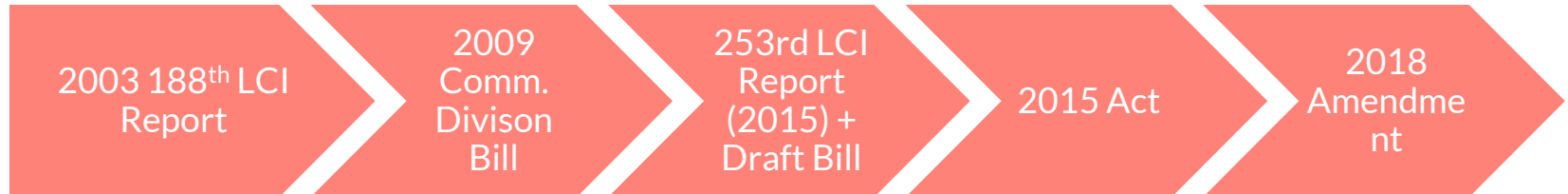


Implementation of the Commercial Courts Act, 2015

Vaidehi Misra and Ameen Jauhar

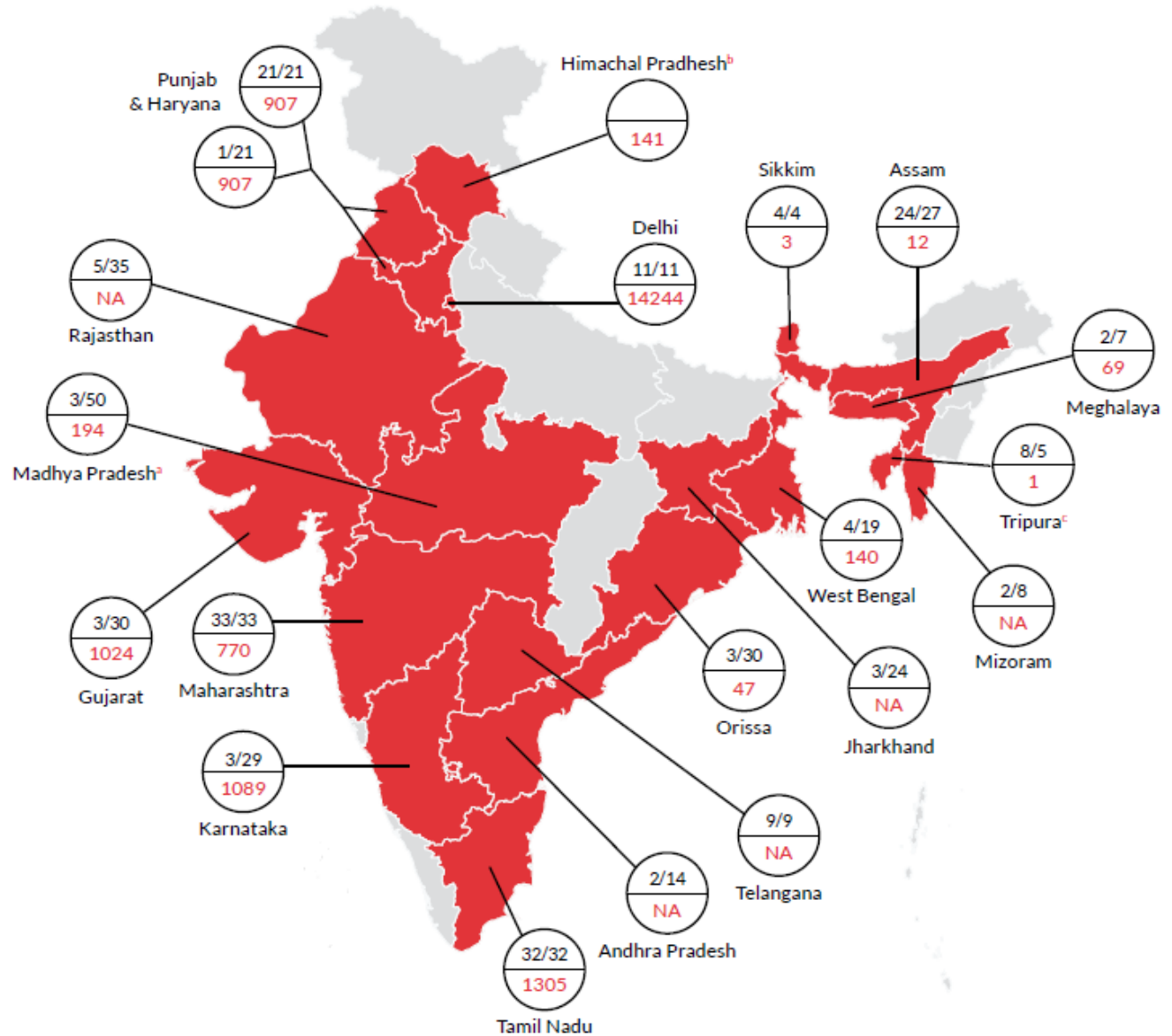
Commercial Courts Act: The progression



Commercial Courts Act: An Impact Evaluation

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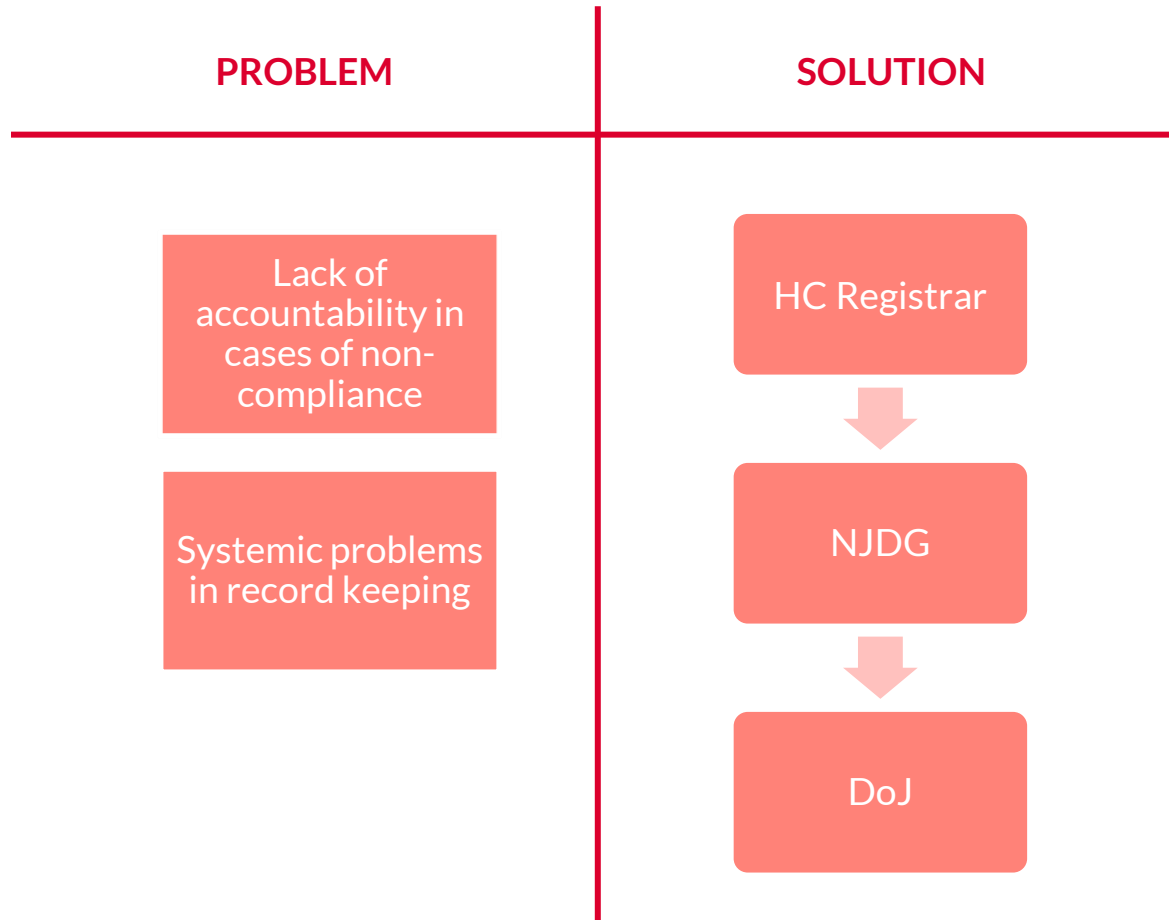
Courts notified: Variation



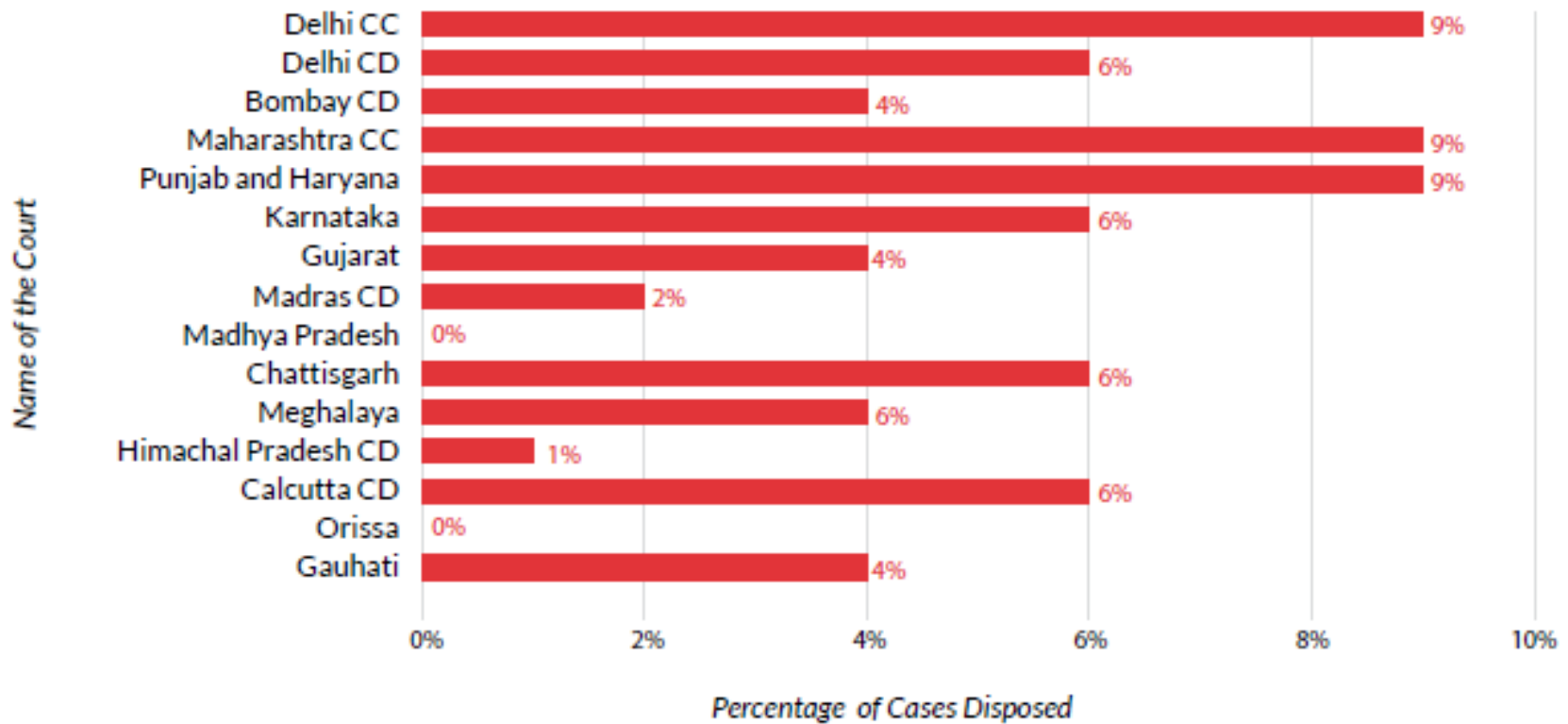
| | |
|-----------------------------|--|
| Number of Courts Designated | Total Number of Districts in The State |
| Number of Pending Cases | |

- Data Available
- Data Not Available
- NA Data Not Available

Publication of Mediation Statistical Data



Disposal rates: Variation

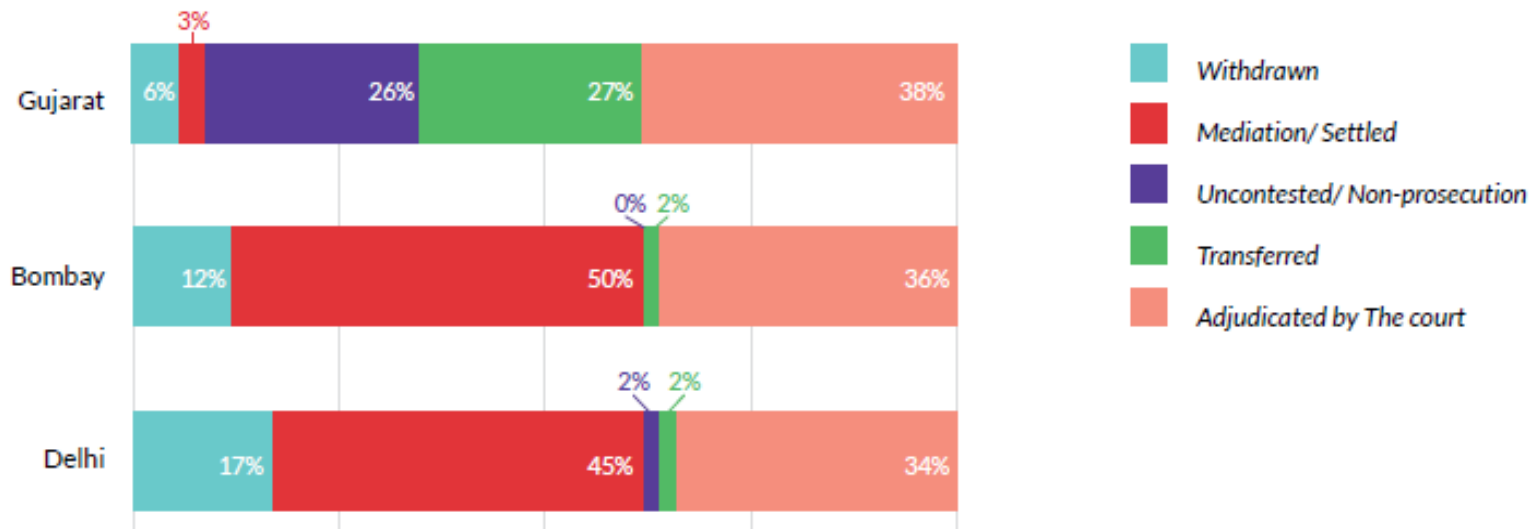
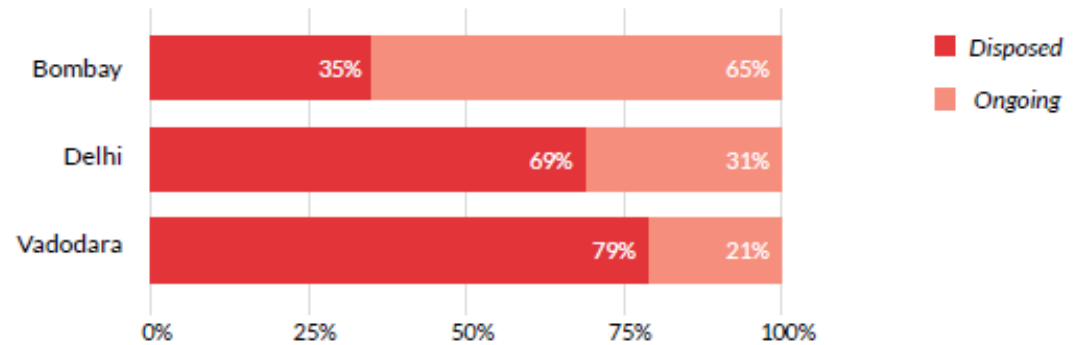


Quantitative Impact Evaluation



- Selected Courts
 - Commercial Division at the Delhi High Court
 - Commercial Division at the Bombay High Court
 - Commercial Court at Vadodara District Court
- 450 cases [November 2015 - February 2016]
 - 2.5 years since institution

Disposal figures: Variation



Systemic causes of delay: Summons

Fig. 10: Time Taken for Issuing Summons in All Cases

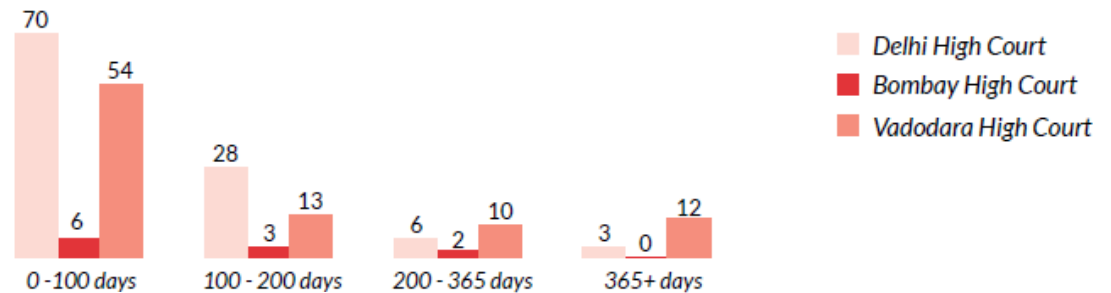
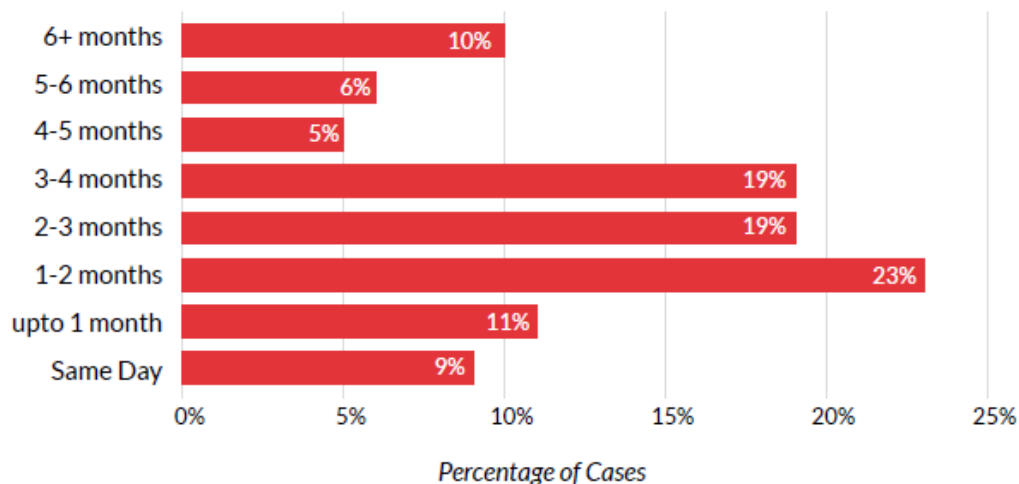
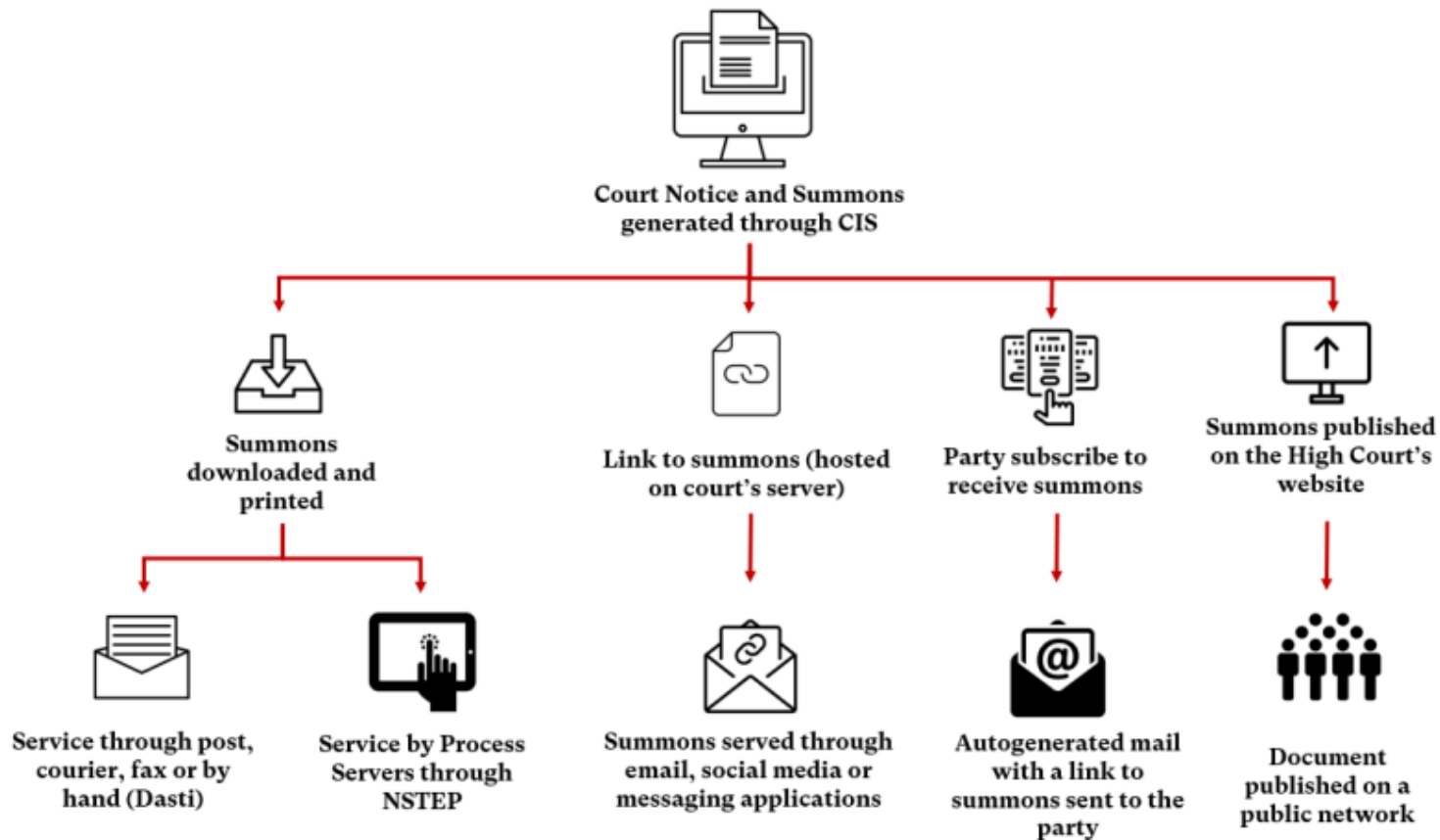


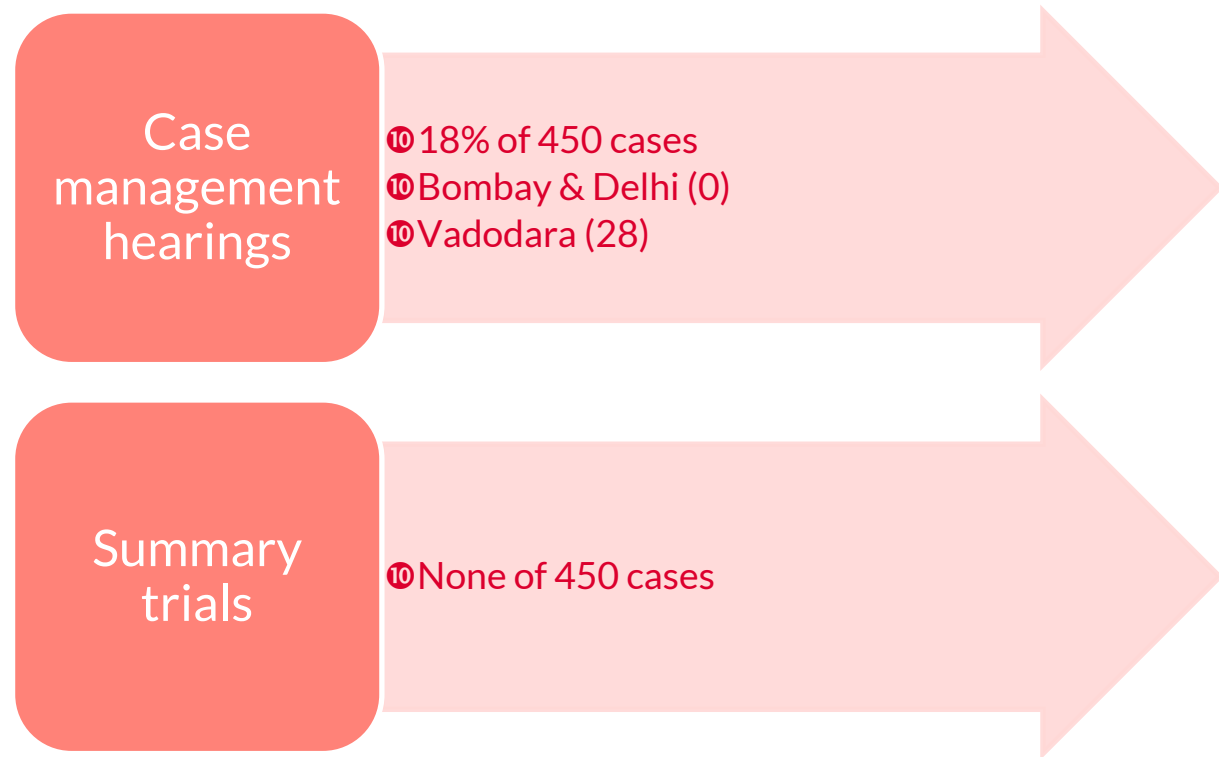
Fig. 11: Time Taken on Account of Summons at the Delhi High Court



Solution: Digitisation of summons



Underutilization of key provisions



The Commercial Courts (Pre-Institution Mediation And Settlement) Rules, 2018

July 2018

Problems of ambiguities: 'Urgent Interim Relief'

'Urgent relief': The definition

KKR India Financial Services Limited v. Axis Bank Limited, Gujarat High Court (2-judge bench) and Bank of Baroda v. Bavaguthu Raghuram Shetty and Ors, Karnataka HC (2-judge bench)

- 'prayer for order and injunction during the course of pendency of the suit from disposing off, creating third party rights, creating encumbrances, parting with possession, or alienating the disputed shares/assets/ properties'

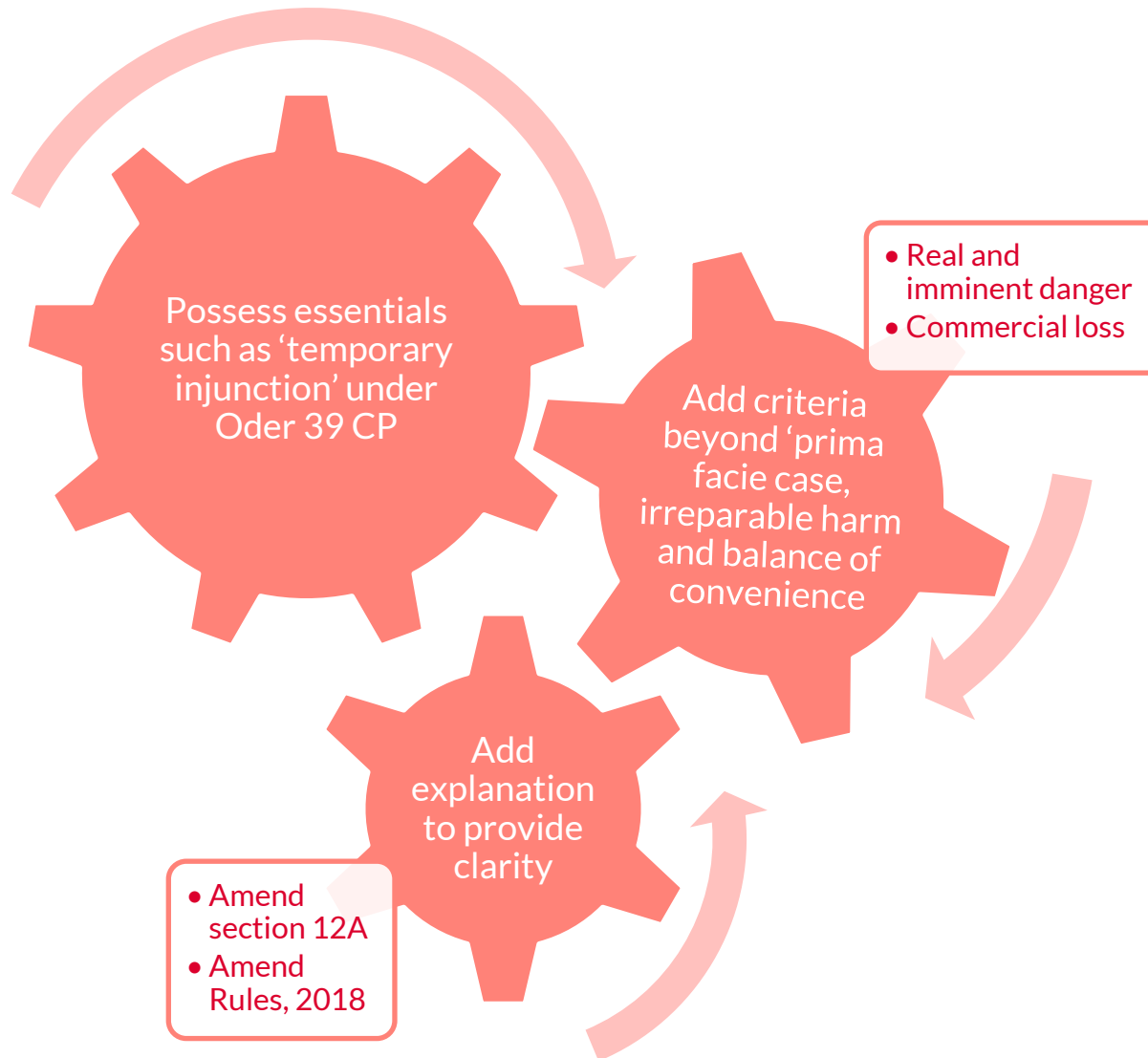
GSD Constructions Pvt. Ltd. v. Balaji Febtech Engineering Pvt. Ltd., Madhya Pradesh HC (2-judge bench)

- declaration, recovery of money and grant of injunction

Sathyam Wood Industries v. Adoniss (P) Ltd. and Ors, Madras HC (1-Judge)

- interim relief seeking the respondent to issue the delivery order of goods damaged due to delay

Interim relief: possible solution



Pre-institution mediation: approaches

Singapore

- Order 59, Rule 5(1)(c) of the Rules of Court and former Subordinate Courts Practice Directions No 2 of 2010 (requires pre-trial conferences which deters immediate rejection of mediation)

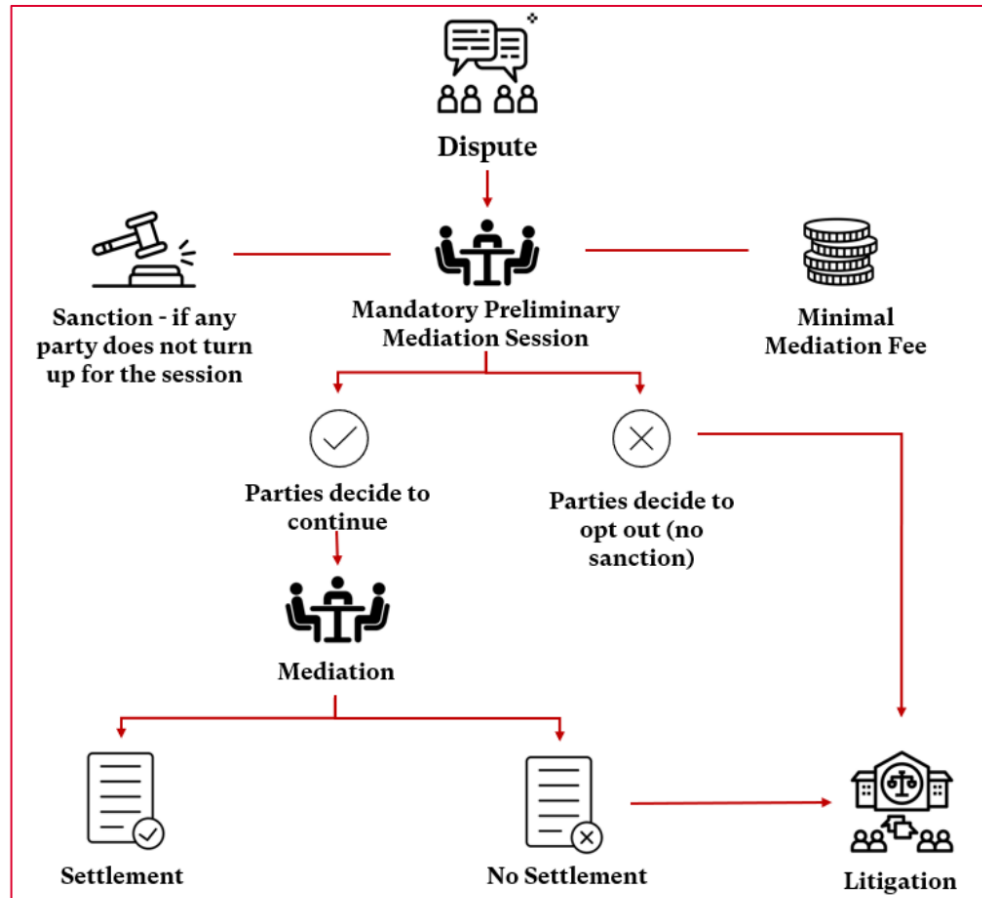
Italy

- Law Decree no. 69/2013 read with art. 8, paragraph 5, of Legislative Decree no. 28/2010

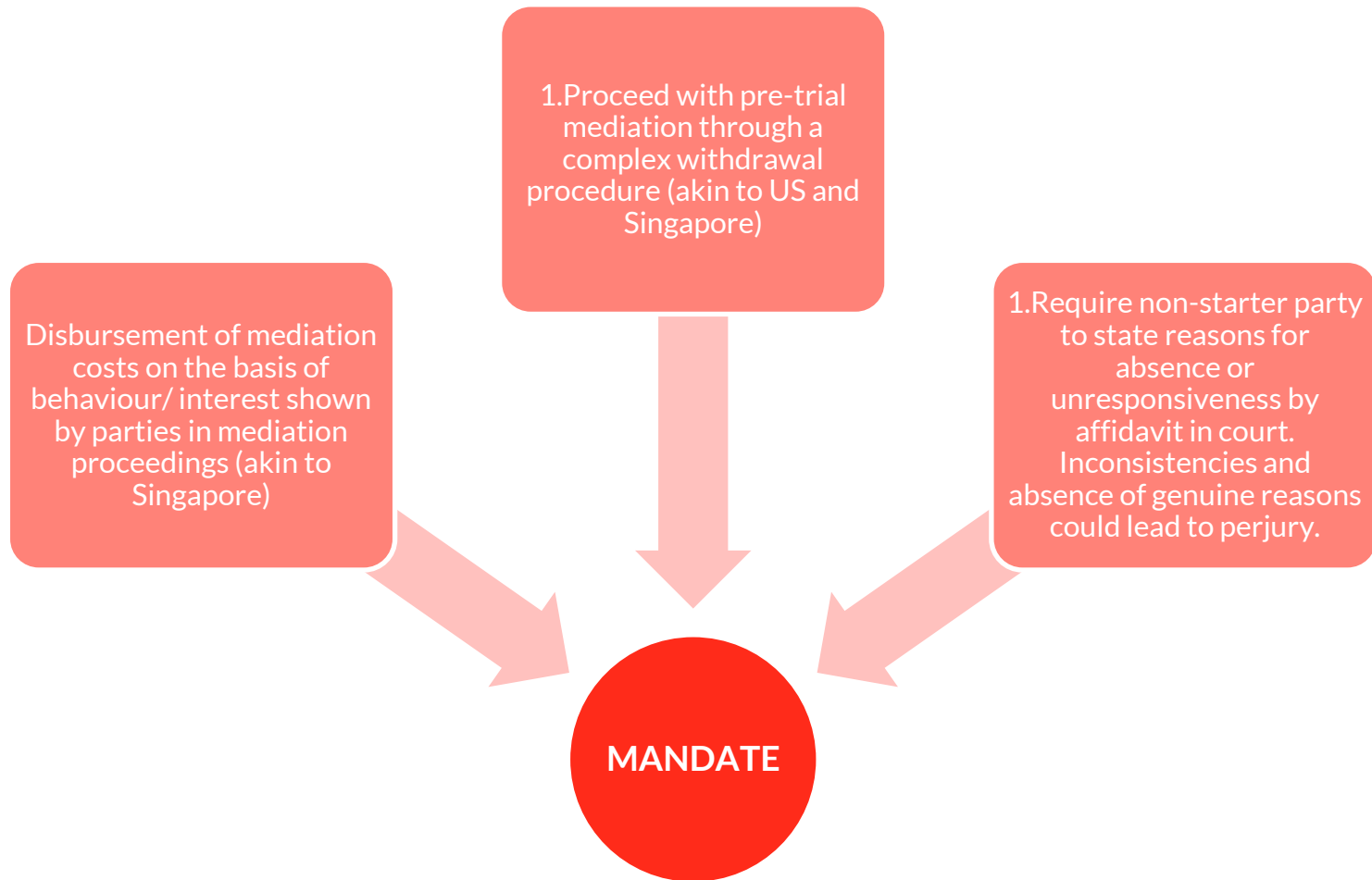
USA

- Rule 16 of the Federal Rules of Civil Procedure

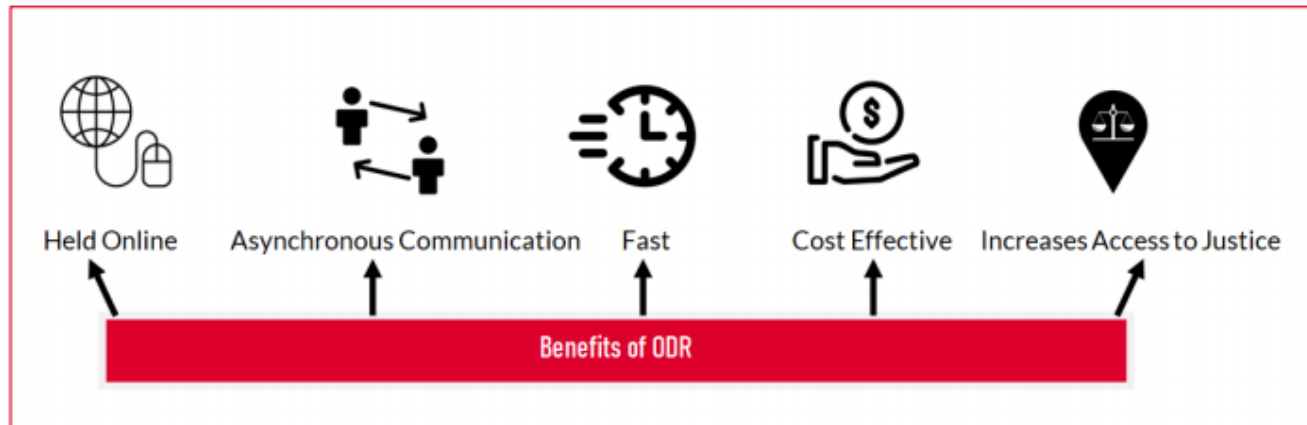
Incentivise: Relaxed Italian opt-out model



Mandate: Following the Singapore model



Harness ODR's potential



Better enforcement of contracts

Thank you