

Supreme Court Ruling on Property Rights | 05 Nov 2024

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Introduction

The [Supreme Court of India](#) made a significant ruling in the matter of the **Property Owners Association & Ors. v. State of Maharashtra & Ors** about private property rights. In an 7:2 decision, the Court clarified that the government cannot simply take over all private properties by calling them "community resources." This was a major case that required nine judges to decide, showing how important the issue was.

What is the Background of the Case?

- **Mumbai's Building Problems:**
 - Mumbai has over 16,000 buildings constructed before 1940
 - The city faces persistent issues with old, dilapidated buildings still being inhabited despite being unsafe
 - The saline air from the coastal location and monsoon rains worsens building conditions
 - Regular building collapses result in loss of life and property
- **Historical Context:**
 - Originally seven islands merged to form Bombay
 - Became a major textile center by early 20th century
 - Large influx of workers led to rapid construction of residential buildings
 - Housing shortage became acute during World War II
 - Rent Control laws were introduced to control rising rents
- **Legislative Evolution:**
 - 1948: Bombay Housing Board Act was enacted
 - 1969: Bombay Repairs and Reconstruction Board Act introduced
 - 1976: Maharashtra Housing and Area Development Act (MHADA) unified various housing laws
 - 1986: Chapter VIII-A was added to MHADA through an amendment
- **Key Features of MHADA (Maharashtra Housing and Area Development Authority) :**
 - Divides buildings into three categories based on construction date:
 - Category A: Before September 1940
 - Category B: September 1940 to December 1950
 - Category C: January 1951 to September 1969
 - Introduces cess (tax) for repairs and reconstruction
 - Chapter VIII A allows acquisition of old buildings if 70% occupiers request it
 - Properties can be transferred to cooperative societies of occupiers
- **Legal Challenge:**
 - Property owners challenged Chapter VIII-A's constitutionality in Bombay High Court
 - They claimed violations of Articles 14 and 19 of [Constitution of India, 1950](#).
 - High Court dismissed their petition in December 1991
 - Case moved to Supreme Court through Special Leave Petitions
 - Went through three separate reference orders before reaching 9-judge bench

What are the Issues Framed by Court?

- **Article 31C Issue:**
 - Whether Article 31C (as upheld in Kesavananda Bharati case) continues to survive in the Constitution after the amendment made by the forty-second amendment was struck down by the Court in Minerva Mills case
- **Article 39(b) Issue: This has two sub-components:**

- Whether the interpretation of Article 39(b) given by Justice Krishna Iyer in Ranganatha Reddy case and followed in Sanjeev Coke case needs to be reconsidered
- Whether the phrase "material resources of the community" in Article 39(b) can include privately owned resources (not just state-owned resources)
- **The Court explicitly clarified those other issues, including:**
 - The constitutionality of the MHADA Act
 - Challenges to rent control laws (Bombay Rent Hotel and Lodging House Rates Control Act 1947 and Maharashtra Rent Control Act 1999)
 - Questions relating to West Bengal Land Reforms Act 1955

What is Article 31C and Article 39(b) ?

- **Article 31C**
 - Article 31C states that Saving of laws giving effect to certain directive principles.
 - Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing all or any of the principles laid down in Part IV shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19; and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy.
 - Article provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent
- **Article 39 (b)**
 - Article 39 states that certain principles of policy to be followed by the State.
 - The State shall direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

Interpretation of Article 31C in case

- **Original Purpose:**
 - Article 31C was created to protect laws that helped distribute resources fairly and prevent wealth concentration in a few hands (basically protecting Articles 39(b) and (c)).
- **1971 Change:**
 - When the Supreme Court kept striking down the government's socialist policies, Parliament amended Article 31C. The amendment said that if a law was made to support Articles 39(b) or (c), it couldn't be challenged even if it violated some fundamental rights.
- **Kesavananda v. State of Kerala (1973):**
 - The Supreme Court said this amendment was okay, but established that the Constitution has some basic features that can't be changed, even by Parliament.
- **1976 Emergency-era Change:**
 - Parliament tried to expand Article 31C's protection to cover ALL directive principles, not just Articles 39(b) and (c). This meant many more laws would be protected from fundamental rights challenges.
- **Minerva Mills v. Union of India (1980):**
 - The Supreme Court struck down this expanded version of Article 31C, saying it gave too much power to Parliament.
- **Current Status (2024):**
 - The Supreme Court has clarified that Article 31C still exists in its post-Kesavananda form. This means:
 - Laws made to implement Articles 39(b) and (c) are still protected
 - But the broader protection for all directive principles (added during Emergency) remains invalid

Interpretation of Article 39(b)

- Not all privately owned resources automatically fall within the scope of "material resources of the community" under Article 39(b), though some private resources may be covered if they meet specific criteria.
- To qualify as a "material resource of the community", a resource must satisfy two key qualifiers: it must be "material" and "of the community" - these terms cannot be treated as mere surplusage.
- The interpretation that all private property constitutes "material resources of the community" is incorrect as it ignores the specific qualifiers used in the constitutional text.
- Four key factors determine whether a resource constitutes a "material resource of the community":
 - The nature and inherent characteristics of the resource
 - Its impact on community well-being
 - The scarcity of the resource
 - Consequences of its concentration in private hands
- Certain private resources like forests, ponds, spectrum, airwaves, mines and minerals may fall within Article 39(b)'s scope due to their vital community interest.
- The term "distribution" in Article 39(b) has a wide meaning - it can include both government acquisition and redistribution to private players, as long as it serves the common good.
- Article 39(b) does not endorse any particular economic ideology and should not be interpreted as mandating state control over all private resources.
- The interpretation must be compatible with the constitutional right to property under Article 300A, which continues to protect private property rights even though it is no longer a fundamental right.
- The Constitution allows governments flexibility to pursue different economic policies rather than being tied to one economic structure or ideology.

How Many Members were there in the Bench?

- Chief Justice of India DY Chandrachud,
- Justice Hrishikesh Roy,
- Justice BV Nagarathna
- Justice Sudhanshu Dhulia
- Justice JB Pardiwala,
- Justice Manoj Misra,
- Justice Rajesh Bindal,
- Justice Satish Chandra Sharma
- Justice Augustine George Masih.

What was the Court Observation?

Majority view

- Article 31C remains valid but only to the extent upheld in the Kesavananda Bharati case, protecting laws implementing Articles 39(b) and (c) from challenges under fundamental rights.
- "Material resources of the community" under Article 39(b) can theoretically include privately owned resources, but not every private resource automatically qualifies just because it meets material needs.
- The Court rejected the expansive interpretation given by **Justice Krishna Iyer (Ranganatha Reddy)** and **Justice Chinnappa Reddy (Sanjeev Coke)** which was rooted in a particular socialist economic ideology.
- Whether a resource qualifies as a "**material resource of the community**" must be determined case-by-case based on:
 - Nature and characteristics of the resource
 - Impact on community well-being
 - Resource scarcity
 - Effects of its private concentration
 - Public Trust Doctrine principles

- The single-sentence observation in Mafatlal case stating that "**material resources of the community include privately owned resources was not binding**" as it wasn't part of the ratio decidendi.
- "**Distribution**" under Article 39(b) has a broad meaning and can include various forms, including state acquisition or nationalization, as long as it serves the common good.
- The Constitution was not meant to bind the country to any particular economic ideology, and successive governments should have the flexibility to pursue different economic policies.
- The Court directed the Registry to obtain administrative instructions from the Chief Justice for placing the matters before an appropriate bench for further proceedings.

Dissent view by Justice Nagarathna's

- All privately owned resources (except personal effects like clothing, jewelry, and daily use items) can qualify as "material resources of community" if properly transformed through legal means.
- Private resources can be converted into community resources through five specific methods: nationalization, acquisition, operation of law, state purchase, or voluntary conversion by the owner (via donation, gift, trust etc.).
- Any conversion of private resources must comply with Article 300A (constitutional right to property) when done through nationalization, acquisition, operation of law, or state purchase.
- Distribution of community resources must "best subserve the common good" - either through state retention for public use or distribution to eligible persons through various legal modes like auction, grant, or lease.
- Distribution decisions must consider factors like resource nature, community impact, scarcity, and risks of wealth concentration, to prevent resources from being concentrated in few hands (as per Article 39(c)).
- The Sanjeev Coke judgment remains valid on its merits, and previous constitutional interpretations shouldn't be criticized merely due to changes in economic policies, as they must be viewed in their historical context.

Conclusion

The Court's decision protects private property owners while still allowing the government to acquire certain resources if they're truly essential for the community's well-being. The ruling strikes a balance between individual property rights and the greater public good. This decision sets a clear precedent for future cases about property rights and government acquisition of private resources in India.