



## Limit on Private Property Acquisition

**For Prelims:** [Articles 39\(b\) and 31C](#), [Article 300A](#), [Economic Democracy](#), [Socialist](#), [Fundamental Right](#), [Zamindari System](#), [Right to Property](#), [Ninth Schedule](#), [Articles 31A and 31B](#), [Ryotwari](#), [Directive Principles](#), [Articles 14 and 19](#), [1st Amendment Act, 1951](#), [Article 368](#), [Constitutional Amendment](#), [Parliament](#).

**For Mains:** Evolution of Right to property since independence. Role of judiciary in shaping the Right to property.

[Source: HT](#)

### Why in News?

Recently, the Supreme Court in the ***Property Owners Association v State of Maharashtra Case 2024***, set limits on the government's power to take over **privately owned resources for public distribution**.

- The petitioners argued that private properties cannot be taken over by the state under the garb of constitutional schemes of [Articles 39\(b\) and 31C](#) of the Constitution.

### Note:

- **Article 39(b)** provides that the State shall aim to ensure the distribution of material resources to **serve the common good**.
- As per **Article 31C**, **Articles 39(b) and 39(c)** cannot be challenged by invoking the **right to equality (Article 14)** or the rights under **Article 19** (freedom of speech, right to assemble peacefully, etc).

### What are the Key Highlights of the Supreme Court Verdict?

- **Acquisition of Private Resources:** Resources that are **scarce or vital to community well-being** should qualify for state acquisition and not all private properties.
  - **"Public trust doctrine"** where the state holds certain resources in trust for the public, **might guide this determination**.
- **Tests for Resource Qualification:** The court laid down **two key tests** i.e., a resource must be both **"material"** and **"belong to or serve the community"**.
  - The **materiality** of a privately owned resource and its community element must be assessed on a **case-by-case basis**.
    - Materiality refers to the impact of assets like **land, minerals, or water** on **economic, social, and environmental dynamics**.
- **Overturing Ranganath Reddy case 1977:** The majority overturned the [Sanjeev Coke ruling](#)

, [1982](#) which had upheld [Ranganath Reddy case, 1977](#) argument in the Ranganath Reddy case that all private property could be deemed "material resources of the community" for redistribution.

- The **lone dissenter** Justice Sudhanshu Dhulia **argued for broader legislative discretion** in defining "material resources" of the community.
- **Restriction on Article 39(b):** The court cautioning against a wider **interpretation of Article 39(b)** that would undermine property rights under [Article 300A](#).
  - **Article 300A:** No person shall be deprived of his property save by authority of law.
- **Private to Community Resources:** SC outlined **five ways** of turning private resources into community material resources:
  - Nationalisation, Acquisition, Operation of law, Purchase by the state and Donation by the owner.

## What are the Constitutional Provisions Related to Right to Property?

- **Article 31:** The **original Article 31 (a fundamental right)** dealt with the [right to property](#), but it was repealed (**44th Amendment Act, 1978**) and replaced by **Article 300A (constitutional right)**.
- **1<sup>st</sup> Amendment Act, 1951:** The 1st Amendment Act, 1951 incorporated [Articles 31A and 31B](#) into the Constitution, along with the [Ninth Schedule](#).
  - **Articles 31A:** It gave the state competence to **acquire property or alter rights in property** without it being challenged on grounds of inconsistency with fundamental rights.
  - **Article 31B:** It ensured that laws included in the **Ninth Schedule** could not be struck down, even if they conflicted with fundamental rights.
  - **Ninth Schedule:** It contains a list of **central and state laws** which cannot be challenged in courts. E.g., **land reform laws**.
- **25<sup>th</sup> Amendment Act, 1971:** It inserted **Article 31C** to protect state laws aimed at resource distribution under **Article 39(b) and (c)** from constitutional challenges.
  - The Amendment **barred the courts** from reviewing the State's actions, even if they were **arbitrary or irrational**.
- **42<sup>nd</sup> Amendment Act, 1976:** It **expanded** the scope of **Article 31C** to include all [Directive Principles](#).
  - This provision protects qualifying laws from being struck down under [Articles 14 and 19](#) if they genuinely serve public welfare through resource redistribution.
- **44<sup>th</sup> Amendment Act, 1978:** [Article 19\(1\)\(f\)](#) and **Article 31**, which protected the right to **acquire, hold, and dispose** of property, were **abrogated** meaning it removed the Right to Property from the list of fundamental rights.
  - Property became a **constitutional right** under **Article 300A** in **Chapter IV of Part XII**.

## What is Judicial Interpretation Related to Right to Property?

- **Sankari Prasad Case, 1951:** The Supreme Court upheld the [1st Amendment Act, 1951](#) affirming **Parliament's exclusive authority** to amend the Constitution under [Article 368](#) and ruling that amendments affecting fundamental rights are not restricted by **Article 13(2)**.
  - **Article 13(2)** provides for [judicial review](#) which helps invalidate laws conflicting with fundamental rights.
- **Bella Banerjee Case, 1954:** The Supreme Court ruled that the government was required to pay **just compensation** in cases of **compulsory property acquisition**.
- **Kesavananda Bharati case, 1973:** SC clarified that **constitutional amendments** are not subject to the restrictions of **Article 13(2)** meaning that **Parliament** could amend the **Constitution**, including altering or removing provisions related to the **right to property**.
- **Minerva Mills Case, 1980:** Expansion of the scope of **Article 31C** to include all Directive Principles was **struck down** by the Supreme Court.
  - SC also **struck down provisions** that prevented **judicial scrutiny** of Article 31C, reinforcing the principle of constitutional **checks and balances**.
- **Waman Rao Case, 1981:** It was held that constitutional amendments and laws in the **Ninth Schedule** before the Kesavananda Bharati case **remain protected** from judicial challenge.

- However, amendments **added after** the case are subject to judicial review based on the **basic structure doctrine**.
- **Vidya Devi Case, 2020:** SC held that **forcibly dispossessing** a person of private property without due process **violates both human rights and the constitutional right** under **Article 300A**.

## What is the Significance of the SC Judgment?

- **State and Individual Rights:** It preserves the potential for state intervention while acknowledging that the indiscriminate acquisition of private resources is not permissible.
- **Economic Democracy:** The judgement aligns with **Dr. B.R. Ambedkar's vision of "economic democracy,"** ensuring that the Constitution does not dictate a rigid economic structure, thus preserving people's liberty to decide their social and economic organisation.
- **Flexible Interpretation:** It emphasises that **Directive Principles like Article 39(b)** should be implemented in a way that reflects evolving societal and economic realities and not a single rigid economic doctrine.
- **Legislative Framework:** The judgement reinforces the role of elected governments and the democratic process in shaping economic and welfare policies.
- **Welfare:** Future welfare policies will likely focus on scarce, critical resources essential for public welfare. The state may adopt more targeted welfare strategies, such as progressive taxation and public schemes.

## What is the Impact of State Control over Property?

- **Positive Impacts:**
  - **Equitable Redistribution:** Promotes **social justice** by redistributing resources to marginalised groups, reducing wealth inequality.
  - **Resource Management:** Ensures resources like **land, water, and minerals** are used sustainably and for public benefit.
  - **Public Welfare Projects:** Facilitates **infrastructure development, healthcare, and education** by acquiring land or property for public purposes.
  - **Protection of Vulnerable Groups:** Provides safeguards for **disadvantaged communities** from exploitation.
- **Negative Impacts:**
  - **Limitations on Private Ownership:** Reduces individual property rights, potentially **discouraging private investment** and entrepreneurship.
  - **Reduced Incentives:** Private owners may **lack motivation** to improve or invest in properties due to state restrictions.
  - **Economic Stagnation:** Overregulation or excessive control can stifle market-driven growth and innovation.

## Conclusion

The Supreme Court's verdict in the **Property Owners Association v. State of Maharashtra** (2024) sets important precedents regarding the **state's power** to acquire **private property**. It emphasises the need for **public purpose, compensation, and case-by-case assessments**, balancing **individual property rights** with the **common good**.

### **Drishti Mains Question:**

**Q.** Discuss judicial interpretation of the right to property in various landmark cases.

## UPSC Civil Services Examination, Previous Year Questions (PYQs)

### **Prelims**

**Q. What is the position of the Right to Property in India? (2021)**

- (a) Legal right available to citizens only
- (b) Legal right available to any person
- (c) Fundamental Right available to citizens only
- (d) Neither Fundamental Right nor legal right

**Ans: (b)**

**Q. 'Economic Justice' as one of the objectives of the Indian Constitution has been provided in (2013)**

- (a) the Preamble and the Fundamental Rights
- (b) the Preamble and the Directive Principles of State Policy
- (c) the Fundamental Rights and the Directive Principles of State Policy
- (d) None of the above

**Ans: (b)**

### **Mains**

Q. What was held in the Coelho case? In this context, can you say that judicial review is of key importance amongst the basic features of the Constitution? (2016)

Q. Discuss the role of land reforms in agriculture development. Identify the factors that were responsible for the success of land reforms in India. (2016)

Q. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has come into effect from 1st January, 2014. What are the key issues which would get addressed with the Act in place? What implications would it have on industrialization and agriculture in India? (2014)