

BALANCING PUBLIC PURPOSE AND PRIVATE PROPERTY: A LEGAL AND POLICY ANALYSIS OF PROPERTY OWNERS ASSOCIATION V. STATE OF MAHARASHTRA

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Abstract:

The conflict between individual rights to private property and the State's authority to regulate land for public purposes remains a critical concern in Indian constitutional and property law. This paper examines the legal and policy dynamics between Property Owners' Associations and the State of Maharashtra, with a focus on regulatory takings, development control rules, and urban planning frameworks. Concerning landmark judgments and statutory interpretations, the paper highlights the growing tensions in balancing the collective public good and constitutional guarantees under Article 300A. The intersection of private property rights and the state's power of eminent domain has long been a contentious issue in Indian constitutional law. The case of Property Owners Association v. State of Maharashtra brings this conflict into sharp focus, offering a lens through which to examine the constitutional, legal, and policy dimensions of land acquisition for public purposes. This paper critically evaluates the background, legal arguments, judicial reasoning, and broader implications of the case. It also considers the balance between individual rights and collective welfare in the context of urban development and infrastructure expansion. By engaging with comparative jurisprudence, analyzing legal doctrines, and considering practical policy implications, this research aims to provide a nuanced understanding of the tension between public interest and private ownership.

Keywords: Eminent domain, public purpose, private property, constitutional law, urban development, land acquisition, Maharashtra

Introduction:-

The evolution of property rights in India reflects the shifting priorities of the state, from prioritizing individual freedoms to promoting collective development. While the Indian Constitution originally enshrined the right to property as a fundamental right, the 44th Amendment relegated it to a constitutional right, reflecting the state's shifting emphasis towards socioeconomic objectives. Land acquisition has become a core instrument in India's developmental strategy, especially in urban planning, infrastructure projects, and industrialization. The Constitution of

India, while not initially recognising the right to property as a fundamental right after the 44th Amendment, still secures it under Article 300A, which mandates that no person shall be deprived of their property save by authority of law. In recent years, multiple disputes have emerged between Property Owners' Associations (POAs) and the State of Maharashtra, particularly in Mumbai and Pune, over land acquisition, redevelopment policies, and urban zoning regulations. This paper explores the legal framework, judicial responses, and policy implications involved in such conflicts. However, the exercise of

eminent domain has repeatedly raised concerns about fairness, justice, and transparency. The case of Property Owners Association v. State of Maharashtra illustrates these tensions vividly.

The Legal Framework: Right to Property in India:-

A. Historical Background

Originally enshrined under Articles 19(1)(f) and 31, the right to property underwent a transformation through the 44th Constitutional Amendment Act, 1978, which removed it from the list of fundamental rights and inserted Article 300A in Part XII of the Constitution.

B. Constitutional Position of Property Post-1978

Though no longer a fundamental right, the right to property remains a constitutional right, and any deprivation thereof must be:

- By authority of law (i.e., not by executive action alone), and
- For a public purpose, with a fair and reasonable process.

This change does not negate the right but subjects it to reasonable legal procedures. However, the status shift has affected the level of judicial scrutiny applicable to land acquisition cases.

Eminent Domain and Public Purpose:-

The doctrine of eminent domain is a sovereign power of the state to acquire private property for a public purpose, contingent upon payment of fair compensation.

The jurisprudence surrounding 'public purpose' has evolved from narrow interpretations limited to state use to broader inclusions of economic development, urban renewal, and even public-private partnerships. Public purpose is not strictly defined under the Constitution. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act) provides an illustrative list but leaves room for interpretation. The acquisition

must be backed by a legitimate public purpose and satisfy due process²²⁶. The Supreme Court has, in multiple instances, upheld acquisitions for infrastructure, economic zones, and public housing as falling within this ambit.

Background of the Case:-

The dispute in Property Owners Association v. State of Maharashtra emerged from the government's initiative to implement a Development Plan (DP) for an urban area under the Maharashtra Regional and Town Planning Act, 1966 (MRTP Act). Maharashtra Regional and Town Planning Act, 1966 (MRTP Act). This act governs zoning, development plans (DPs), and land reservations. Under Section 126, land reserved for public purpose can be acquired within ten years, failing which owners can serve a purchase notice. SC upheld that mere lapse of ten years does not mean automatic lapsing of reservation unless purchase notice procedure under Sec. 127 is followed. The plan proposed the acquisition of several privately owned plots to construct public facilities such as roads, parks, and sewage systems²²⁷. The petitioners, a collective of property owners, contended that the acquisition was excessive, targeted, and unfairly impacted them. They alleged procedural lapses, lack of proper notice, and inadequate compensation. They also questioned the classification of the projects as serving a 'public purpose,' arguing that certain elements benefited private developers under the guise of public utility.

Maharashtra Regional and Town Planning Act, 1966 The MRTP Act is a comprehensive legislation governing urban planning and development in Maharashtra. Sections 126 and 127 authorize the state to acquire land reserved for public purposes under a Development Plan. Section 126 outlines three methods of acquisition: by agreement, by invoking the Land Acquisition Act, or by applying land pooling and adjustment mechanisms. Section 127 provides for the lapsing of reservations if the land is not

²²⁶ Jilubhai Nanbhai Khachar v. State of Gujarat, (1995) Supp (1) SCC 596
²²⁷ Girmar Traders v. State of Maharashtra, (2007) 7 SCC 555

acquired within a specified period, subject to procedural conditions.

Appellant's Arguments :-

1. The appellants contended that for any resource to fall within the ambit of Article 39(b), it must qualify as a "material resource of the community." According to them, this means the resource should either directly provide goods or services to the public or at least possess the potential to generate wealth for the collective benefit of the community. If it does not meet this criterion, it cannot be brought under Article 39(b).

2. They further challenged the reliance placed on the minority view in the Ranganatha Reddy case, which was later adopted in Sanjeev Coke Manufacturing Co. v. Bharat Coking Coal Ltd. The appellants argued that this interpretation was developed in the context of nationalisation laws, and therefore, it is not relevant or applicable to the context of the MHADA Act. They also asserted that the interpretations in Sanjeev Coke and Mafatlal Industries do not constitute sound precedent and should not be followed.

3. It was argued that Articles 31C and 39(b) only protect the distribution of resources and not their acquisition or vesting by the State. Therefore, the protection under Article 31C cannot be extended to cover earlier stages where the State acquires private assets.

4. The appellants urged the Court to strike down Chapter VIII-B of the MHADA Act, claiming it infringes on fundamental rights, particularly those protected under Article 300A (right to property). They argued that the provisions in question do not truly implement the directive principles under Article 39(b), and thus, cannot claim the shield provided by Article 31C of the Constitution.

5. Lastly, the appellants contended that following the Minerva Mills decision, there has been no detailed judicial examination of the continued validity of the unamended portion of Article 31C. They argued that subsequent

decisions, including I.R. Coelho v. State of Tamil Nadu, assumed its validity without scrutiny, resulting in a de facto override of Articles 14 and 19—thus raising serious concerns about the constitutionality of using Article 31C as a shield for laws violating fundamental rights.

Respondent's Arguments:-

1. The inclusion of Chapter VIII-A in the MHADA Act was both reasonable and essential to tackle the problem of dilapidated buildings and to address the growing demand for housing in Mumbai.

2. It was further contended that Article 39(b) of the Constitution also covers privately owned property, as established in the Ranganatha Reddy case and later affirmed in Sanjeev Coke and State of Tamil Nadu & Ors v. L. Abu Kavur Bai & Ors²²⁸. This principle has now become a settled legal position under the doctrine of stare decisis.

3. In the Mafatlal Industries case, which was decided by a five-judge bench, the Supreme Court observed that the term 'community' encompasses the resources owned by individuals. This finding was not merely an obiter dictum but formed a crucial part of the court's binding reasoning (ratio decidendi).

4. The respondents argued that the phrase "material resources of the community" should be interpreted broadly to include both private and public properties. They supported this view by referring to several precedents where assets such as housing, land, contract carriages, and industrial plants were considered within this scope.

5. To promote social and economic justice, the respondents urged the court to adopt a liberal interpretation of the constitutional provisions, facilitating the implementation of policies designed to address the pressing social issues of modern Indian society.

²²⁸ 1984 (1) SCC 515

Judicial Reasoning and Analysis:-

The majority opinion was delivered by Justice D.Y. Chandrachud, writing on behalf of himself and six other judges. The minority opinion was presented by Justice Nagarathna and Justice Sudhanshu Dhulia, who provided their partially dissenting judgments individually. The key observations and rulings were as follows:

1. On the first issue²²⁹, the bench unanimously held that Article 31C remains valid even after the *Minerva Mills* decision. The Court observed that the 42nd Amendment aimed only to expand the immunity under Article 31C and there was no independent legislative intent to repeal Article 31C itself. The Court ruled that, following *Minerva Mills*, only the portion of the 42nd Amendment relating to Article 31C was invalidated, not the entire provision. Consequently, laws enacted to achieve the objectives outlined in Article 39(b) continue to be protected under Article 31C.

2. The Court emphasized that reliance on the minority view in *Sanjeev Coke* was misplaced, as it does not constitute binding law. The Court also highlighted that a majority decision by a larger bench had explicitly disagreed with that minority view, which means the minority opinion from *Sanjeev Coke* lacks both binding and persuasive authority.

3. The Court clarified that the single sentence from *Mafatlal Industries Ltd.* cannot be treated as binding precedent, as it was part of obiter dicta and not the ratio decidendi of the judgment.

4. The Court interpreted Article 39(b) to include private property²³⁰, and further elaborated on five essential elements that form the core of Article 39(b).²³¹

²²⁹ Whether Article 31C (as upheld in *Kesavananda Bharati*) survives in the Constitution after the amendment to the provision by the forty-second amendment was struck down by this Court in *Minerva Mills*?

²³⁰ In para 203 of the judgement “Article 39(b) is not a source of legislative power. The inclusion or exclusion of ‘privately-owned resources’ from the ambit of the provision does not impact the power of the legislature to enact laws to acquire such resources. The power to acquire private resources, in certain situations, continues to be traceable to other provisions in the Constitution, including the sovereign power of eminent domain.”

²³¹ In para 204 of the judgement “Five significant elements emerge from the text of Article 39(b), which has been reproduced in paragraph 2 of this Judgement. These are: a. The provision relates to ‘ownership and control’; b.

5. The Court also provided a detailed interpretation of the phrase “material resources of the community”, analyzing each word—‘material’, ‘resources’, and ‘community’—individually. It concluded that not all privately owned properties fall within the scope of this phrase. Importantly, the Court reiterated that while private property is a protected constitutional right, it is not absolute. Public purpose acquisitions, if lawfully executed and fairly compensated, are permissible. Nonetheless, the Court directed the authorities to enhance engagement with stakeholders and improve transparency in future actions.

In urban areas like Mumbai, redevelopment projects involving housing societies face issues where the State insists on ceding land for public amenities (like roads or parks) without compensation. And the denial of TDR (Transferable Development Rights) amounts to deprivation without due compensation²³².

Comparative Jurisprudence :-

United States- In *Kelo v. City of New London* (2005), the U.S. Supreme Court controversially upheld the use of eminent domain for economic development projects. Although the properties were transferred to a private entity, the Court held that economic rejuvenation served a public purpose. This ruling faced severe criticism for diluting property rights, prompting many U.S. states to amend their laws to restrict such use.

United Kingdom- UK law operates under the Compulsory Purchase Act 1965. The legislation mandates a clear demonstration of public necessity, robust consultation mechanisms, and fair market-value compensation. The UK’s approach emphasizes procedural rigor and judicial review to ensure that property owners are not arbitrarily deprived of their land.

The ownership and control of “material resources” is dealt with by the provision; c. The material resources which the provision covers are those which are “of the community”; d. The policy of the state must be directed to secure the “distribution” of the ownership and control of such resources; e. The purpose of the distribution must be to “best subserve the common good”.”

²³² *Yashwant Co-operative Housing Society v. State of Maharashtra*, W.P. No. 3407 of 2006 (Bom HC)

India– Indian jurisprudence has historically shown deference to the state in matters of land acquisition. However, cases such as *K.T. Plantation v. State of Karnataka*²³³ the Supreme Court laid down that deprivation of property must: Be for a public purpose, be backed by valid law, be non-arbitrary, non-discriminatory, and proportionate and *Rajiv Sarin v. State of Uttarakhand*²³⁴ have insisted on a triple test: legality, public purpose, and compensation. The judiciary has occasionally intervened to annul acquisitions that fail these tests, though such interventions remain rare. In *Pune Municipal Corporation v. Promoters and Builders Association*²³⁵, held that zoning laws must strike a balance between planned development and individual ownership rights. Blanket restrictions can amount to unreasonable interference. *State of Maharashtra v. Sant Joginder Singh Kishan Singh*²³⁶, the Court emphasized that non-acquisition despite reservation creates undue hardship and violates Article 300A.

Policy Implications:-

Need for a Clearer Definition of Public Purpose. The elastic definition of public purpose invites misuse. A more precise and narrowly defined legislative articulation is necessary to prevent acquisitions for disguised private gain.

Enhanced Participatory Mechanisms. Participatory planning remains weak in India. Mandating public consultations and social impact assessments (SIAs) would democratize urban development.

Transparent Valuation Mechanisms. Valuation of land often fails to capture the real market value or future potential. Independent agencies and appeal mechanisms are vital to maintain fairness.

Balancing Urban Development and Equity Urban expansion disproportionately affects marginalized communities. A just acquisition policy must incorporate safeguards for

vulnerable groups, including rehabilitation, resettlement, and livelihood protection.

Critical Analysis:-

While the Court's endorsement of the acquisition aligns with existing legal frameworks, it raises normative concerns. Procedural compliance alone cannot justify displacements that lack moral legitimacy or social justice. The case illustrates the widening chasm between formal legality and substantive fairness. The judicial approach tends to favor macroeconomic planning over micro-level grievances. There is an urgent need for courts to adopt a rights-based perspective that places greater weight on consent, consultation, and community rights.

Recommendations:-

- 1) **Statutory Amendments:** Redefine 'public purpose' to limit scope for misuse.
- 2) **Mandatory Social Impact Assessments (SIAs):** Embed SIAs in all acquisition processes to assess impacts holistically.
- 3) **Strengthen Legal Aid:** Empower landowners through legal literacy programs and public defenders.
- 4) **Independent Compensation Tribunals:** Establish fast-track, impartial tribunals to adjudicate compensation and resettlement claims.
- 5) **Institutional Accountability:** Create oversight bodies to audit and review land acquisition practices periodically.
- 6) **Statutory Time-Limit Enforcement:** The 10-year acquisition rule under the MRTP Act must be strictly followed, with mandatory consequences for non-compliance.
- 7) **Fair Compensation through TDR or Monetary Alternatives:** Equitable compensation must be ensured where land is frozen but not acquired.
- 8) **Transparent Zoning Procedures:** Public consultations and stakeholder participation should be integrated into the development plan process.

²³³ (2011) 9 SCC 1

²³⁴ AIR 2011 SC 3081

²³⁵ (2004) 10 SCC 796

²³⁶ AIR 1995 SC 2181

- 9) Creation of an Independent Urban Planning Tribunal: To adjudicate disputes between POAs and local planning authorities quickly.
- 10) Legislative Amendments to Recognize Regulatory Takings: Like the LARR Act's recognition of indirect deprivation.

Conclusion:--

The Property Owners Association v. State of Maharashtra case is emblematic of India's struggle to reconcile rapid urbanization with constitutional commitments to justice and equity. The exercise of eminent domain must evolve to reflect democratic values, procedural fairness, and socioeconomic inclusivity. Courts, legislatures, and civil society must work in tandem to craft a property rights regime that advances both development and dignity. The struggle between the State's obligation to ensure public welfare and the individual's right to use and enjoy property lies at the heart of land use regulation in Maharashtra. While urban planning is essential, it must not become an excuse for uncompensated and prolonged deprivation of private property. The courts have been instrumental in affirming Article 300A as a meaningful safeguard. It is time for legislative and policy action to support a more balanced, rights-based approach to land regulation.

