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A CRITICAL ANALYSIS OF PROPERTY OWNERS ASSOCIATION v. STATE OF MAHARASHTRA

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INTRODUCTION:

In 1986, amendments to the MHADA Act empowered the Mumbai Building Repair and Reconstruction Board to acquire privately owned, dilapidated buildings—known as “cessed properties”—in Mumbai for redevelopment, if 70% of tenants consented. The Property Owners Association challenged this, claiming it violated their right to property and unjustly treated private property as a public resource under Article 39(b). They also argued the State could not shield the law under Article 31C.

The Bombay High Court upheld the law, and the matter was referred to a **nine-judge** Constitution Bench due to its significant constitutional implications.

FACTS OF THE CASE :

The dispute arose from amendments made in 1986 to the Maharashtra Housing and Area Development Act, 1976 (MHADA Act). These amendments introduced Chapter VIII-A, which empowered the Mumbai Building Repair and Reconstruction Board (MBRRB)—a statutory authority under the Act—to acquire and redevelop old, dilapidated, privately owned buildings in Mumbai, commonly referred to as “cessed properties.” These buildings were generally over 50 years old and structurally unsafe, posing a significant risk to the tenants residing in them.

Under the amended law, if 70% of the tenants in such a building consented to its redevelopment, the State could proceed with the acquisition of the property, regardless of the owner's opposition. The purpose of the legislation was to improve urban living conditions and ensure safe housing by redeveloping buildings in a severely deteriorated state.

The State of Maharashtra defended the amendments, asserting that the law served the larger public interest and was a legitimate exercise of its duty under Directive Principles of State Policy (DPSPs). It argued that Article 31C, in its original form, still provided constitutional protection to laws enacted to implement Article 39(b), and that private property could, in some contexts, qualify as a “material resource” for the greater public good.

The matter was initially upheld by the Bombay High Court, but due to the important constitutional issues involved—including the status of Article 31C and the interpretation of Article 39(b)—the case was referred to a nine-judge Constitution Bench of the Supreme Court, which delivered its judgment on November 5, 2024¹.

Issue Raised ?

a-the law **violated their right to property** under Article 300A and

¹ <https://www.rediff.com/news/2024/nov/14explained-supreme-courts-property-udgment.htm>

b-wrongly treated private property as “material resources of the community” under **Article 39(b)**.

c-State could **not use Article 31C** to shield such laws from constitutional scrutiny, especially after the Supreme Court’s judgment in **Minerva Mills**.

CONTENTIONS OF THE PARTIES

By Petitioners (Property Owners Association)

1. The petitioners argued that the forced acquisition of their buildings under Chapter VIII-A of the MHADA Act amounted to a violation of Article 300A, as it deprived them of their property without sufficient justification or compensation.
2. They contended that privately owned buildings cannot be considered “material resources of the community” under Article 39(b), as the phrase was never intended to include individual property.
3. The petitioners relied on the *Minerva Mills* ruling to argue that the protection under Article 31C was curtailed, and could not be used to immunize laws from fundamental rights challenges.
4. The law allowed acquisition based on 70% tenant consent, which was argued to be arbitrary and unfair, bypassing the legitimate rights of owners.

Contentions of the Respondents (State of Maharashtra)

1. The State defended the law as a **public welfare measure**, aimed at redeveloping dangerous, old buildings and improving housing conditions for the community.
2. The State claimed that **certain private properties** serving larger public interest could fall under “**material resources of the community**”, justifying their acquisition.
3. The State argued that the **original, unamended version of Article 31C** was not struck down in *Minerva Mills*, and hence, laws implementing Article 39(b) still enjoy constitutional protection.
4. The provision for **70% tenant consent** was justified as a democratic and practical tool to address Mumbai’s chronic housing and redevelopment crisis.

JUDGEMENT:

On 5 November 2024, the Supreme Court’s nine-judge Constitution Bench delivered a landmark verdict in this case. The judgment involved both unanimous and majority opinions on different aspects:

- The Court unanimously agreed that the original version of Article 31C—which protects laws aimed at implementing Article 39(b) and (c) from being struck down under Articles 14 and 19—remains valid. This was possible because the Court applied the legal principle that if a constitutional amendment is struck down, the earlier version is automatically restored.

- In an 8:1 majority, the Court held that not all private property can be treated as “material resources of the community” under Article 39(b)². Only those private properties that are essential for the public good—such as those that are scarce, concentrated in the hands of a few, or of wide community impact—can be brought under this definition.
- The Court upheld the validity of the MHADA Act provisions, stating that the acquisition of dangerous and old private buildings for redevelopment, with 70% tenant consent, serves the public interest and is protected under Article 31C.

LEGAL ANALYSIS

This case clarified how **Directive Principles of State Policy** and **Fundamental Rights** should be balanced:

1. The judgment shows that the Constitution allows the government to make welfare laws that help people—like laws for better housing—even if those laws place limits on private rights. But such laws must genuinely work towards **public welfare**, not just claim to.
2. The Court clearly said that **just being private property is not enough**. The State must prove that the property is needed for the good of the larger community—only then it may fall under Article 39(b)³.
3. The **majority opinion (8 judges)** was led by **Chief Justice D.Y. Chandrachud**, and supported by Justices Hrishikesh Roy, J.B. Pardiwala, Manoj Misra, Rajesh Bindal, Sanjay Karol, Sanjay Kumar, and Ahsanuddin Amanullah.
4. **Justice B.V. Nagarathna** gave a **separate opinion**. She agreed that not all private property fits Article 39(b), but said that **once acquired or controlled by the State**, it can become a “community resource.”
5. **Justice Sudhanshu Dhulia dissented**, saying the State should have a wider power to treat private property as a resource for the community, especially in housing and welfare-related contexts.

CONCLUSION

The judgment in *Property Owners Association v. State of Maharashtra* struck a careful balance between private property rights and the State’s responsibility to ensure public welfare. It clarified that not all private property can be treated as community resources and upheld the limited protection under Article 31C for genuine welfare laws. This case strengthens constitutional values by ensuring that laws aimed at public good do not override individual rights without proper justification.

² <https://www.freelaw.in/legalnews/Article-39-b-All-Private-Properties-Cannot-Form-Part-of-the-Material-Resources-of-the-Community-Supreme-Court>

³ <https://www.scoobserver.in/reports/nature-of-private-property-iudgement-pronouncement-property-owners-v-state-of-maharashtra/>