



Right to Private Property

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Why in News

The Supreme Court has recently held that a **citizen's right to own private property is a human right.**

- The case was of an 80-year-old woman whose 3.34 hectare land was forcibly taken by the **Himachal Pradesh Government in 1967**, for constructing a road.
- The Court used its **extraordinary jurisdiction** under **Article 136** and **Article 142** of the Constitution to direct the government to pay the woman compensation of 1 crore rupees.

Key Points

- A citizen's **right to own private property is a human right.** The state cannot take possession of it without following due procedure and authority of law.
The Bench referred to an earlier verdict in **State of Haryana v. Mukesh Kumar case (2011)** wherein it was held that the right to property is not only a **constitutional or statutory right, but also a human right.**
- **Doctrine of Adverse Possession:** The state cannot trespass into the private property of a citizen and then claim ownership of the land in the name of 'adverse possession'.
Grabbing private land and then claiming it as its own makes the state an encroacher.
- In 1967, when the government forcibly took over the land, '**right to private property was still a fundamental right**' under Article 31 of the Constitution.
 - Right to Property ceased to be a fundamental right with the **44th Constitution Amendment in 1978.**
 - It was made a **Constitutional right under Article 300A.** Article 300A requires the state to follow due procedure and authority of law to deprive a person of his or her private property.

Doctrine of Adverse Possession

- It is a **legal doctrine** that allows a person who possesses or resides on someone else's land for an extended period of time to claim legal title to that land.
- In India, a person who is not the original owner of a property becomes the owner because of the fact that he has been in possession of the property for a minimum of 12-years, within which the real owner did not seek legal recourse to oust him.

Article 142

It provides **discretionary power to the Supreme Court** as it states that the Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for **doing complete justice** in any cause or matter pending before it.

Article 136 (Special Leave Petition)

It allows the Supreme Court to hear, at its discretion, an appeal against any order from any court or tribunal in the territory of India. However, this does not apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.

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