

Not all private properties can be used by State for the community: Supreme Court holds in majority decision

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Supreme Court of India. | Photo Credit: The Hindu

A nine-judge Constitution Bench of the Supreme Court, in a majority judgment, held on Tuesday (November 5, 2024) that not every resource owned by private players can be considered a "material resource of the community" to be used by the government to serve the "common good".

The majority decision dismissed such a power of acquisition by the State while noting that it reminded of a particular “rigid economic dogma” of the past. The court noted that the Indian economy has already transitioned from dominance of public investment to the co-existence of public and private investments.

The majority opinion authored by Chief Justice of India D.Y. Chandrachud said the interpretation that every privately-owned property could be used by the state as material resource to “subserve the common good” postulated a “rigid economic theory which advocates greater state control of private resources”.

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The interpretation was introduced by Justice Krishna Iyer in his dissenting opinion in Ranganath Reddy versus State of Karnataka in 1977. Justice Iyer’s opinion was relied on by subsequent Constitution Benches in Sanjeev Coke Manufacturing and Mafatlal Industries judgments in 1982 and 1997, respectively, hence necessitating a reference to the nine-judge Bench.

Rejecting the view of Justice Iyer as one presenting a “particular ideology”, the majority opinion penned by Chief Justice Chandrachud said India has moved on from socialism to liberalisation to market-based reforms.

“India’s economic trajectory indicates that the Constitution, the custodians of the Constitution - the electorate have routinely rejected the idea of one economic dogma being the exclusive repository of truth. As participants of a vibrant multi-party democracy, the people have voted to power governments with various economic and social policies based on the country’s evolving developments, strategies and challenges,” Chief Justice Chandrachud observed in the judgment.

The court said the vision of the Constitution framers to establish an economic democracy and trust the wisdom of the elected governments has been the “backbone of the high growth rate of India’s economy, making it one of the fastest growing economies in the world”.

“To scuttle the constitutional vision by imposing a single economic dogma which views the acquisition of private property by the State as the ultimate goal would undermine the values and principles of our Constitutional framework,” Chief Justice Chandrachud held.

The nine-judge Bench was focussing on the contours of Article 39(b) of the Constitution, which mandates that the “state shall, in particular, 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”.

The majority opinion held that “theoretically” privately-owned resources could be considered as material resources of the community, however an expansive view cannot be taken.

The court said the term ‘resource’ in Article 39(b) should be viewed context-wise.

Whether a resource could be acquired as a material resource of the community would depend on a series of “non-exhaustive factors” like the nature of the specific resources and their characteristics, whether such acquisition was essential for the wellbeing of the community, scarcity of the resources and the consequences of such resources concentrated in the hands of private players.

Justices B.V. Nagarathna partially concurred with the majority while Justice Sudhanshu Dhulia wrote the lone dissent.

During the hearing, Attorney General (AG) R. Venkataramani, appearing for the Union of India, had submitted that “all things in the material world which are available and made available by human interaction or engagement constitute the material resources of the community”.

The Chief Justice had asked whether resources created by corporations, like semiconductor chips or mobile phones, were resources of the community.

“So I build a house using my one income, is it the material resource of the community? I own a car, is it the material resource of the community? Is there no concept of private property,” Chief Justice Chandrachud had queried.

The reference to the Constitution Bench was based on petitions filed by parties including the Property Owners Association (POA) that private properties cannot be taken over by the state under the garb of constitutional schemes of Articles 39 (b) and 31 C of the Constitution.

At least 16 petitions were heard by the Bench. The lead plea filed by POA dated back to 1992. They were referred thrice to larger Benches of five and seven judges before being referred to a nine-judge Bench on February 20, 2002.

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