

Article 142 and Ayodhya verdict

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Manifest pedagogy: Article 142 gives an extraordinary power to the Supreme Court to do complete justice. This power has been invoked many times by the court which forms an important aspect of Judicial activism. The current article provides info on the usage and provisions of Article 142 which are important for prelims and mains.

In news: SC invoked its power under Article 142 in Ayodhya verdict

Placing it in syllabus: Powers of the Supreme Court (SC)

Static dimensions:

- What is Article 142?
- Earlier instances of invoking it

Current dimensions: Importance of it under Ayodhya Verdict

Content:

While setting aside the judgment of the Allahabad High Court, the Supreme Court, in Ayodhya dispute, has exercised powers under Article 142 to pass various orders which had not been originally prayed for by the parties to the controversy.

What is Article 142?

- Article 142 of the Constitution empowers the Supreme Court to “pass such decree or make such order as **is necessary for doing complete justice** in any cause or matter pending before it”.
- Any decree so passed or orders so made shall be

enforceable throughout the territory of India.

- The phrase '*is necessary for doing complete justice*' encompasses a power of equity which is **employed when the strict application of the law is inadequate to produce a just outcome.**
- This wide power allows SC to mould any relief in a way that its orders become more effective and it would be in the **interest of justice and equity.**
- The **philosophy** behind Article 142 is that **justice should not only be done but it should also appear to be done.**
- Hence the power under Article 142 can be exercised when the SC has to decide difficult cases **where adequate laws may not exist, or existing laws may not be adequate,** in order to deliver complete justice.
- Supreme Court in **State of Punjab v Rafiq Masih (2014)** has opined that, "**Article 142** of the Constitution of India **is supplementary in nature** and cannot supersede the substantive provisions, though they are not limited by the substantive provisions in the statute".

Earlier instances of invoking it:

- The Supreme Court had used Article 142 in **1989 to provide relief to the thousands of victims affected by the Bhopal gas tragedy** by awarding compensation of \$470 million to the victims.
- **In 2014,** it was used to **cancel allocation of coal blocks granted from 1993** onwards, without any specific finding on wrongdoing by those who were allotted these blocks.
- For **banning the sale of alcohol** within a distance of 500 metres **on national and state highways** across the country to curb accidents due to drunken driving.
- In the **release of thousands of undertrials** who were in jails for periods **exceeding their sentences.**
- For **restoring the white marble of the Taj Mahal.**
- For constituting the Justice Mukul Mudgal Committee to probe the **2013 Indian Premier League (IPL) spot-fixing**

scandal.

- Recent case where **bureaucrats from the state of Punjab, Delhi and Uttar Pradesh** were hauled up for **not controlling stubble burning** and a **slew of directions were passed by SC** which would otherwise have been in the domain of the executive.

Importance of it under Ayodhya Verdict:

The SC in Ayodhya verdict has appropriately highlighted that as the final arbiter it must **preserve the sense of balance that the beliefs of one citizen do not interfere with or dominate the freedoms and beliefs of another.**

While granting the title over the disputed land to the deity, **SC refused to treat the two divisions of the disputed land** (i.e. inner and outer courtyards) **as separate** and held that the **entire land should devolve to Hindu parties.**

However, despite **dismissing the Waqf Board's claim** the court felt that great injustice had been suffered by **Muslim parties** due to the illegal demolition of the mosque in 1992 .

Hence **under Article 142 it directed the central government to grant an alternate site measuring five acres** within the area acquired by the central government by way of the **Acquisition of Certain Area at Ayodhya Act in 1993** or in any other prominent area in Ayodhya.

Even though the Supreme Court had dismissed Nirmohi Akhada's claim over the disputed land, it invoked its power under Article 142 **to direct the central government to include the Nirmohi Akhada in the body** which would be responsible for the management of the future temple land.

Hence the SC passed directions under Article 142 under a belief that **it was necessary to do so because of the complex story of the dispute** which **involved religion, history and law** and it felt that the current laws were inadequate to deal with

such complexities.

Supreme Court verdict on Ayodhya dispute:

The **5-judge Constitution bench** of SC, **headed by Chief Justice Ranjan Gogoi** started final hearing on the Ayodhya dispute in August, 2019 after the panel of mediators appointed failed to explore an amicable solution to the issue. The bench which also included **Justices S.A.Bobde, D Y Chandrachud, Ashok Bhushan and S Abdul Nazeer** has delivered the verdict on the dispute **on November 9, 2019.**

- The bench has ordered the Centre to set up a **board of trustees** for construction of a temple at the disputed place.
- It has allotted the **entire 2.77-acre disputed land for temple construction.**
- Has ordered the central government to allot **alternative five acres of land for constructing a mosque to Sunni Waqf Board** either in the surplus 67 acres acquired in and around the disputed structure by the central govt or any other prominent place within the city of Ayodhya.
- The SC held that the **Allahabad High Court 2010 judgement was wrong** to divide the land between the three main parties – Ram Lalla Virajman, Nirmohi Akhara and the Sunni Waqf Board, as the complex was a composite whole.
- The SC ruled that the **Nirmohi Akhara suit was not maintainable** and it has no shebait rights (priestly rights).
- However, the court directed that in the Board of Trustees that will be set up, the Nirmohi Akhara should be given appropriate representation.
- The SC said that a **report by the Archaeological Survey of India (ASI) provided evidence of the remains of a building “that was not Islamic”** beneath the demolished mosque.
- The bench noted that the existence of structures like Sita Rasoi, Ram Chabutra and Bhandar Grah are testimony

to the religious fact of the place.

- The **claim of Shia Waqf Board** against Sunni Board to Babri Masjid was **dismissed**.
- The SC's directive to set up a Trust to construct the Ram temple virtually ousts the VHP-backed Ram Janmasthan Nyas from temple construction activities.
- It said that the **destruction of the mosque in 1992** happened in **breach of SC orders**. The desecration of the mosque by placing idols in 1949 and its demolition was **against the rule of law**.