



ARTICLE 300A – RIGHT TO PROPERTY UNDER THE CONSTITUTION OF INDIA

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ABSTRACT

Article 300A of the Constitution of India provides constitutional protection to the right to property by declaring that no person shall be deprived of property except by authority of law. Although the Forty-Fourth Constitutional Amendment Act, 1978 removed the right to property from the category of Fundamental Rights by repealing Article 31 and omitting Article 19(1)(f), the right continues to exist as a constitutional right. This article examines the historical evolution of the right to property, its transition from a Fundamental Right to a constitutional right, and the scope and significance of Article 300A. It analyses the meaning of “property”, “deprivation” and “authority of law” and explains the limitations imposed on arbitrary executive action. The article further examines the State’s power of compulsory acquisition, procedural safeguards, compensation, and the balance between individual property rights and public interest. Judicial decisions including K.T. Plantation Pvt. Ltd. v State of Karnataka, Jilubhai Nanbhai Khachar v State of Gujarat, and Kolkata Municipal Corporation v Bimal Kumar Shah demonstrate the evolving interpretation of Article 300A. The study concludes that Article 300A acts as an important constitutional safeguard by requiring lawful authority and procedural fairness while permitting legitimate acquisition of property for public purposes.

Keywords: Article 300A, Property, Constitutional Right, Forty-Fourth Law.

INTRODUCTION

Chapter IV of Part XII of the Constitution of India consists of only one Article, namely Article 300A, which deals with the property right. The property right is no longer a Fundamental Right. The Forty-Fourth Constitutional Amendment Act, 1978, deleted Article 31 from Part III of the

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Constitution and omitted Article 19(1)(f), thereby removing the right to property from the category of Fundamental Rights.

Article 300A was inserted by the Constitution (Forty-Fourth Amendment) Act, 1978. It provides that: “No person shall be deprived of his property save by authority of law. Thus, Article 300A protects a person's property from arbitrary deprivation. Since the property right is a constitutional right and not a Fundamental Right, a person whose property is deprived cannot directly invoke Article 32 before the Supreme Court for enforcement of Article 300A. However, the person may approach the High Court under Article 226, a competent civil court, or avail any other statutory remedy available under law. Therefore, the right to property is presently regulated by ordinary law as well as the constitutional guarantee contained in Article 300A.¹

WHAT IS ARTICLE 300A OF THE CONSTITUTION OF INDIA?

Article 300A states: “No person shall be deprived of his property save by authority of law.” The provision establishes that deprivation of property can take place only under the authority of a valid law. The State cannot deprive a person of property merely through executive action without legal authority.

The expression “authority of law” means that the deprivation must be supported by a law made by a competent legislature or by a valid statutory provision having the force of law.¹ Article 300A therefore provides constitutional protection against arbitrary deprivation of property while permitting the State to acquire or regulate property in accordance with law.

HISTORICAL EVOLUTION OF THE RIGHT TO PROPERTY

Originally, the property right was recognised as a Fundamental Right under Articles 19(1)(f) and 31 of the Constitution.

First Amendment Act, 1951: The First Constitutional Amendment inserted Article 31A to protect certain laws relating to agrarian reforms from being challenged on the ground that they violated Fundamental Rights.

¹ A Chandrasekaran, Land Laws of Tamil Nadu (C Sitaraman & Co Pvt Ltd, 3rd edn, 2020).

Fourth Amendment Act, 1955: The Fourth Amendment further modified Article 31 and restricted the scope of judicial review relating to the adequacy of compensation for compulsory acquisition.

Twenty-Fifth Amendment Act, 1971: The Twenty-Fifth Amendment replaced the expression “compensation” with “amount” in Article 31, thereby further restricting the constitutional protection relating to compensation.

Forty-Fourth Amendment Act, 1978: The Forty-Fourth Amendment brought about the most significant change. It:

- Deleted Article 19(1)(f);
- Repealed Article 31;
- Removed the right to property from Part III; and
- Inserted Article 300A in Part XII.

Consequently, the property right ceased to be a Fundamental Right and became a constitutional right.²

ARTICLE 300A – PROTECTION OF PERSONAL PROPERTY

Article 300A assures that no person shall be deprived of property except by authority of law. Before its insertion, the property right was protected under Article 31 in Part III. The Forty-Fourth Amendment transferred the essential protection against deprivation of property from the Fundamental Rights chapter and incorporated it as Article 300A.

The right to hold property has therefore ceased to be a Fundamental Right. In *State of Maharashtra v Chandrabhan*,³ the Supreme Court recognised the changed constitutional position of the right to property following the Forty-Fourth Amendment. Since Article 300A is not a Fundamental Right, a person cannot invoke Article 32 merely for violation of this provision. However, constitutional and statutory remedies continue to be available.

² Drishti Judiciary, ‘Right to Property under Article 300A’ (Drishti Judiciary, 3 January 2024) <https://www.drishtijudiciary.com/current-affairs/right-to-property-under-article-300a>

³ *State of Maharashtra v Chandrabhan* AIR 1983 SC 803.

ARTICLE 300A IS NOT A FUNDAMENTAL RIGHT

The property right is presently a constitutional right and not a Fundamental Right. The significance of this distinction is that:

- Article 32 cannot ordinarily be invoked solely for violation of Article 300A;
- The High Court may be approached under Article 226;
- A person may approach a competent civil court where appropriate;
- The validity of the law depriving property can be examined on applicable constitutional grounds; and
- The State must nevertheless comply with the requirement of “authority of law”.

Thus, although the property right no longer enjoys the status of a Fundamental Right, it continues to receive constitutional protection.

ARTICLE 300A AND THE BASIC STRUCTURE

The property right is not considered a part of the basic structure of the Constitution. USA-In the USA, the most reaffirmation of this principle can be witnessed in the decision of the US Supreme Court in *Youngstown Sheet & Tube Co. V. Sawyer*,⁴ wherein it was held that the seizure of steel mills by a Presidential Decree, in the absence of any law to support it, was unconstitutional.

In *Jilubhai Nanbhai Khachar v State of Gujarat*,⁵ the Supreme Court held that the property right is not a basic feature of the Constitution. Therefore, the constitutional status of property rights can be altered by constitutional amendment, subject to the basic structure doctrine. The removal of the right to property from Part III through the Forty-Fourth Amendment was therefore constitutionally permissible.

PROTECTION AGAINST EXECUTIVE ACTION

Article 300A requires the State to deprive a person of property only under the authority of law. Mere executive action, without the support of a valid law, cannot ordinarily deprive a person of property.

⁴ *Youngstown Sheet & Tube Co v Sawyer* 343 US 579 (1952)

⁵ *Jilubhai Nanbhai Khachar v State of Gujarat* 1995 AIR SC 142.

In *State of West Bengal v Vishnunarayan & Associates* (2002),⁶ the Supreme Court observed that the State cannot resume possession of property by force and that possession can be resumed only in a manner known to or recognised by law. Thus, Article 300A acts as a safeguard against arbitrary executive interference with property. The provision also has a connection with Entry 42 of List III of the Seventh Schedule, which relates to acquisition and requisitioning of property.

WHAT IS “PROPERTY” WITHIN THE MEANING OF ARTICLE 300A?

The term “property” under Article 300A is interpreted broadly. It may include both corporeal and incorporeal interests in property, provided that the interest is legally recognised and capable of acquisition, disposal, possession or enforcement.

In *Suryapal Singh v State of U.P.*,⁷ the Court recognised that an interest in property, including a temporary or precarious interest such as a mortgage or lease, may constitute property.

In *Audh Behari v Ghadadhar*,⁸ a right of pre-emption under Mohammedan law or custom was treated as a property interest.

In *Madan Mohan Pathak v Union of India*,⁹ the Court considered monetary rights and claims as capable of receiving legal protection as property in the appropriate context.

Property may therefore include:

- Land and buildings;
- Leasehold interests;
- Mortgage interests;
- Rights of pre-emption;
- Monetary and other legally enforceable interests; and
- Certain incorporeal rights such as intellectual property.

The concept of property under Article 300A is therefore not confined merely to physical ownership of land.

⁶ *State of West Bengal v Vishnunarayan & Associates (P) Ltd* (2002) 4 SCC 134.

⁷ *Suryapai v State of UP* (1952) SCR 587.

⁸ *Audh Behari v Gajadhar* (1955) SCR 65.

⁹ *Madan v Union of India* AIR 1978 SC 803.

WHAT IS “DEPRIVATION” OF PROPERTY UNDER ARTICLE 300A?

The expression “deprived” in Article 300A has a wide meaning. Deprivation may occur in different forms, including:

- Destruction of property;
- Confiscation;
- Revocation of property rights;
- Seizure of goods;
- Taking possession of immovable property;
- Restrictions affecting leasehold rights;
- Taking away the right to occupy, transfer, assign or sub-let property; and
- Declaring property as evacuee property.

In *Chiranjit Lal Chowdhuri v Union of India*,¹⁰ deprivation was considered in the context of interference with property.

In *Ananda v State of Orissa*,¹¹ confiscation was considered as a form of deprivation.

In *Virendra v State of U.P.*,¹² revocation of property rights was considered.

In *Wazir Chand v State of Himachal Pradesh*,¹³ seizure of property was examined.

In *Zafar Ali v Assistant Custodian*,¹⁴ the declaration of property as evacuee property was considered in relation to deprivation.

Therefore, deprivation under Article 300A is not limited to formal acquisition. Any substantial taking away of a legally recognised property interest may amount to deprivation. It may be noted, however, that deprivation of property does not automatically amount to deprivation of life or personal liberty under Article 21. In *Ambika Prasad v State of Uttar Pradesh*,¹⁵ the Court observed that Article 21 does not independently operate as a protection of property rights.

¹⁰ *Chiranjit Lal v Union of India* (1950) SCR 869.

¹¹ *Ananda v State of Orissa* (1955) 2 SCR 919.

¹² *Virendra v State of UP* (1955) 2 SCR 777.

¹³ *Wazir v State of HP* (1955) 1 SCR 777.

¹⁴ *Zafar Ali v Asstt Custodian* (1962) 1 SCR 749.

¹⁵ *Ambika Prasad v State of Uttar Pradesh* AIR 1980 SC 1762.

WHAT IS “LAW” WITHIN THE MEANING OF ARTICLE 300A?

The expression “law” under Article 300A refers to a valid law having the force of law. Such law may be enacted by Parliament or a State Legislature or may include a valid statutory rule or order made under legislative authority.

The law authorising deprivation of property must itself conform to the applicable constitutional requirements. It cannot be arbitrary, oppressive or legally invalid. The State may enact laws affecting property under the legislative powers conferred by the Constitution. For example, matters relating to land fall within the legislative competence of the States under Entry 18 of List II, while acquisition and requisitioning of property fall under Entry 42 of List III.

In *Fatehchand v State of Maharashtra*,¹⁶ the Court considered the extent to which legislation may affect property rights without necessarily amounting to compulsory acquisition. Thus, Article 300A does not prevent the legislature from regulating property. It requires that deprivation must have a valid legal foundation.

CAN THE GOVERNMENT ACQUIRE PROPERTY UNDER ARTICLE 300A?

Yes. Article 300A does not prohibit the Government from acquiring private property. It requires that such acquisition must be carried out under the authority of valid law and in accordance with the procedure prescribed by that law.

The principal legislation governing compulsory acquisition is the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The Government may acquire property for a legitimate public purpose, such as:

- Infrastructure development;
- Public roads;
- Urban development;
- Public utilities; and
- Other purposes recognised by law.

However, acquisition cannot be arbitrary. The State must comply with the statutory procedure and applicable constitutional requirements.

¹⁶ *Fatehchand v State of Maharashtra* AIR 1977 SC 1825.

SEVEN PROCEDURAL RIGHTS UNDER ARTICLE 300A

In *Kolkata Municipal Corporation v Bimal Kumar Shah*,¹⁷ the Supreme Court emphasised that prescribing the necessary procedure before depriving a person of property is an integral part of the “authority of law” requirement under Article 300A.

The judgment identified important procedural safeguards in matters concerning deprivation of property:

Right to Notice: The person affected by the proposed acquisition must be informed that the State intends to acquire the property.

Right to Be Heard: The affected person must have an opportunity to raise objections and present their case.

Right to a Reasoned Decision: The State must provide a reasoned decision regarding the proposed acquisition.

Duty to Acquire Only for a Public Purpose: The acquisition must be supported by a legitimate public purpose.

Right to Restitution or Fair Compensation: The affected person is entitled to appropriate restitution and compensation in accordance with the applicable law.

Right to an Efficient and Expeditious Process: The acquisition proceedings should be conducted efficiently and within the prescribed legal timelines.

Right to Conclusion: The proceedings must reach a lawful and final conclusion before the property is vested in the State.

These safeguards strengthen Article 300A by ensuring that property is not taken through arbitrary or procedurally unfair action.¹⁸

¹⁷ *Kolkata Municipal Corporation & Anr v Bimal Kumar Shah & Ors* (2024) 4 SCC 1.

¹⁸ Freelaw, <https://www.freelaw.in/> accessed 15 August 2026.

COMPENSATION FOR PROPERTY ACQUIRED UNDER ARTICLE 300A

Article 300A itself does not prescribe a detailed method for calculating compensation. Compensation is primarily governed by the applicable acquisition legislation. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 provides a statutory framework for compensation and rehabilitation in cases of land acquisition. The objectives of the Act include ensuring a humane, participative, informed and transparent process for land acquisition and providing fair compensation and rehabilitation to affected families.

The compensation framework may take into account factors such as:

- Market value of the land;
- Value of buildings and structures;
- Assets attached to the property;
- Loss suffered by affected persons; and
- Impact of displacement and livelihood.

The Act also provides for rehabilitation and resettlement measures for affected persons. Although compensation is not expressly mentioned in the text of Article 300A, the Supreme Court has developed important principles concerning compensation and lawful deprivation.

In *K.T. Plantation Pvt. Ltd. v State of Karnataka*,¹⁹ the Supreme Court held that although Article 300A does not expressly make payment of compensation an absolute textual requirement in every case, deprivation of property cannot be arbitrary, excessive or contrary to public interest. Where the applicable acquisition law creates a right to compensation, failure to pay compensation in accordance with that law may amount to a violation of the constitutional guarantee under Article 300A.

EXCEPTIONS AND LIMITATIONS TO THE RIGHT TO PROPERTY

The right to property under Article 300A is not absolute. The Constitution permits the State to regulate and acquire property in accordance with law. The major limitation is the State's power of eminent domain, under which property may be acquired for a legitimate public purpose.

¹⁹ *K.T. Plantation Pvt Ltd v State of Karnataka* (2011) 9 SCC 1.

Examples include acquisition for:

- Roads and highways;
- Public infrastructure;
- Urban development;
- Public institutions;
- Irrigation and other development projects.

However, the State must act under valid law and follow the prescribed procedure. The existence of the power of acquisition does not permit arbitrary deprivation. Thus, Article 300A balances individual property rights with legitimate public interests.

IMPORTANT SUPREME COURT JUDGMENTS

K.T. Plantation Pvt. Ltd. v State of Karnataka:²⁰

Issue: Whether deprivation of property without compensation violates Article 300A.

Principle: The Supreme Court held that although compensation is not expressly prescribed in Article 300A in every case, deprivation cannot be arbitrary, excessive or contrary to public interest.

Delhi Airtech Services Pvt. Ltd. v State of U.P.:²¹

Issue: Whether government action affecting property without following proper procedure violates constitutional requirements.

Principle: Article 300A protects property interests and requires deprivation to be supported by lawful authority and appropriate procedure.

State of Maharashtra v Basantibai Mohanlal Khetan:²²

Issue: Whether property could be deprived under an invalid or inoperative law.

²⁰ K.T. Plantation Pvt Ltd v State of Karnataka (2011) 9 SCC 1.

²¹ Delhi Airtech Services v State of U.P. (2011) 9 SCC 354.

²² State of Maharashtra v Basantibai Mohanlal Khetan (1986) 8 SCC 516

Principle: Deprivation must be supported by a valid and operative law. Without valid authority of law, deprivation of property is unconstitutional.

Indore Development Authority v Manoharlal:²³

Issue: Compensation and lapsing of acquisition proceedings under land acquisition law.

Principle: The Court examined the relationship between acquisition proceedings, compensation and the constitutional protection of property under Article 300A.

CRITICAL OBSERVATION

The constitutional history of the property right demonstrates the difficulties that arose from attempting to balance individual property rights with social and economic reforms.

The original Fundamental Right to property led to considerable constitutional litigation, particularly concerning land reforms, acquisition and compensation. Several constitutional amendments were consequently introduced to restrict the scope of the right and protect legislative measures relating to social and economic reforms.

The gradual development of Articles 31A, 31B and 31C and subsequent constitutional amendments resulted in considerable changes to the original scheme of Fundamental Rights. Ultimately, the Forty-Fourth Amendment removed the right to property from Part III and introduced Article 300A.

The present position attempts to strike a balance: property is no longer a Fundamental Right, but the State cannot deprive a person of property without authority of law. Thus, Article 300A continues to provide an important constitutional safeguard against arbitrary deprivation.

CONCLUSION

Article 300A occupies an important position in the constitutional protection of property in India. Although the property right ceased to be a Fundamental Right after the Forty-Fourth Constitutional Amendment Act, 1978, it continues to enjoy the status of a constitutional right.

The words “No person shall be deprived of his property save by authority of law” impose a significant limitation on State power. The Government may acquire private property for a

²³ Indore Development Authority v Manoharlal (2020) 8 SCC 129.

legitimate public purpose, but such acquisition must be supported by valid law and must follow the procedure prescribed by that law.

The Supreme Court has progressively strengthened the protection under Article 300A by recognising the importance of procedural safeguards, including notice, hearing, reasoned decision-making, public purpose, fair compensation or restitution where legally applicable, and timely completion of acquisition proceedings.

Therefore, Article 300A represents a constitutional balance between the individual's interest in property and the State's power to acquire property for public purposes. It ensures that the removal of the right to property from the category of Fundamental Rights does not result in complete freedom for the State to arbitrarily deprive individuals of their property.