

CONCEPT OF COMPLETE JUSTICE

Justice is the act by which the Society/Court/Tribunal gives to a man what he is entitled to, as opposed to protecting against injury or wrong. Justice is the rendering of what is right and equitable towards one who has suffered a wrong. Complete justice is justice according to law and the Supreme Court would be well within its power to even mould the relief so sought by the parties to ensure that no illegality is perpetuated.

ARTICLE-142

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, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe. It is to be noted that this article uses the word `complete justice` rather than the term `justice`. This is because complete justice travels much beyond the concept of giving justice to a party. Complete justice strives at imparting justice not just for one side alone, but for all. Even if a party has wronged another, the court cannot become an instrument to perpetuate wrong upon him.

Ar. 142 vests the Supreme Court with a repository of discretionary power that can be wielded in appropriate circumstances to deliver "complete justice" in a given case.

The apex court in *Ashok Kumar Gupta v. State of U.P* has defined the phrase "complete justice" in the following manner:

"The phrase "complete justice" engrafted in Ar. 142 (1) is the word of width couched with elasticity to meet myriad situations created by human ingenuity or cause or result of operation of statute law or law declared under Ar. 32, 136 and 141 of the Constitution."

The main purpose of **Article 142** and the endeavor to do complete justice has been explained by the court *in Manohar Lal Sharma v. Principal Secy & Ors.* wherein the apex court held that `the Supreme Court has been conferred with very wide powers for proper and effective administration of justice. The Court has inherent power and jurisdiction for dealing with any exceptional situation in larger public interest which builds confidence in the rule of law and strengthens democracy.

Self Imposed Discipline By The Hon'ble Supreme Court Of India

The powers conferred by Ar. 142 (1) allow the apex court to pass any directions and orders in any matter pending before it. There is no ipso facto limitation or inherent safety valve in the said article to prevent the court from invoking its inherent power. The nature of the power must lead the court to set limits for itself within which to exercise such powers. Ar. 142 is curative in nature; the power under Ar. 142 is meant to "supplement" and not "supplant" substantive law applicable to the case under consideration. Substantive statutory provision dealing with the subject-matter of a given case cannot be altogether ignored by the Supreme Court while making an order under Ar. 142 (1). The power is not to be exercised in a case where there is no basis of law to form an edifice for building up a super structure.

Directions And Orders Under Ar. 142 (1) Not To Be Construed As Binding Precedents

In the exercise of powers under Ar. 32 read with Ar. 142, the Supreme Court has issued guidelines and directions in a large number of cases. Guidelines on the adoption of minor children by foreigners norms for the appointment of and transfer of judges , prevention of sexual harassment of women at the work place. The Supreme Court in a plethora of decisions has felt constrained to pass orders and directions under Ar. 142 in view of various interim orders that had been passed by the High Court's from time to time in several writ petitions. There are several orders which have been passed by the apex court to avoid further litigation and to

reconcile seemingly conflicting interim orders issued by the High Courts. Such directions passed under Ar. 142 cannot constitute a binding precedent. The rationale why the directions and orders under Ar. 142 are not to be treated as binding precedents is that Ar. 142 is always exercised in cases where the facts and circumstances are "peculiar" in nature and the same merit a certain deviation from the procedural laws.

CONCLUSION-

the Supreme Court has been given wide discretionary power to do complete justice between the parties under Article 142 of the Constitution. It can pass any order which it deems fit in the facts and circumstances of the case. However an order which the Court passes in order to do complete justice between the parties must not only be consistent with the fundamental rights guaranteed under the Constitution, but should also be consistent with the substantive provisions of the relevant statute. In other words, this Court cannot altogether ignore the substantive provisions of a statute. The correct position vis-à-vis Ar. 142 is that the court should ordinarily follow the procedure prescribed in the statutory enactments, balancing it with a humane and equitable approach. But in circumstances where the law is found to be inadequate or the court is of the opinion that there is a prospect of palpable injustice being done to the parties, it should exercise its inherent powers to do complete justice.