
THE CONCEPT OF COMPLETE JUSTICE IN HINDU MARRIAGE ACT: ANALYSIS OF RECENT TREND

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ABSTRACT

This research explains why the Supreme Court plays an important role in using its special powers under article 142 of the Indian Constitution, especially in matters related to the Hindu Marriage Act of 1955.¹ Article 142 empowers the Supreme Court to pass all orders necessary to ensure complete justice, even when existing laws do not fully cover a certain situation. In divorce cases under the Hindu Marriage Act, the Supreme Court has sometimes used Article 142 to grant divorce even when the legal conditions mentioned in Section 13B, which deals with mutual consent divorce, are not completely fulfilled. This is usually done in exceptional situations where continuing the marriage would only cause further suffering and injustice to the parties involved. Using Article 142 in such cases has important consequences. On one hand, it helps the Court prevent unnecessary hardship and ensures fairness when strict application of the law would lead to an unjust outcome. On the other hand, this power must be used carefully so that it does not undermine the importance of the law itself.² The Court must always consider the facts of each case and respect the intent of the statutory provisions.

Keywords: Complete Justice, Article 142 Of The Constitution, Divorce In Hindu Marriage Act, Jurist Approach To Justice, Discretionary Power, Case Laws.

¹ The Constitution of India, 1950, art. 142.

² Manish Goel v. Rohini Goel, (2010) 4 SCC 393 (SC).

INTRODUCTION

The Supreme Court of India has very wide authority under the Constitution's Article 142, which it can use to make sure that justice is not denied in any case.³ As the highest constitutional court in the country, its decisions carry great authority and are treated as official records of the Court in accordance with Articles 129 and 142.⁴ This shows that courts play a crucial role in shaping and clarifying the law through their judgments.

Being the top judicial body, the Supreme Court has the serious duty of delivering justice in its fullest sense. Article 142 gives the Court special power to pass any order or direction that it feels is necessary to ensure "complete justice" in matters before it. The makers of the Constitution included this provision because they understood that laws cannot cover every situation and that strict procedures should not come in the way of fairness.⁵

In family and marriage-related matters, especially under the Hindu Marriage Act, 1955, the Supreme Court has used Article 142 to deal with situations where the law alone was not enough to give relief. The Court's acceptance of the "irretrievable breakdown of marriage" as a legitimate ground for divorce, although the fact that it isn't explicitly recognized as an exemption under Section 13 of the Act, is a good example of this.⁶ The Court has noted that when a marriage has completely broken down emotionally and practically, forcing the couple to stay married only increases their suffering and achieves nothing positive.

Further, under a few circumstances, the Supreme Court reduced the six-month waiting time for voluntary divorces under Section 13B (2) of the Hindu Marriage Act.⁷ Where both spouses have already been living separately for a long time and have genuinely agreed to end the marriage, the Court has found that making them wait longer serves no real purpose.

These actions show that the Supreme Court places real justice above rigid procedures. Through Article 142, the Court ensures that, not only does it apply existing laws, but also that the promise of the constitution justice is meaningful and relevant. This approach enables law to adapt to changes in social realities and human needs. The Supreme Court plays this role, not

³ The Constitution of India, 1950, art. 142.

⁴ The Constitution of India, 1950, arts. 129 & 142;

⁵ H.M. Seervai, *Constitutional Law of India*, vol. 3, 3024–3026 (4th edn., Universal Law Publishing 2013).

⁶ *Naveen Kohli v. Neelu Kohli*, (2006) 4 SCC 558.

⁷ Hindu Marriage Act, 1955, s. 13B (2).

only as an interpreter of the Constitution, but also as a guide for justice and compassion in India's legal system.⁸

JURIST APPROACH

Legal realism teaches us that the law is not a series of strict rules written in books, but that in real life it is a law that works through judges and courts. Thinkers such as **Oliver Wendell Holmes Jr.** explained that law is shaped by experience, social needs, and the effect of decisions. According to him, judges do not just apply laws mechanically, but actively shape the law to ensure justice. This concept naturally correlates with Article 142 of the Indian Constitution, which gives the Supreme Court the jurisdiction to issue any order necessary for providing "complete justice". Article 142 recognizes an important truth: no law can predict any human problem. Sometimes strict legal procedures can actually cause injustice, rather than prevent it. The Constitution therefore allows the Supreme Court to go beyond technical standards if fairness demands it. This approach reflects the reality that justice should focus on the reality of the human situation rather than abstract legal formalities. This realist thinking is clearly visible in marriage and family law cases, especially under The Hindu Marriage Act, 1955.⁹ In some cases, the Supreme Court dissolved marriages under article 142 even if the law did not expressly allow this. For example, the court of justice granted divorce for "an irretrievable breakdown of marriage", and recognized that forcing two people to remain legally bound despite total emotional separation only increases suffering. Similarly, when the Court has not achieved any meaningful purpose, the court waives the six-months waiting period for mutual consent divorce. These decisions show that the court is focusing on peace, dignity and emotional well-being rather than empty procedures.

Another legal realist **Karl Llewellyn**, supported this approach further. He believed that the true meaning of law lies not only in the statement of law, but in the way, courts apply it. The use of article 142 reflects conviction, as it fills the gaps left by law and adapts the law to changing social realities. The Court, instead of being caught by technical gaps, responds to the lived experiences of people who seek justice.¹⁰

⁸ *Shilpa Sailesh v. Varun Sreenivasan*, (2023) 7 SCC 1.

⁹ *Anil Kumar Neotia v. Union of India*, (1988) 2 SCC 587.

¹⁰ Karl N. Llewellyn, 'Some Realism About Realism: Responding to Dean Pound' (1931) 44 *Harvard Law Review* 1222.

Even former lawyers such as **Lord Campbell** shared the same concern for human suffering, although they were not strictly legal realist. He believed that the law itself should be reformed to meet the needs of society. This spirit is reflected in the compassionate use of article 142 by the Supreme Court today. By removing dead marriages and eliminating unnecessary procedural barriers, the Court ensures that law is a tool of healing rather than suffering.

In essence, the law of realism and Article 142 are heading in the same direction. Both emphasise the fact that the law must serve people, adapt to social changes and provide meaningful justice. Under article 142, the Supreme Court of India serves not only as a legal interpreter, but also as a guardian of justice, ensuring that justice is lived and felt, not just written on paper.

CONSTITUTIONAL AND STATUTORY PROVISIONS:

Article 141¹¹: All Indian courts must abide by the laws established by the Supreme Court.

Article 129¹²: The Supreme Court will have the power to punish itself for contempt of court and will serve as the official court of record.

Article 142(1)¹³: Subject to the limitations established by the President's order, the Supreme Court has jurisdiction over all of India and may issue an order or decree ensuring complete fairness in any case that is before the court.

Article 142(2)¹⁴: The Supreme Court may issue any order to compel somebody to give evidence, obtain or provide any document, or to look into or penalize someone for contempt.

Section 13-B, (Hindu Marriage Act) ¹⁵:(1) Although the marriage occurred before or after the Marriage Act (Amendment), 1976 (68 of 1976), it is subject to the abovementioned constraints came into effect, the spouse can approach the district court for a divorce decree on the grounds that they have been apart for more than a year, are unable to live together, and consent to the dissolution of their union.

(2) On a request from both parties, made within six months of the petitions filing as specified

¹¹ The Constitution of India, 1950, art. 141.

¹² The Constitution of India, 1950, art. 129.

¹³ The Constitution of India, 1950, art. 142(1).

¹⁴ The Constitution of India, 1950, art. 142(2).

¹⁵ Hindu Marriage Act, 1955, s.13-B.

in subsection (1) and within eighteen months of that submission, the court shall, following the parties' hearing and any necessary investigation, declare that the marriage was solemn and that the testimony in the petition is accurate and then accept a divorce decree that determines the marriage to be dissolved as of the decree's execution date.

HISTORICAL BACKGROUND

1. Constitutional assembly debate on Article 142

When the Constituent Assembly discussed what later became Article 142 of the Constitution, Dr. B.R. Ambedkar explained that this provision was meant to help the Supreme Court deal with situations where existing laws might fall short in delivering justice. Interestingly, the Article was passed without any debate when it was presented to the Assembly on 27 May 1949 (then numbered as Draft Article 118). This silent approval reflects the fundamental trust that the governing authorities have in the Supreme Court to use this extraordinary power cautiously and responsibly, if the courts have really demanded it.¹⁶

Article 142 authorizes the Honourable Supreme Court of India to issue any decree or order necessary to ensure “*complete justice*” in case before it. These orders are binding and enforceable throughout the country. Over time, the Supreme Court has clarified that although the powers are very broad in nature, they must always be exercised in harmony with constitutional values and existing laws. The provision acts as a constitutional safety valve, ensuring that justice is not defeated simply because of procedural deficiencies or rigid legal technicalities.¹⁷

The basic structure doctrine outlined in *Kesavananda Bharati v. State of Kerala* provides a better understanding of what is meant of Article 142. In this historical case, The Supreme Court decided that while Parliament has extensive authority to amend the Constitution, it cannot change its fundamental foundation, which includes the concepts of judicial independence, separation of powers, and judicial review.¹⁸ This doctrine was further strengthened in *Minerva*

¹⁶ B. Shiva Rao, *The Framing of India's Constitution: A Study*, Vol. IV (Indian Institute of Public Administration, New Delhi 1968).

¹⁷ *Supreme Court Bar Association v. Union of India*, (1998) 4 SCC 409.

¹⁸ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

Mills Ltd. v. Union of India, where the Court decided that constitutional balance between legislature and judges are essential to the survival of democracy.¹⁹

Although Article 142 is not explicitly referred to as part of the basic structure, but its close connection with judicial independence and judicial review fits the spirit of this doctrine. Article 142 authorizes the Supreme Court to take the precedence of procedural limitations and to grant relief in the event of severe application of the law that causes injustice. Without such power the Court would be weakening its role as a guardian of fundamental rights.

Article 142 also preserves the delicate balance of powers between parliament and the judiciary. Although parliament enacts laws, Article 142 provides that courts can intervene when laws do not deal with extraordinary circumstances. This does not make the judiciary superior to the legislature, but ensures that justice remains the ultimate goal of governance.

The spirit behind article 142 of the Constitution is also reflected in ordinary procedural legislation. Section 151 of the Civil Procedure Code stipulated that the civil courts must have inherent powers to act in the interests of justice if written law is silent or inadequate.²⁰ Similarly, in criminal matters, Section 528 of the BNSS empowers the High Court to intervene to prevent abuse of the legal process and to ensure justice.²¹ These provisions recognize that the complexity of life cannot always be anticipated by statutes. They reflect a human understanding that justice should not fail only because of technical omissions of law. Together, they assert that the law is an evolving system of existence that is governed by the judiciary's conscience and fairness with regard to the norms.

2. Historical background of divorce in the Hindu Marriage Act, 1955

By legally recognizing divorce as a legal remedy, the Hindu Marriage Act of 1955 signified a major change in Hindu personal law. Traditionally, Hindu marriage was considered sacred and a lifetime bond, leaving little scope for legal dissolution. The introduction of divorce in this legislation does not stem from any religious system, but reflects changes in social reality, reformist thinking, colonial legal influences and ideas that have emerged about individual dignity and rights. Initially, divorce under the Act was governed by a fault-based framework,

¹⁹ *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625.

²⁰ Code of Civil Procedure, 1908, s. 151 (India).

²¹ Bharatiya Nagarik Suraksha Sanhita, 2023, s.528.

and couples seeking divorce had to prove reasons such as cruelty, desertion, or adultery. This approach often leads to lengthy litigation, emotional trauma and bitterness between the parties.

Many couples remained trapped in unhappy marriages simply because they could not comply with strict legal requirements.²²

A decisive shift occurred with the adoption of the Marriage Amendment act of 1976. Section 13-B of the Hindu Marriage Act was amended to enable for divorce by mutual consent. Initially, the law recognized that a marriage may not be broken for reasons of negligence, but for emotional and practical reasons. By allowing both spouses to seek divorce together the law shifted from blame and indictment to dignity, autonomy and mutual respect.²³ This reform reflects the growing acceptance of the breakdown theory of marriage. It recognized that forcing unwilling spouses to remain married was not for social or moral purposes. Divorce thus became a more humane process, focused on resolution rather than punishment.

Judicial interpretation further strengthened this compassionate approach. In suitable cases, the Supreme Court has exercised its authority under the Constitution's Article 142 to waive the six-month cooling-off period mandated by Section 13-B (2), particularly where parties had already lived separately for long periods and reconciliation was impossible. Such decisions emphasise that law should relieve suffering rather than prolong it through procedural rigidity.²⁴

ARTICLE 142 IS USED IN CASES OF DIVORCE BY MUTUAL CONSENT

In *Kailash Dev vs. Shanti* (2012)²⁵, the Rajasthan High Court examined the interplay between these provisions. The Court has held that where a party to a marriage has lived apart from their spouse for a very long period and there are grounds for divorce, such a party can file a divorce application before the Supreme Court pursuant to under Section 13 of the Hindu Marriage Act. The jurisdiction to hear such cases lies exclusively with the Apex Court complies with Article 142 of the Constitution, and not with subordinate courts. Consequently, the divorce decree can only be passed by the Supreme Court on this basis. In this judgement the apex court exercising its power under article 142 restricted the district courts. This could lead to a situation where

²² Kusum, *Family Law Lectures: Family Law I* 221–223 (4th edn., Oxford University Press 2016).

²³ The Hindu Marriage Act, 1955, s. 13-B (inserted by the Marriage Laws (Amendment) Act, 1976).

²⁴ *Amardeep Singh v. Harveen Kaur*, (2017) 8 SCC 746.

²⁵ (2012), 8 RAJ 299

everyone might approach the apex court section 13-B of the Hindu marriage act, potentially resulting in a flood of cases.

In *Shilpa Sailesh vs. Varun Sreenivashan*, (2023)²⁶ is a landmark judgment in Indian family law, where the Supreme Court clarified the scope of its authority under the Constitution's Article 142. The Hindu Marriage Act's section 13-B (2) mandatory 6-month waiting period could be waived under the situation of irretrievable marriage breakdown held by the Apex Court. In this landmark judgment, the Honourable Supreme Court acknowledged a harsh but honest truth that the marriage in question was no longer alive. It had lost its emotional and functional essence and there was no chance of reconciliation or rehabilitation remaining. The Court accepted that continuing such a relationship only prolonged suffering and justice demanded a dignified closure by the judges. In order to ensure justice in such instances, the Supreme Court applied Article 142 of the Constitution to exercise its discretion.

But this power, as the Court rightly pointed out, must be exercised with utmost care and responsibility. It's not just about having the authority it's about knowing when and how to use it, which is according to each case has unique facts and circumstances.

In the case of *Rajkumar Rana V. Rita Rathore*²⁷, the Supreme Court directed that if, on the grounds of cruelty and desertion, a divorce petition is filed and later the parties seek divorce by mutual consent, only the Supreme Court has jurisdiction to hear such cases under Article 142, and not any other subordinate court. The Supreme Court exercised the judicial power provided by the Constitution's Article 142 to dissolve the marriage by mutual consent, despite the initial divorce petition being filed on grounds of cruelty and desertion. The Supreme Court in the present case curtailed the primary jurisdiction of subordinate courts as well High Court. These kind of safeguards should not be used by the apex court because this could be barrier to obtaining the justice, however High Court is also the constitutional court so, we can't ignore its power.

In *Manish Kakkar V. Nidhi Kakkar*²⁸, Supreme Court has held that if a wife leaves her matrimonial home and goes abroad after marriage, and does not wish to continue her marital life, while the husband wants to maintain the marital relationship, but reconciliation between

²⁶ SCC 544 SC

²⁷ AIR 2015 SC 2668

²⁸ AIR 2020 SC 111

the parties is not possible, then in such circumstances, the Supreme Court, under The Indian Constitution's Article 142 has the special power to pass a decree of divorce between the parties. Then in such circumstances, the apex court has the special power to grant a divorce decree to the parties.

In the above-mentioned matter, the Supreme Court's judgment seems justified to some extent, as exercising Article 142 in cases and where divorce by mutual consent is prohibited and where it's impossible to maintain the marital relationship, is a justified act by the Supreme Court. In *Subhranshu Sarkar V. Indrani Sarkar*²⁹, the Supreme Court has appropriately used its constitutional discretion as per Article 142. In the situation where the marriage has irreparably collapsed and there is no possibility of reconciliation or cohabitation, the Court's intervention appears to be a just human application of its special powers even before the statutory waiting period ends. In such exceptional circumstances it is not only legal but necessary to place justice above procedural rigidity.

In several divorce cases, the Supreme Court has taken a compassionate and realistic approach to divorce through mutual agreement. In *Anil Kumar Jain v. Maya Jain* (2010)³⁰, *B.G.B. Ramu v. A.S.R. Bharti* (2018)³¹, and *Savita Sashank v. Sashank Singh* (2021)³², the parties had initially agreed to obtain divorce by mutual consent, but later the other one (spouse) withdrew consent during the procedure. Normally this withdrawal would prevent the granting divorce under the Hindu Marriage Act of 1955's Section 13-B.

However, the Supreme Court used its extraordinary authority under Article 142 of the Indian Constitution after determining that there was no way for saving the marriage and that maintaining the legal relationship would only prolong mental pain. By doing so, it granted divorce decrees to ensure complete justice, even in the absence of continuing mutual consent. The Court made it clear that such relief cannot be granted by subordinate courts, as the Article 142 gives the Supreme Court sole authority.

In the *Hiranmoyee Sen alias Hiramoni Sen vs. State of West Bengal* (2021)³³, the facts are that Hiranmoyee Sen (also known as Hiramoni Sen) had filed criminal charges against her husband

²⁹ AIR (2021) SC 4301

³⁰ (2010) 9 SCC 415 (SC).

³¹ (2018) 16 SCC 646 (SC).

³² (2021) 7 SCC 338 (SC).

³³ AIR (2021) SC 5235

and in-laws, including allegations under the Indian Penal Code's Sections 498A and 406, which are frequently used for cases involving cruelty and harassment associated with dowries. These charges led to a prolonged legal battle, straining both families and leaving emotional scars on all involved and due to this both of the parties live together over a decade with no marital relationship between them.

Over time, however, both parties came to a mutual understanding that continuing the marriage served no purpose. After choosing to go their separate ways peacefully, they filed for divorce by mutual consent under Section 13-B of the Hindu Marriage Act. As part of their settlement, they agreed that staying into previous disputes would only make their suffering worse, so as part of their settlement, they also agreed to drop all ongoing criminal procedures.

Despite the mutual settlement, the Calcutta High Court had earlier declined to quash the criminal case, which is why the case ended before the Supreme Court. The Supreme Court adopted a more practical and humane approach. It recognized that the couple had worked out their disputes and that it would be meaningless pursuing the criminal matter further. The Court emphasized that justice must take into account the lived realities of the parties involved when it used its authority under Article 142 to quash the FIR and permit the divorce to proceed. This would typically involve situations where both parties have grievances that remain unresolved and there's mutual agreement or no objection to terminating the marital relationship in certain cases, the Supreme Court may exercise its judicial discretion under Article 142 to grant them a degree of divorce.

In Amardeep Singh v. Harveen Kaur³⁴ (2017) 8 SCC 746

The Supreme Court and several High Court's judgements outlining the relevance of Article 142 of the Indian Constitution to divorce disputes have been examined by the Apex Court in this landmark decision. Throughout different paragraphs of the judgment, the Court relied on earlier precedents to strike a balance between statutory requirements and the need to deliver complete justice. In paragraph 3, the Supreme Court referred to *Nikhil Kumar v. Rupali Kumar* (2016).³⁵ In this case, the marital relationship had never truly developed. Although the parties were married in February 2011, they lived separately for most of their married life and failed

³⁴ (2017) 8 Supreme Court Cases 746

³⁵ (2016) 13 SCC 383 (SC).

to establish any real emotional or matrimonial bond. After years of separation and reflection, both parties reached a mature and conscious decision to end the marriage. They jointly filed a petition for divorce by mutual consent under Section 13-B (1) of the Hindu Marriage Act, 1955. The Apex Court recognized the sincerity and clarity of their reasoning, and it also recognized the irretrievable breakdown of the marriage. The Court shown a compassionate and considerate approach to justice by granting a divorce decree and waiving the mandatory six-month cooling-off period by exercising its authority under Article 142. The Court established further constraints on application of Article 142.

The Apex Court had earlier held in *Manish Goyal v. Rohini Goyal* (2010)³⁶ Section 13-B (2) of the Hindu Marriage Act provides that the six-month period necessary for filing the second motion could not be usually waived by applying Article 142. This case highlighted the necessity of applying extraordinary constitutional powers with caution and limitations.

In paragraphs 8 to 11, The Court cited a number of rulings by the Supreme Court in which Article 142 was used to dissolve marriages under specific conditions which included *Priyanka Singh v. Jayant Singh* (2010)³⁷, *Sarita Singh v. Rajeshwar Singh* (2010),³⁸ *Harpreet Singh Popli v. Manmeet Kaur Popli* (2010),³⁹ *Hitesh Bhatnagar v. Deepa Bhatnagar* (2011),⁴⁰ *Veena v. State (Government of NCT of Delhi)* (2011),⁴¹ and *Priyanka Chawla v. Amit Chawla* (2016).⁴² The Court highlighted in each of these cases that the law must respond with compassion rather than procedural rigidity when a marriage is emotionally dead and remaining serves no meaningful purpose.

Furthermore, the Amicus Curiae cited rulings from several High Courts that adopted a progressive stance regarding the waiver of the cooling-off period in reasonable circumstances under paragraph 14, which included *K. Om Prakash v. K. Nalini*,⁴³ *Rupa Reddy v. Prabhakar Reddy*,⁴⁴ *Dhanjeet Warda v. Veena Warda*,⁴⁵ *Dinesh Kumar Shukla v. Neeta*,⁴⁶ and *M. Krishna*

³⁶ (2010) 4 SCC 393 (SC).

³⁷ (2010) 12 SCC 523 (SC).

³⁸ (2010) 12 SCC 516 (SC).

³⁹ (2010) 10 SCC 746 (SC).

⁴⁰ (2011) 5 SCC 234 (SC).

⁴¹ (2011) 14 SCC 614 (SC).

⁴² (2016) 13 SCC 498 (SC).

⁴³ AIR 1986 AP 167 (DB).

⁴⁴ AIR 1994 Kar 12 (DB).

⁴⁵ AIR 1990 Del 146.

⁴⁶ AIR 2005 MP 106 (DB).

*Preetha v. Jayan Moorkkanatt.*⁴⁷ The concept that procedural requirements shouldn't hinder substantive justice has been reinforced by these rulings.

When combined, these rulings show a uniform judicial approach: exceptional circumstances need for special remedies, yet legislative protections under the Hindu Marriage Act must be enforced. Article 142 serves precisely this purpose, allowing the Supreme Court to uphold personal autonomy, emotional closure, and human dignity. However, the Court has repeatedly clarified that such power must be exercised sparingly, carefully, and only to prevent injustice, ensuring that compassion does not turn into unchecked discretion.

Honourable Supreme Court laid down that court should consider the following questions before waive:⁴⁸

1. How long parties been married?
2. How long has the court case been still pending?
3. What is the duration of their separation?
4. Do the parties have any other ongoing proceedings?
5. Have both parties participated in conciliation or mediation?
6. Have the parties reached a sincere settlement involving child custody, alimony, and any other outstanding issues?

In paragraph 20 of the judgment, the Supreme Court stated that the six-month cooling-off period is optional rather than established by the Hindu Marriage Act of 1955, section 13-B (2).

ALLEGATIONS OF MISUSE

The jurisdiction granted by Article 142 of the Constitution to the Supreme Court is discretionary in nature and is meant to ensure that complete justice is done in exceptional situations. While this power is necessary, it has often been viewed as a tool through which the Court can bypass or override laws enacted by Parliament by giving expansive interpretations

⁴⁷ AIR 2010 Kar 157.

⁴⁸ (2017) 8 Supreme Court Cases 746.

to statutory provisions. The Indian Supreme Court is one of the most powerful judiciaries in the world because Article 142 is regarded as an important part of the Constitution.

India is a democratic country with a population of over 140 crore people, where laws are enacted by elected representatives of the people. Members of Parliament are chosen by their constituencies and collectively legislate for the nation. However, it is sometimes seen that a small number of judges can invalidate laws passed by Parliament. A clear example of this is *Supreme Court Advocates-on-Record Association (SCORA) v. Union of India* (2016)⁴⁹, where the 99th Constitutional Amendment pertaining to the NJAC was declared invalid by the Supreme Court, especially because the executive's involvement could undermine judicial independence.

While judicial review is essential to protect constitutional values, excessive or frequent use of Article 142 may give rise to concerns of judicial overreach. Therefore, in my opinion, the Supreme Court must exercise this extraordinary power with great caution, restraint, and sensitivity, so that the balance between the judiciary and legislature is preserved.

CONCLUSION

The Honourable Supreme Court must exercise the powers it has under Article 142 sensibly and appropriately.⁵⁰ This power is extraordinary in nature and should be used only in exceptional circumstances where justice cannot be achieved through existing statutory provisions. Where there is a clear absence of law or a need for legislative reform, instead of refilling the gap, the Supreme Court Ideally ought to direct or advise the Government and Parliament to pass or modify the law in question.

In contrast to the Constitution's Articles 32, 131, and 136, which offer a clear framework and process for applying for the Court's jurisdiction, Article 142 does not specify the procedure for doing so.⁵¹ This lack of procedural clarity increases the risk of inconsistent or excessive use of the power. Therefore, it becomes necessary for the Apex Court to lay down clear parameters and safeguards for the exercise of Article 142. Such self-imposed limitations would help maintain the balance between judicial discretion and constitutional discipline, while

⁴⁹ (2016) 5 SCC 1 (SC).

⁵⁰ The Constitution of India, 1950, art.142.

⁵¹ The Constitution of India, 1950, arts. 32, 131 & 136.

preventing allegations of judicial overreach.

In my opinion supreme court should make the **7 parameters** for the application of Article 142 of Constitution:

1. Miscarriage of justice,
2. Lack of statutory provision,
3. No clarity in statutory provision,
4. When there is clash among statutory provisions,
5. Clash between High courts during interpretation of statute,
(Like. different High courts have different opinion over existing provisions of statute)
6. Dispute between domestic law and international law
7. Need for the purpose of public interest

As it is well known, the Indian judiciary is the most reputable institution that every citizen of our nation has trust because the Supreme Court is the custodian of the constitution, therefore the judiciary's role is to enforce the law and safeguard people's rights. This institution plays a significant role in our society and we should respect its dignity and independence.