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I. INTRODUCTION:

"Constitution of India is a document through which we can look into the mind of our freedom fighters and those who framed the Constitution. If Company, organization or a country has a rule book to follow it can run smoothly. Similarly, when we got independence in 1947 there was a need of some guidelines through which future generations of India can work for a better future. It can even be amended as per need for example, in 1950's we didn't have Privacy issues or Cyber Threat but now we have so, new Laws and Articles can be put in our Constitution. The Constitution was made by the Constituent Assembly, which was elected by the Provincial Assemblies. It is said that-

"Assembly was dominated by the Indian National Congress. But the Congress itself included a variety of Political Groups and Opinions. The Assembly has many members who did not agree with the Congress. In Social Terms too, the Assembly represented members from different languages, groups, castes, religions and occupations. Even if the Constituent Assembly was elected by Universal Adult Franchise, its composition would not have been very different. (Emphasis added)."

The Chairman of the Drafting Committee was the renowned Dr. Bhim Rao Ambedkar, the architect of the Constitution of India. He went to become the First Law Minister of the Republic of India. The President was Dr Rajendra Prasad, who later on becomes the 1st President of India, two times in a row. It started on 14th August 1947, when a meeting of the assembly was called. On 29th August, the Drafting Committee was appointed. The Constituent Assembly approved of the Constitution on 26th November 1949. The date was pushed to 26th January because this day was celebrated as Independence Day from 1930-1947 and the Constitution Makers wanted this date. The Constitution of India is the largest and most detailed document of its kind. It originally had a preamble, 22 parts, 395 Articles, 12 Schedules and 4 Appendices. It had a big advantage of precedents. A lot of Constitutions had been made before the Indian one which helped our leaders do things easily. But it was not simple. Although, we took help

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from others, but we had blend it in a way that it fits the condition of our country[1]*. We chose a Federal Form of Government, a Supreme Court, Judicial Review, Fundamental Duties, and Directive Principles of State Policy etc. The Constitution is rigid and flexible. Its amendment is neither very easy, nor very difficult. There are three methods of making, breaking or changing a law. That's why Constitution has seen more than hundred amendments in its lifetime. The Constitution is a fundamental law of a country which reflects the fundamental principles on which the government of that country is based. It lays down the framework and principal functions of various organs of the government as well as the modalities of interaction between the government and its citizens. The Constitution of India is an organic living document.*

It is the instrument which makes the government work. It is the supreme and final law of India. Various amendments such as 7th, 42nd, 73rd, and 74th have introduced substantial changes to the original Constitution of India. The 42nd Amendment Act is also called as the Mini Constitution as it introduced many changes to the Constitution. Therefore, it changed or increased the number of Articles, Parts and Schedules. Presently, the Constitution of India has 25 Parts, 12 Schedules and approximate more than 470 Articles. However, the original Articles and Parts are not changed but sub-articles, sub-parts and are added in original ones".

I.I PARLIAMENTARY DEMOCRACY:

Our Constitution has adopted parliamentary system of democracy, so as to represent the pluralist tradition and interest of the country. In a Parliamentary Form of interest of democracy, there is a close relationship between the Legislature and the Executive. The Cabinet/Council of Ministers is selected from among the members of Legislature. Any person who is not a member of either of the House must have to be a member within 6 months of being sworn in as Minister in the Government. The ***Council of Ministers*** is collectively responsible to the legislature. They enjoy power till they have support of the Legislature.

***Amendments in the Constitution*:**

[1] Subs. By the Constitution (Forty-Second Amendment) Act, 1976 , s.2 for "SOVEREIGN DEMOCRATIC REPUBLIC" (w.e.f) 3-1-1977) Subs by ibid, for "Unity of the Nation"(w.e.f 3-1-1977)

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Indian Constitution is a blend of both rigidity and flexibility. Rigidity comes from some of the rigorous procedures provided for amending some features provided for amending some features of the Constitution. Amendments for amending some features of the Constitution Amendments to the Constitution are made by Indian Parliament, the procedure for which is laid down in **Article 368.**

It provided two kinds of amendments;

1. *Amendments with special majority i.e., a two-third majority of members of each House present and voting a majority of more than 50 percent of total membership of each House and ratification by 50 percent of states.*
2. *Some provision of the Constitution can be amended by simple majority of the Parliament can be amended by simple majority of the Parliament in ordinary legislative process. These amendments do not come under Article 368.*

Article 368 of the Indian Constitution deals with the amendment of the Constitution the Parliament can amend all the provisions except the ***Basic Structure Of The Constitution*** as ruled by the Supreme Court in ***Kesava Nanda Bharti Case*** in 1973. The procedure to amend the constitution has been borrowed from ***South Africa.***

I.II PROCEDURE OF AMENDMENT:

1) *An amendment procedure can be initiated by any house of the Parliament and not by State Legislatures.*
2) *The Bill can be introduced either by a Minister or a Private Member (those who are not ministers)*
3) *Introduction of an amendment bill does not require any prior permission of the President.*
4) *The Bill must be passed by both the Houses of the Parliament.*
5) *In case of any disagreement between the two Houses then there is no provision for a joint sitting*
6) *If the Bill seeks the amend of the federal provisions (like Election of the President, extent of the Executive Power between the Centre and the States, distribution of Legislative Powers between the Centre and the States anything in the 7th Schedule and etc) of the Constitution then the Bill after Passage from both the Houses must be ratified*

by the legislatures of ½ of the States by a simple majority of members present and voting.

7) *After passage, the Bill is presented to the President for his assent. He can neither withhold his assent to the Bill nor send it back for reconsideration (24th Constitutional Amendment made it obligatory for the President to give his assent to a Constitutional Amendment Bill.*
8) *After his assent, the Bill becomes and the Constitution stands Amended.*

II. AMENDING POWERS OF PARLIAMENT AND ITS LIMITATIONS:

A Limitation on Amending Power:

In ***Woman Rao vs. Union of India***[2], the Supreme Court held that all amendments to the Constitution which were made before April 24th, 1973, ***(i.e., the date on which judgment of Kesavananda Bharti was delivered)*** including those by which the ninth schedule to the constitution was amended from time to time were valid and constitutional.

In ***S.P. Sampat Kumar vs. Union of India***[3], the Supreme Court upheld the validity of Article 323-A and the Act as the necessary changes suggested by the Court were incorporated in the Administrative Tribunal Act.

In a landmark judgment in ***L. Chandra Kumar vs. Union of India***[4], a seven-member Constitutional Bench of the Supreme Court has unanimously while reconsidering the ***Sampath Kumar's Case***, has struck down 2(d) of articles 323A and clause 3(d) of Article 323B which provided for the exclusion of the jurisdiction of the High Court's under Article 226 and 227 and the Supreme Court under Article 32 of the Constitution as unconditional and invalid as they damage the power of judicial reviews which is the basic structure of the Constitution.

[2] AIR 1881 SC 271
[3] AIR 1987 SC 271
[4] AIR 1997, SC 1125

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The Parliament can amend many elements of the Constitution by a simple majority. Majority and other elements of the Constitution with the special Majority while to amend certain features affecting the federal structure, provisions related to the election of the President and its manner, extent of the executive power of the Union and the States, Supreme Court and High Courts etc. requires special majority with ratification by half of the States, making Constitution of India neither flexible nor rigid but more flexible than rigid. The Constituent Assembly originally provided the Parliament with powers to amend the Constitution by the manner enshrined in Article 368 which was plenary and without limitations or exceptions. Also, the Constituent Assembly Debates indicate that the founding fathers and mothers did not envisage any limitation on the amending power.

The decision of the Supreme Court in ***Golaknath Case*** exempted the Fundamental Rights from the amending powers of the Parliament, which was nullified by Parliament through legislation namely the ***Constitution (Twenty-Fourth) Amendment Act, 1971***. Further, in the Kesavananda Bharti Judgment in 1973, the uncontrolled power of the Parliament has been controlled and curtailed by the Doctrine of Basic Structure. The Basic Structures Doctrine has introduced more rigidity, effectively absolute rigidity in the Constitution with respect to certain features of its rendering that Parliament cannot use its power to amend the constitution to alter, distort or damage in any way the basic characteristics and principles of Constitution.

III. AMENDMENT IN CONSTITUTION:

By a Majority of not less than the two-thirds of that house present and voting, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill," provided that is such amendment seeks to make any change in:

- *Article 54, Article 55, Article 73, Article 162 or Article 241 or*
- *Chapter IV of part V, Chapter V of part VI, or Chapter 1 of part XI or*
- *Any of the lists in the Seventh Schedule*
- *The representation of States in Parliament or*

- *The provisions of this article, the amendment shall also require to be ratified by the legislatures of not less than one half of the States specified in Parts A and B of the First Schedule by resolutions to that effect passed by these legislatures before the Bill making provision for such amendment is presented to the President for assent."*

The Constituent Assembly Debates and the original Article 368 itself indicates that the assembly did not envisage any limitation on the amending power of the Parliament and so provided Article as plenary and subject to any limitations and exceptions, but left the President with the discretion of giving or not giving or not giving her/his assent to the Bill passed under Article 368. However, the evolution of the Constitution of India through the amendments to it by the Parliament, judicial review, interpretation by the Court(s), Judgments(s) and nullifying of the Case Law(s) by further Legislation(s) by the Parliament brought many changes in the Constitution and hence judicial reviews, interpretation and also invalidation by Court/Case Laws. ***The Constitution (Twenty-Fourth) Amendment Act 1971,*** which was enacted immediately after the election by With the evolution of Constitution and its jurisprudence, the amending powers of the Parliament were reviewed by the Court and various restrictions and exceptions were put to powers of the Parliament. The Parliament is envisaged with very wide scope for amendments to the Constitution form amending powers of the Parliaments. So, it can infer that the powers of the Parliament to amend the Constitution are wide but not unlimited.

III.I AMENDMENTS OF THE FIRST AND THE FOURTH SCHEDULES:

Article 4 states that laws made under Articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental and the consequential matters. Article 4 states that laws made for admission or establishment of new states under Article 2 and formation of new states and alteration of areas, boundaries or names of new states under Article 3 are not to be considered as Amendment of the Constitution under Article 368. This implies that such laws can be passed by a simple majority and by the ordinary legislative process. However, Article 4 raised a very interesting and important question relating the power of the Parliament to code (give up or grant) Indian Territory to a foreign country. The Central Government's decision to cede a part of the territory known as the ***Berubari Union (West***

Bengal) to Pakistan led to the political agitation and controversy and thereby necessitated the presidential reference. In this case, the Supreme Court held that the power of Parliament to diminish the area of a state does not cover cession of the Indian Territory to a foreign country. Hence, Indian Territory can be ceded to a foreign state only by amending the Constitution under ***Article 368.*** Consequently, the 9th Constitutional Amendment Act, 1960 was enacted to transfer the said territory to Pakistan.

III.II AMENDMENTS TO THE FUNDAMENTAL RIGHTS SINCE 1995:

77th Constitutional Amendment Act, 1995, the Amendment introduced a new Article 16 (4A), which provides that the reservation in favor of the Scheduled Castes and Scheduled Tribes can be made in promotion in the public services.

81st Constitutional Amendment Act, 2000, this amendment also adds another Article 16(4B), which provides that the number of unfilled posts of the Scheduled Castes, Scheduled Tribes and Other Backward Classes shall not be included in the number of fresh vacancies to be filled up. The implication of this amendment is that the number of backlog vacancies shall be beyond the permissible limit of 50 percent of vacancies in the reserved category.[5]

82nd Constitutional Amendment Act, 2000, this amendment inserts a new provision in Article 335, which provides that the state may relax the minimum qualifying marks for the Scheduled Castes and Scheduled Tribes candidates to various government posts.[6]

85th Constitutional Amendment Act, 2002, it affects further amendment to Article 16(4A), which provides that consequential seniority shall also be taken into consideration in promotions of Scheduled Castes and Scheduled Tribes candidates to various government posts.

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[5] *Ins. by the Constitution (Ninety-ninth Amendment) Act 2014, s.3 (w.e.f 13-4-2015) This amendment has been struck down by the Supreme Court vide its order dated the 16th October, 2015 in the Supreme Court Advocates-on-Record Association and Another Vs. Union of India reported in AIR 2016 SC 117*
Subs. by the Constitution (Forty-Forth Amendment) Act, 1978, s. 19, for "certifies" (w.e.f. 1-8-1979)

[6] *Subs. by the Constitution (Forty-Second Amendment) Act, 1976 s.27 (w.e.f 1-4-1977) Subs. by the Constitution (Fourty-Fourth Amendment) Act, 1978 , s.22 for "after consultation with (w.e.f 1-11-1956) Ins by the Constitution (Seventh Amendment) Act, 1956, s.7 (w.e.f 1-11-1956) Notified vide notifications S.O. No 21(E), dated 7-1-2004 Subs. by Ibid, "for every session"*

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86th Constitutional Amendment Act, 2002, this Amendment inserts Article 21A, which provides the Fundamental Right to free and compulsory education to children from 6 to 14 years of age in a manner determined by law by the state.

93rd Constitutional Amendment Act, 2005, this Amendment Act inserts Article 15(5), which authorizes the State to make special provisions for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Schedule Tribes in so far as much special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the state, other than the minority, educational institutions referred to in clause(1) of Article 30.

III.III PART XX OF THE CONSTITUTION OF INDIA:

Part XX of the Constitution of India, have only one article, numbered 368 and reads for about the amendment(s) procedure thereof, and powers of the Parliament thereof.

Article 368, as originally stood was titled (marginal heading) *"Provides For Amendment of the Constitution."* and reads as "An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a Majority of the total membership of that House the Fifth Lok Sabha, sought to restore to Parliament the unlimited power of Constitutional Amendment curtailed by the Judgment of Golaknath Case. The validity of the ***Constitution (Twenty-Fourth) Amendment Act, 1971*** was examined by the Supreme Court in Kesavananda Case and although the Amendment was upheld, it held that the basic structure of the Constitution could not be destroyed.

The ***Basic Structure*** is an absolute rigid feature of the Constitution which circumscribed the power of Parliament to amend the Constitution and since what the basic structure is, has not been defined, the basic structure is that which the Court will define from time to time until Parliament does it by legislation and the Court confirm the same. With the evolution of the Constitution and its jurisprudence, the amending powers of the Parliament were reviewed by the Court and various restrictions and exceptions were put to the powers of the Parliament. The Parliament is envisaged with very wide scope of the Constitution Form amending powers of the Parliament. So, it can be inferred that the Powers of the Parliament to amend the Constitution is wide but not unlimited.

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In the ***Shankari Prasad Case (1951),*** the Supreme Court Ruled that the Power of the Parliament to Amend the Constitution under Article 368 also includes the power to amend the fundamental rights, the Parliament can abridge or take away any of the fundamental rights, the Parliament can abridge or take away any of the fundamental rights by enacting a Constitutional Amendment Act. For example, Right to Property has been made only a legal right, by enacting the 4th Amendment under Article 300 A Part XII of the Constitution.

Status Quo: Parliament can amend any part of the Constitution including Fundamental Rights and Preamble but should follow basic structure doctrine. The first amendment to Indian Constitution introduced by Nehru took away free speech and property as rights. As a result, we can get jailed for saying wrong things on Facebook or Government can force private schools to give away their seats for lower prices. ***93rd Amendment*** removed right to occupation from Fundamental Rights. Fundamental Rights are Political Rights that are necessary to be politically independent.

Doctrine Principles of State Policies provide rights that are social and economic in nature. The Preamble says that we the Indians aim to provide ***"JUSTICE, social, economic and political."*** Aim of the Constitution is to first provide social justice then economic justice and finally political. The order is very clear. The makers of the Constitution recognized the importance of providing socio-economic independence to its citizens. Without the social and economic rights, the Political Rights in the Fundamental Rights become meaningless.

IV. MAJOR CONSTITUTIONAL AMENDMENTS: A BRIEF SURVEY:

During more than 70 Years of the Constitution, it has been amended more than a hundred times. Such rapid succession of amendments during such a short time in the life of the Constitution has been attacked by many of its critics as a sign of weakness in the Constitution. Some of them thought that the Constitution should not be made so cheap so as to admit of amendment so quickly and easily. There is an element of truth in this criticism. Yet, on close examination it will be seen that there were compelling circumstances which led to Constitutional Amendments, during a momentous period stabilization and consolidation of the political

freedom won just a decade earlier. In 1950 there were other necessitated by practical difficulties in the working of certain provisions of the Constitution. The reorganization of the State and the consequent Constitutional Amendment is the best example of the former type while the amendments dealing with the rights to property provides a good example of the latter type.

Constitutional Amendments –Acts of Opportunism:

Less than 70 Years after the Constitution came into force on Republic Day 1950, we have had more than 103 Constitutional Amendments. Some were necessary. Most were not. As so often in the past, the Constitutional Amendments which were introduced in the Parliament in the Rajiv Era were purely self-seeking, introduced to serve the aims of the party in power there have been murky motives behind the spate of such amendments in recent years. The 38th Amendment[7] was rushed through Parliament in July 1975 in order to prevent the Courts from inquiring into the legality of the fraudulent proclamation of emergency. Promulgated on June 26, 1975 by the supine president ***Fakhruddin Ali Ahmed*** on the advice of Prime Minister ***Indira Gandhi*** who had been unseated in the Lok Sabha by the Allahabad High Court exactly a fortnight earlier the amendment also barred judicial review of Presidential Orders suspending the enforcement of fundamental rights.

There followed swiftly the 39th Amendment which consisted the jurisdiction of Courts, with ousted the jurisdiction of Courts, with retrospective effect, in respect of any petition challenging the Prime Ministers election to the Lok Sabha. This part of the amendment was struck down by the Supreme Court on the ground that it violated ***"basic structure",*** of the Constitution. But Mrs. Gandhi won her appeal all the same and not on the merits, either. She had the ***Election Law, the Representation of the People Act 1951,*** amended retrospectively and precisely on the points on which she had lost in the Allahabad High Court. The 39th Amendment put the entire Act together, with the motivated 1975 Amendment in the Ninth Schedule to the Constitution so that it became protected against challenge on the ground that it violated the Fundamental Rights.

Arithmetical Computations and Dr Ambedkar's Speech:

[7] *Constitution Amendment "Nature and Scope of the Amending Process" Lok Sabha Secretariat Archived from the original (PDF) Constituent Assembly of India Vol 11 VII 8 November 1948*

Arithmetical computations are not a safe guide in those matters, but 103 odd amendments in 70 years is a lot. Not all were unnecessary or unwise. Some were called for to grant Statehood a new States out of existing ones. Some others were necessary to protect land reforms and economic legislation. A good few other dealt with taxes. But the Ninth Schedule was expanded not only in size but altogether changed in content. Dr Ambedkar said in the Constituent Assembly on November 4, 1948 that the Constitution is not a "*something which you are going from day to day*." It must deal with the fundamental aspects… and not with the details which are matters of legislation. If you do that you bring the basic things to the level of the secondary things too. You lose them in a Forest of Detail. And except for the 44th Amendment of the Janata Days, not once has a Constitutional Amendment enlarged the area of the citizen's rights, let alone added new ones as the right to privacy of home or to confidentiality of correspondence. The trend has been consistently an illiberal one.

V. CONCLUSION:

Aristotle had argued for democracy because he thought it will bring stability in political system. Why will it bring stability? Because people will ensure that resources of society are equally distributed and people will give others those rights which they seek for themselves. Adam Smith had called for free markets. He argued that people learn expertise by engaging in work. And opposed that people have any inherent potential which make them experts so in conditions of free market, wealth will be distributed more equitably. Assumptions of both these philosophers are partly true and partly wrong. Partially wrong because as Cersie said- power is power. Power gives exponential dividends. Powerful man can gather better resources. Cheap capital and talented labor Lala Hardayal said- personal and state morals rise and fall together. People cannot stay moral under an unjust state.

And state cannot be moral if its institutions are run by corrupt people. Institutions apart from its constitution, norms, values, conventions are also influenced by what is called institutional culture and institutional ethos. Institutions have other characteristics as well such as Sanctions. That is deviation from the norm is punished. So personal moral of the men occupying institutions matter a lot Are there enough sanctions? Politicians regulating themselves are

against principle of natural justice. No man can be his own judge. In the case of Shankari Prasad and Sajjan Singh cases and similar cases, the actuality of the decisions of Supreme Court makes obvious that the judiciary appreciated the spirit of land reforms more instead of testing the Ninth Schedule on strict constitutional principles. The Court cherished the sociological significance of Ninth Schedule. Thereafter, the Parliament has become more conscious of its power. It began to exercise this rare provision wantonly to include any law under its protection. The Parliament did not hesitate in including 64 Acts at a time in that Schedule without deliberate discussion in the house ***(i.e., through Fortieth Amendment.)*** It was used for most dishonest purposes. In words of ***Mr. Surendra Mohan, the General Secretary of Janata Party***, 'it is unfortunate that in the name of protecting the land reform legislations, by placing them in the Ninth Schedule, the Congress has made it a protective shield mainly for the interest of the Prime Minister and the ruling Party.

In the ***Golaknath vs State of Punjab Case***, the constitutionality of 17th Amendment was challenged. By a 6 to 5 majority judgment, the Supreme Court held that Fundamental Rights cannot abridge or taken away by the amending procedure in Article 368 of the Constitution. An amendment to the Constitution is ***"law"*** within the meaning of Article 13(2) and is therefore subject to Part 111 of the Constitution. In ***Kesavananda Bharati vs. State of Kerala*** Case the Supreme Court reversed its own precious decision in Golaknath, by declaring that the decision of the majority in Golaknath that the word "law in Article 13(2) included amendments to the Constitution and the Article operated as a limitation upon the power to amend the Constitution in Article 368 is erroneous and is overruled .

The Supreme Court in Kesavananda Case, overruled the doctrine of the superiority of the ***Part 111 (Fundamental Rights) of the Constitution*** over the other parts of the Constitution, but the same Court developed another doctrine, the doctrine of basic structure, which also deprived of textual basis. In 1973, 13 Judges of the Supreme Court, in the ***Kesavananda Bharati vs State of Kerala Case***, examined the validity of the 24th, 25th and 29th Amendments. The Court, by a Majority of 7:6 ruled that "the power to amend does not include the power to alter the basic structure, or framework of the Constitution so as to change its identity." The Supreme Court of

India confirmed its "basic structure doctrine "in the ***Indira Gandhi vs. Raj Narain Case***. In this case, the Supreme Court invalidated the 39th Amendment to the Constitution on the ground that it violated the basic structure of the Constitution. After these decisions, in 1976, to extirpate the basic structure doctrine, the Indian Parliament retailed with the 42nd Amendment which added the clauses 4 and 5 to Article 368 Clause 4 expressly precluded the judicial review of constitutional amendments, and clause 5 specified that the amending power is not limited. The Supreme Court of India, in the ***Minerva Mills Ltd vs. Union of India Case***, invalidated the 42nd Amendment on the ground that *"a limited amending power is one of the basic features of Indian Constitution and therefore, the limitations on that power cannot be destroyed."*

The Supreme Court, in the case of ***Waman Rao vs. Union The Supreme Court***, in the case of ***Waman Rao vs. Union of India***, reviewed the substance of the First and Fourth Amendments which were enacted respectively in 1951 and 1955. In this case, the Supreme Court also reaffirmed its basic structure doctrine. But, judicial observation in this case created an ambiguity i.e., Whether all Acts which or a part of which, is or has been found by the Supreme Court to be violation of the Articles 14, 19 and 21 can be included in the Ninth Schedule. Whether it is only a Constitutional amendment, amending the Country Ninth Schedule. Whether it is only a Constitutional Amendment, amending the Ninth Schedule that damages or destroys the basic structure of the Constitution that can be struck down?

The bench in the I.R. Coelho Case observed that the judgment in Waman Rao Case needed to be reconsidered by the Nine Judges bench in view of certain inconsistencies. In respect of right to property concern, in India, the policy makers under the impact of socialist philosophy started devaluing the institution of private property almost from the very day the Constitution came into force. In independent India, no Fundamental Right has caused so much litigation between the government and the citizen as the Right to Property. While the Supreme Court had sought to expand the scope and ambit of many Fundamental Rights including the right to property this right has been progressively curtailed through Constitutional Amendments. The question of payment of compensation in lieu of the property acquired is the significant controversy involved in many cases such as ***Kameshwar Singh vs. State of Bihar, State of West Bengal vs***

Bela Banerjee, Dwarkadas Srinivas vs Sholapur Spinning and Weaving Company Ltd, State of West Bengal vs Subodh Gopal, State of Bombay vs Bhanji Munji, Vajravelu vs Special Deputy Collector, Kavalappara Kottarathil Kochuni vs State of Madras and RC Cooper vs. Union of India (Bank Nationalism Case) etc.

On one hand, the Court has learned towards protecting property rights and payment of adequate compensation for property acquired by the State. On the other hand, the State has progressively, by amending the Constitution, reduced the occasion where compensation is payable for disturbance of property rights and has sought to minimize the intervention by courts in this area. Thereafter, to put an end, same Parliament enacted the Forty-Fourth Amendment which signifies the demise of Fundamental Right to Property. The Forty-Fourth Amendment Act 1978 repealed Arts 19 (1) (f) and 31. With the repeal of Article 19 (1) (f) no citizen can claim the protection of the right to property. And also, that, Art 19 (5) permitted the State to impose reasonable restrictions by law, in the interest of general public. After the amendment, Art 31(1) relating to the deprivation of property by State was deleted from the category of Fundamental Rights and it reappears in the new Article 300A in the category of ordinary Constitutional Rights. Repealed Art 31 (2) provides for compulsory acquisition or requisition of property only for public purpose by authority of law which amount for the same and it also makes the law unchallengeable in the courts.