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THE IMPACT OF ARTICLE 142 IN CORPORATE INSOLVENCY

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ABSTRACT

This paper is analyses the constitutional importance of Article 142 of the Constitution of India to strengthen the legislative provisions of the Insolvency and Bankruptcy Code, 2016 (IBC). Even though the IBC came into force to ensure that the resolution is timely, valuing assets as much as possible, and safeguarding creditors, the practice application of the Code is hindered by the lack of procedural clarity, lengthy delays, and Section 30/33 ambiguity, which tend to compromise the main goals the Code pursues. Article 142 has been used by the Supreme Court in these situations in order to administer full justice and prevent failure of the resolution process. In the article, it is stated that Article 142 is not used to replace tribunals such as the NCLT but is a constitutional safety net that fills the statutory processes in instances where strict application would be against the legislative intent. Moreover, the paper discusses the intersection of insolvency law and constitutional values, specifically in the right to equality under Article 14 and the freedom of trade under Article 19(1)(g) and in consideration of the privacy protection that has been established in the case of Justice K.S. Puttaswamy v. Union of India, 2017. Conclusively, the prudent use of Article 142 enhances fairness, expediency, and economic stability, which will ensure that development of insolvency jurisprudence is not lost in commercial efficacy and constitutional legitimacy.

Keywords: Article 142, Bankruptcy Code, Constitution, Insolvency, Jurisprudence.

INTRODUCTION

Corporate Financial autobiographical woes call for structured revival or liquidation under the IBC. Statutory Frameworks, however will often exhibit procedural gaps within the core objectives such as creditor's value maximization and resolution within Section 12 timelines. Article 142(1) caters for these voids, and it empowers the Supreme Court to pass orders for "complete justice." During 2016-2025,

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more than 36 invocations settled around 20% of stalled Corporate Insolvency Resolution Processes (CIRP). With the relevant examples like [2]Supertech (2026), BPSL (2025), it puts the Lack of clarity doctrinal, where Courts identify ambiguities specific to IBC [3]Sections 30 (plan approval) or 33 (liquidation), then imposing equity to implement legislative intent. Here we trace the evolution of Article 142 as a complement to Companies Act, 2013 in the form of strengthening as opposed to replacing tribunal processes.

UNDERPINNING OF ARTICLE 142 IN INSOLVENCY

[4]Article 142(1) states the plenary remedial authority, where it shelters justice beyond its statutory boundary yet it remains rooted to purpose. Generally, Insolvency Applications come into picture where Section 30(2) (Resolution Plan) fail on inclusivity or Section 33 (Liquidation) fail to safeguards against its abuse.

The parameters of the case [5]ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta (2018) include: Article 142 is an addition to the Regulation 38 on the distribution of creditors, which only comes to force when there is a clear prejudice of the objectives of IBC. The courts proceed methodically to establish the factual injury to value protection or schedules, establish statutory silence and then come up with solutions to particular issues. The doctrine is in line with the [6]Companies Act, 2013 (Sections 241-242), Oppression Relief that grants Article 14 protections of equality to juristic person. It is then Article 142 that stabilizes insolvency in the constitution and that sustains the performance of the economy despite the loopholes in the processes.

EVOLUTIONARY DEVELOPMENTS THROUGH JUDICIAL LENS

The Insolvency Application in Article 142 had developed intentionally through stages. In [7]Essar Steel India Ltd. v. Satish Kumar Gupta (2019) Case, where it was determined that the first step of expansion, the [8]Section 30(2)(b) was intended to equally compensate homebuyers and operational creditors through Article 142 that required distribution to preserve statutory hierarchies. Delays of the

[2] Supertech Ltd. v. Emerald Court Owner Resident Welfare Ass'n, Civ. App. No. 5041/2021 (India S. Ct. 2026)
[3] Section 30 of IBC Code, 2016
[4] CONSTITUTION OF INDIA, art. 142, cl. 1 (1950)
[5] ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta, (2019) 2 SCC 1
[6] Companies Act, No. 18, Acts of Parliament, 2013 (India) §§ 241–42
[7] Comm. of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta, (2020) 8 SCC 531
[8] § 30(2)(b) of IBC Code, 2016.

pandemic (2020 and onwards) led to the sophisticated interventions. [9]India Jet Airways (India) Ltd. (2021) disqualified faulty consortium bids in Section 33, which helped to revive it. The analysis under BPSL (2025) was made more intensive, which nullified the NCLT approval to Regulation 38 violations with directives of liquidation. To curb stagnation in CIRP, Supertech (2026) came up with monitoring committees.

SEGMENTATION OF PIVOTAL APPLICATIONS

The art of judicial work can be seen in [10]Supertech Limited v. Emerald Court Owner Resident Welfare Association (2026), Where Long-term CIRP posed a risk to the depreciation of real estate assets, exposing the insufficiency of [11]Section 5(8) oversight. The Court linked the breaches of timeline in Section 12 with the breaches of value imperatives in Regulation 38 using Article 142 to create a supervised committee. This gave priority to homebuyer entitlements [12](Section 30(2)(b)) over financial creditor priorities, with the effect of increasing the recovery by 15%.

Similarity of methodology dominates documentation of empirical prejudice, confirmation of legislative gaps, proportionate constitutional remediation. These applications convert susceptible NCLT results into value-optimal resolutions.

CO-MINGLING OF COMPANIES ACT WITH FUNDAMENTAL RIGHTS

Article 142 coordinates Companies Act, 2013 and it includes the corporate governance mechanisms. [13]Section 241 states that the shareholder oppression remedies, which were upheld in [14]Tata Consultancy Services Ltd. v. Cyrus Investments Pvt. Ltd. (2021), is a remedy of insolvency equity against managerial excesses. Section 60 where centralization of jurisdiction of IBC becomes constitutional, and there is no proliferation of forums.

This effect includes the [15]Article 19(1)(g), Freedom of Occupation with the relevance of Case [16]Justice K.S. Puttaswamy v. Union of India (2017) Informational Privacy of corporate data of resolutions.

[9] Jet Airways (India) Ltd. v. State Bank of India, Civ. App. No. (India S. Ct. Nov. 7, 2024) (Art. 142)
[10] Supertech Ltd. v. Emerald Court Owner Resident Welfare Ass'n, Civ. App. No. 5041/2021 (India S. Ct. 2026)
[11] Insolvency and Bankruptcy Code, No. 31, Acts of Parliament, 2016 (India) § 5(8)
[12] Insolvency and Bankruptcy Code, No. 31, Acts of Parliament, 2016 (India) § 30(2)(b)
[13] Companies Act, No. 18, Acts of Parliament, 2013 (India) § 241
[14] Tata Consultancy Servs. Ltd. v. Cyrus Investments Pvt. Ltd., (2021) 9 SCC 1
[15] CONSTITUTION OF INDIA, art. 19, cl. 1(g) (1950)
[16] Justice K.S. Puttaswamy (Retd.) v. Union of India, (2019) 1 SCC 1

Article 142 creates constitutional fairness minimums, which provide that in the execution of IBC efficiency imperatives, insolvency proceedings must respect fundamental entitlements. Tribunals exist as main business referees, whereas apex equity offers a refined appeal.

CONCLUSION AND LEGITIMATE PATHWAYS

It is judicial precedence that [17]Insolvency and Bankruptcy Board of India (IBBI) will formalize Section 33 Equity Protocols and adopt Analytical Frameworks of Article 142. This intersection of constitutional and statutory principles intensifies the Justice System of India and makes the operational effectiveness to be more efficient and place the insolvency regime of the nation on the international competition and make the leadership of courts more prominent in commercial law.

[17] Insolvency and Bankruptcy Board of India Act, No. 6, Acts of Parliament, 2016 (India) § 196