



CIVIL

Doctrine of Merger No Bar: Court Overturns Fraud Tainted Judgments

AUTHOR Ritika Dedhia, Rahul Sundaram

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Introduction

In recent pronouncement by the Supreme Court of India recently delivered a judgment in Vishnu Vardhan @ Vishnu Pradhan vs. The State of Uttar Pradesh & Ors.¹ (& Connected Cases), powerfully reiterating the age-old legal maxim: “fraud unravels everything”. This pivotal ruling serves as a stark reminder that no legal right or judicial order, no matter how ostensibly settled, can stand if its very foundation is built upon deceit. At its heart, this complex land dispute case exposed a calculated scheme of deception, prompting the apex court to unwind a series of previous orders, including its own, to rectify a grave miscarriage of justice.

Background of the Case

The genesis of this protracted legal battle lies in the joint purchase of a piece of land in Gautam Buddh Nagar, Uttar Pradesh, in 1997 by three individuals: Reddy Veerana (Respondent), Vishnu Vardhan (Appellant/Petitioner), and T. Sudhakar (referred to as “the trio”). This land was subsequently acquired by the New Okhla Industrial Development Authority (NOIDA) in 2005. The core dispute arose when Reddy Veerana allegedly embarked on a series of fraudulent manoeuvres to assert sole ownership over the land, effectively excluding his co-owners, Vishnu Vardhan and T. Sudhakar, from the rightful compensation due to them.

Early legal battles saw the trio jointly instituting a suit against NOIDA in 1998, securing a permanent injunction in 2000. Subsequently, in June 2000, Sudhakar purportedly relinquished his share to Reddy. A civil suit filed by Sudhakar against Reddy in May 2001, where a compromise agreement was attempted, was ultimately rejected by the trial court in September 2002 as not bona fide, and the suit was dismissed for default. During 2003-2005, amidst NOIDA’s commercial hub development scheme, Vishnu purportedly executed an Agreement for Sale for his share with Reddy and a General Power of Attorney (PoA) in favor of one Venkataramana on February 3, 2005, which Vishnu later claimed to have cancelled in December 2005.

The land was formally acquired by NOIDA through notifications in September and November 2005. Crucially, in May 2006, Reddy filed a civil suit against Vishnu, where Vishnu’s purported PoA holder, Venkataramana, admitted Reddy’s claims, leading to a compromise decree on November 17, 2006. Vishnu contended that this was a fraudulent act as Venkataramana had no authority. Based on this fraudulent decree, Reddy successfully had Vishnu’s name deleted from the land records in September 2010. Leveraging this, Reddy filed a writ petition before the Allahabad High Court in January 2019, asserting sole ownership and seeking enhanced compensation. On October 28, 2021, the High Court allowed Reddy’s petition, declared him the sole owner, and significantly enhanced the compensation. This High Court order was then upheld by the Supreme Court on May 5, 2022, primarily because the pervasive fraud was not brought to the Court’s attention at that time. Aggrieved by this grave injustice, Vishnu Vardhan initiated various legal proceedings, including a Civil Appeal² and a Writ Petition³ under Article 32 of the Constitution, to challenge the High Court’s order and seek a recall of the Supreme Court’s earlier decision, citing pervasive fraud.

Legal Framework:

The legal framework underpinning the case is multifaceted, drawing upon fundamental principles of Indian constitutional law, [civil procedure](#), and equity. The Supreme Court’s judgment primarily rests on the following pillars:

1. The Principle of “Fraud Vitiates Everything” (Ex dolo malo non oritur actio): This is the most crucial and overarching legal principle applied in this case. It signifies that any act, contract, or judicial order obtained through fraud is rendered void ab initio (from the beginning) and is considered a nullity.

- **Meaning:** Fraud, in this context, refers to an act of deliberate deception, misrepresentation, or suppression of material facts with the intention to gain an unfair advantage or cause loss to another.
- **Application:** The Supreme Court emphasized that a judgment or decree, even if passed by the highest court, if found to have been obtained by playing fraud on the court, can be set aside. Such an order is non-existent in the eyes of the law and can be challenged at any stage, including in collateral proceedings.
- **Relevant Precedents:** The Indian judiciary has consistently upheld this principle in numerous cases, dating back to English common law, recognizing that “fraud and justice never dwell together.” This principle finds its roots in various legal maxims and has been reinforced by a long line of Supreme Court judgments, like *S.P. Chengalvaraya Naidu v. Jagannath*⁴, which explicitly state that fraud vitiates all solemn acts.

2. Doctrine of Merger (and its Exception for Fraud): The doctrine of merger dictates that when a higher court passes an order in an appeal or revision against a lower court's decision, the lower court's order merges with that of the higher court. Consequently, the lower court's order ceases to exist independently, and only the higher court's order remains operative.

- **General Rule:** This doctrine is based on the principle of judicial hierarchy and aims to ensure finality in litigation and prevent conflicting orders.
- **Exception in Cases of Fraud:** A critical aspect of the Vishnu Vardhan judgment is its firm declaration that the doctrine of merger does not apply when the original order, even if affirmed by a higher court, was obtained by fraud. The Court reasoned that if the foundation (the High Court order) itself was based on fraud, it was a nullity, and therefore, there was nothing for the Supreme Court's subsequent affirming order to "merge" with. This exception is vital to prevent fraudsters from shielding their ill-gotten gains behind the finality of higher court orders.
- **Impact on Third Parties:** The judgment further clarified that the doctrine of merger cannot be used to prejudice the rights of a third party (like Vishnu Vardhan) who was not privy to the fraudulent proceedings and was unaware of the deception.

3. Constitutional Provisions:

- **Article 32 of the Indian Constitution (Right to Constitutional Remedies):** This Article guarantees the right to move the Supreme Court for the enforcement of fundamental rights. It empowers the Supreme Court to issue directions, orders, or writs (such as habeas corpus, mandamus, prohibition, quo warranto, and certiorari) for the enforcement of these rights.
 - **Scope:** While Article 32 is a fundamental right itself, the Supreme Court has generally held that it should be invoked when there is a direct and immediate infringement or imminent danger of infringement of a fundamental right. It is not meant to be a substitute for ordinary civil remedies or appeals where other avenues of justice are available.
 - **Application in the Case:** In Vishnu Vardhan's case, the Supreme Court dismissed the Article 32 writ petition, observing that while his property rights were affected, the primary relief sought (declaration of co-ownership and re-determination of compensation) could be adequately addressed through the civil appeal process and remand to the High Court, rather than a direct fundamental rights violation warranting an Article 32 petition.
- **Article 226 of the Indian Constitution (Power of High Courts to Issue Writs):** This Article grants similar writ jurisdiction to High Courts within their respective territories, but with a broader scope – for the enforcement of fundamental rights "and for any other purpose." While not directly the focus of the Supreme Court's decision, it is the ordinary forum for such disputes.
- **Article 142 of the Indian Constitution (Enforcement of Decrees and Orders of Supreme Court and Orders as to Discovery, etc.):** This Article grants the Supreme Court extraordinary powers to pass "such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it."
 - **Application in the Case:** The Supreme Court implicitly invoked its inherent powers, which are often read in conjunction with Article 142, to recall its own previous order that was found to have been obtained by fraud. This highlights the apex court's ultimate power to rectify grave injustices, even when procedural hurdles might otherwise exist.

In essence, the legal framework for this case revolves around the judiciary's inherent power to undo fraud, even if it means revisiting its own "final" orders, balanced with the principles of judicial hierarchy and the appropriate invocation of constitutional remedies.

Outcome:

The Supreme Court's verdict delivered a comprehensive and decisive outcome aimed at rectifying the widespread fraud. The Court unequivocally allowed Vishnu Vardhan's Civil Appeal, while simultaneously dismissing his Writ Petition under Article 32.

Crucially, the Supreme Court declared the fraud-tainted Allahabad High Court order of 2021 and its own earlier decision of 2022 (which had favored Reddy Veerana) as null and void, effectively recalling them due to their fraudulent procurement. To ensure complete justice, the matter was remanded to the Allahabad High Court for fresh adjudication, with explicit directions to properly implead Vishnu Vardhan and T. Sudhakar, and to re-determine the compensation and ownership rights after a thorough hearing of all stakeholders.

Furthermore, the Court imposed interim measures, restraining Reddy Veerana from alienating any assets and mandating that his securities remain with the Supreme Court until the High Court's fresh decision. In a significant step reflecting the broader public interest, the Supreme Court also directed the Uttar

Pradesh government to constitute a Special Investigation Team (SIT) to probe allegations of corruption in land compensation distribution by the NOIDA Authority over the preceding 15 years.

Author's View:

The judgment in Vishnu Vardhan @ Vishnu Pradhan vs. The State of Uttar Pradesh & Ors. represents a significant victory for justice and judicial integrity. It forcefully reaffirms that “fraud unravels everything,” sending a clear message against manipulating legal processes. The ruling clarifies that the doctrine of merger cannot shield fraudulent acts, ensuring that victims of fraud, even if initially unaware of the deception, are not deprived of their right to seek justice due to procedural technicalities.

While noting the dismissal of the Article 32 writ on technical grounds, the judgment's primary focus is on substantive justice in fraud cases. The Supreme Court's directive for an SIT investigation further underscores its commitment to public trust and accountability, setting a powerful precedent against fraudulent claims.

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1. CIVIL APPEAL NO. 7777/2023 [??](#)
2. MA No. 1737/2023 in MA 255/2023 in C.A. No. 3636/2022 [??](#)
3. CONMT. PET. (C) No. 23-24/2024 in W.P. (C) No. 673/2023 with Diary No(s). 6013/2024 and SMC (C) No. 3/2024 [??](#)
4. (1994) 1 SCC 1 [??](#)

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