

~~~~~

## Constitution of India Art 141 - Law declared by Supreme Court to be binding on all courts

**The law declared by the Supreme Court shall be binding on all courts within the territory of India.**

### SYNOPSIS

**Precedent:** Obiter has only persuasive value. A case is an authority only for what it actually decides and not for what may logically follow from it. Every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law but governed or qualified by the particular facts of the case in which such expressions are to be found. Observations in the judgment which were really not necessary for the purposes of the decision and go beyond the occasion have no binding authority and merely have persuasive value, *Sreenivasa General Traders v. State of A.P.*, (1983) 4 SCC 353. See also (1990) 4 SCC 207.

**“Per Incuriam” Order:** Per incuriam are those decisions given in ignorance or forgetfulness of some inconsistent statutory provision or some authority binding on the Court concerned. If a decision given is “per incuriam”, the Court can ignore it, *A.R. Antulay v. R.S. Nayak*, (1988) 2 SCC 602. See also *MCD v. Gurnam Kaur*, (1989) 1 SCC 101.

**Precedent:** Ratio of a case can be extended to other identical situations, factual and legal, but not mechanically disregarding the rationale of that case, *Deena v. Union of India*, (1983) 4 SCC 645; *Rafiq v. State of U.P.*, (1980) 4 SCC 262; *Prithi Pal Singh Bedi v. Union of India*, (1982) 3 SCC 140.

~~~~~

**Binding Effect:** Supreme Court not bound by its own decisions, Punjab Land Development and Reclamation Corpn Ltd. v. Labour Court, (1990) 3 SCC 682.

**Reconsideration:** In order to enable the Court to refer any case to a larger Bench for reconsideration, it is necessary to point out that a particular provision of law having a bearing over the issue involved was not taken note or or there is an error apparent on its face or that a particular earlier decision was not noticed, which has a direct bearing or has taken a contrary view, CIT v. Saheli Leasing & Industries Ltd., (2010) 6 SCC 384: (2010) 2 SCC (Civ) 691.

~~~~~