

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis



IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations

Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

THEORETICAL ANALYSIS OF **‘RES-JUDICATA’:**

AUTHORED BY - YASH DHOLAKIA

ABSTRACT:

“Res-judicata” is a Latin maxim which means that the matter adjudicated once cannot be judged by the judiciary, if the matter is consisting with the same parties and same facts. “Res judicata pro veritate occipitur” is the actual Latin maxim but over the years it has been pronounced as “Res-judicata”. The concept has been evolved from the English Common Law. This concept has been developed in the Indian legal System after the concept first found its place in the Code of Civil Procedural from the common law. The objective behind the inclusion of ‘res-judicata’ into the Indian legal system is to save the time of judiciary system and also it helps in the administrative law. If either of the parties to the litigation approaches to either the same or any other higher courts, with the same facts and with the same opposite party the matter will be struck down by the concerned authority by the help of the doctrine ‘res-judicata’. But there is some grey area into this matter like what if there is substantial changes in the matter or with the facts and also is there any exception to the doctrine? Therefore, the author will try to reach to the conclusion of the doctrine of ‘res-judicata’ with the help of principles and precedents set by the Indian Judiciary System and will try to portray the research substantial method.

KEYWORDS: Indian Judiciary system, Code of Civil Procedural, res-judicata, exception, principles.

➤ EVOLUTION OF THE CONCEPT OF RES-JUDICATA:

The idea of res judicata, which is Latin for "a case already judged," has changed over time in many nations' legal systems.

Res judicata, a legal principle that dates to ancient Rome, denoted that a final decision in a case could not be overturned or reopened. This idea served as the foundation for the contemporary idea of res judicata, which is a cornerstone of common law legal systems and intended to advance the finality of court decisions.

Res judicata is a common law notion that forbids the same parties from pursuing the same issues over. In other words, a court's decision is regarded final and binds the parties if it has made a judgement on a specific matter. This helps the administration of justice proceed more quickly by preventing parties from constantly litigating the same problems.

The idea of res judicata has expanded over time to encompass several related doctrines, such as issue preclusion and collateral estoppel, which forbid parties from bringing up a specific issue in a subsequent process if that issue has already been resolved in a previous proceeding.¹

Generally, the idea of res judicata still has a significant place in contemporary legal systems since it encourages the conclusion and certainty of judicial actions and makes sure that parties may rely on the outcomes of earlier litigation.

➤ INTRODUCTION TO THE CONCEPT OF RES-JUDICATA:

A legal theory known as res judicata refers to the doctrine of finality in litigation. The phrase translates from Latin to mean "a matter already judged." Relitigating of a claim or issue that has already been decided by a court with appropriate authority is prohibited by the doctrine of res judicata.

Claim and issue preclusion are two aspects of the res judicata principle. Issue preclusion prevents the relitigating of an issue that was unavoidably resolved in an earlier case, whereas claim preclusion prohibits the relitigating of a claim that has already been decided.

Res Judicata is a Latin proverb that was created by combining the terms "res" and "judicata." Judicata is Latin for judged, while Res is Latin for affair or matter. As a result, the etymological

¹ Advocate Anik, Doctrine of res-judicata: critical analysis, <https://www.vkeel.com/legal-blog/doctrine-of-res-judicata-critical-analysis>, 06-04-2023.

meaning is "a judged matter."²

- **DEFINATION:**

The literal definition of the res-judicata has been mentioned under Civil Procedural Code section-11³ as *"No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court."*

- **PRINCIPLE OF RES-JUDICATA:**

The res judicata principle aims to encourage the impartial and honest administration of justice and to guard against the exploitation of the legal system. When a litigant wants to bring a future lawsuit on the same subject after receiving a decision in an earlier case involving the same parties, the doctrine of res judicata is applicable. This holds true not just for the claims filed in the first case, but also in many jurisdictions for claims that might have been brought at the same time.⁴

- **PURPOSE OF RES-JUDICATA:**

According to the doctrine of res judicata, all legal proceedings must be concluded as soon as possible in the sake of the greater good. The philosophy also emphasises justice, equity, and good faith, which call for repeated hearings on the same matter not afflict parties who have already won a case.⁵

The doctrine of res-judicata is based on three Latin maxims which are as follows:

- i) nemo debet bis vexari pro una et eadem causa (no man should be vexed for the same cause).
- ii) interest reipublicae ut sit finis litium (it is in the interest of the State that there should be an end to a litigation)
- iii) res judicata pro veritate occipitur (a judicial decision must be accepted as correct).

- **PRE-REQUISITES OF THE CONCEPT OF RES-JUDICATA:**

² Vidhi Agarwal, An introduction to the Res-judicata, <https://www.lawinsider.in/columns/an-introduction-to-res-judicata>, 05-04-2023.

³ Civil Procedure Code, 1908, §-11, No. 05, Acts of parliament, 1949 (India).

⁴ Avni Tiwari, Res-judicata and right to information, <https://cic.gov.in/sites/default/files/Res>, 05-04-2023.

⁵ Madhuri Pilianna, Res-Judicata, <https://blog.ipleaders.in/overview-on-doctrine-of-res-judicata/>, 05-04-2023.

To fulfil the criteria of section 11⁶ of CPC there are some pre-requisites which must be fulfilled, which are as follows:

- a) a judicial decision by proficient court or tribunal;
- b) a judicial decision must be final and binding;
- c) any judicial decision made on the merits;
- d) a fair hearing in the court;
- e) it is not relevant on the count of earlier decision which may be a right or wrong.

- **NATURE AND SCOPE OF RES-JUDICATA:**

Res is Latin for "subject matter," and Judicata is Latin for "determined." This idea, which was developed in the wider public interest, mandates that all legal proceedings must conclude at some point. This idea is supported by justice, equity, and morality. Meaning that a party who has won a case once should not face harassment in a subsequent case concerning the same subject. Res judicata seeks to create a balance between two opposing forces. It first promotes the effectiveness of the legal system by rendering a conclusive decision. Secondly, it safeguards the parties' already-agreed-upon rights and interests. The concept of public policy is codified in Section 11 of the code. It is an example of the conclusiveness rule and serves as a barrier to try the same issue twice.⁷

- **APPLICABILITY OF RES-JUDICATA:**

A crucial idea built on the concept of public and private interests is the doctrine of res judicata. It merely demands that all legal proceedings conclude. The civil action, execution processes, arbitration proceedings, tax matters, industrial adjudication, writ petitions, administrative orders, interim orders, criminal orders, etc. are all situations where it applies. Hence, the Civil Process Code's Section 11, which establishes the theory of res judicata, is extensive in scope.⁸

- **EXAMPLES OF RES-JUDICATA:**

⁶ Supra note no. 3.

⁷ LEGODESK, what is res-judicata, <https://legodesk.com/legopedia/what-is-res-judicata>, 05-04-2023.

⁸ Madhuri Pilianna, Res-Judicata, <https://blog.ipleaders.in/overview-on-doctrine-of-res-judicata/>, 05-04-2023.

A' sued 'B' as he did not pay rent. 'B' pleaded for the lessening of rent on the ground as the area of the land was less than the mentioned on the lease. The Court found that the area was greater than shown in the lease. The area was excess and the principles of res judicata will not be applied.

In a case, 'A' new lawsuit was filed in which the defendants requested that the Court dismiss the lawsuit with a plea of res judicata. She was barred from bringing a claim of res judicata because her previous claim was dismissed for fraud. The Court said that the defence of res judicata must be proved by evidence.

- **RES-JUDICATA UNDER INDIAN LAW SYSTEM:**

Under Section 11 of the Code of Civil Procedure, 1908, the principle of res judicata, or the norm of the judgment's conclusiveness, has been incorporated into Indian law. It stipulates that no party may be authorised to reopen a topic in a later litigation once it has been definitively settled by a competent Court. No Court shall try any action or matter where the matter directly and substantially in issue was directly and substantially in issue in a former action between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent action or the action in which such issue has subsequently been raised, according to Section 11.⁹

- **ESSENTIAL POINTS:**

- a) Past suit refers to a case that was decided before the case at hand, not whether it was the case before this one. i.e., the cut-off date is the judgement date rather than the filing date for the lawsuit.
- b) Independent of a person's ability to appeal a previous lawsuit, a court's competence must be determined.
- c) The matter at issue in this lawsuit must have been asserted by one party and either accepted or rejected (expressly/implicitly) by the other party.
- d) Any issue that could have or should have been used as a basis for an attack or defence in that earlier lawsuit will be regarded to have been directly and significantly at issue in that lawsuit (constructive res judicata).

- **CONSTRUCTIVE RES-JUDICATA:**

A man-made version of res judicata is the constructive res judicata rule included in Section 11 of

⁹ Maryam, doctrine of res-judicata and res-subjudice, <https://www.legalserviceindia.com/legal/article-6220-critical-analysis-of-doctrine-of-res-judicata-and-res-subjudice>, 05-04-2023.

the Civil Process Law. It states that if a party enters a plea in a proceeding involving him and the defendant, he is not entitled to enter a plea against the same party in a proceeding involving the same topic in the future. That is against the public policies that the res judicata concept is predicated on. For the defendant, it would result in harassment and suffering. Raising the bar is assisted by the constructive res judicata rule. This rule, which in reality is an aspect of augmentation of the general principles of res judicata, is hence known as the rule of constructive res judicata.¹⁰

- **RES-JUDICATA AND ESTOPPEL:**

Estoppel is the legal concept that forbids one from saying something that is inconsistent with what a prior action has implied. The Indian Evidence Act's Sections 115 to 117 deal with it. Estoppel is the law of constructive res judicata. The doctrine of res judicata and the doctrine of estoppel are different in some circumstances.¹¹

- a) Res judicata is the outcome of the court's ruling, whereas estoppel results from the parties' actions.
- b) Estoppel operates under the equity doctrine; a person who has encouraged another to change his position to his disadvantage cannot later use that change to his advantage. In other words, several lawsuits are prohibited by res judicata, and multiple representations of cases are prohibited by estoppel.
- c) Unlike res judicata, which strips a court of its authority to hear a case and forbids an inquiry at the threshold, estoppel is a rule of proof and is sufficient for the party (in limine).
- d) Estoppel forbids a person from expressing two opposing things at once, while res judicata forbids a person from averring the same thing twice in court proceedings.
- e) The rule of estoppel prevents the party from denying what they have previously claimed to be true, while the principle of res judicata presumes the reality of the decision in the prior lawsuit.

- **CONDITIONS IN RES-JUDICATA:**

The Plea of Res Judicata contests the court's authority to conduct the trial. The res judicata theory,

¹⁰ Supra note no. 08.

¹¹ Megha Bindal, Res judicata and Estoppel, <https://www.lawyersclubindia.com/articles/res-judicata-and-estoppel-differences-explained>, 05-04-2023.

however, will only be applicable in cases where Section 11 prerequisites are met. The following requirements must be met in order to invoke the plea and establish res judicata under Section 11:¹²

- ✓ The problem in the following lawsuit must be the same issue that was directly and substantially at issue in the prior lawsuit, either constructively or. The prior lawsuit had to have involved the same parties or parties that they or any of them claimed to be entitled to compensation from.
- ✓ Those parties must have been involved in the previous lawsuit's litigation under the same title.
- ✓ The matter immediately and substantially in issue in the later litigation must have been heard and finally decided by the court in the previous suit;
- ✓ The court which decided the former suit must be a court competent to try the subsequent suit or the suit in which such issue is subsequently raised.

• **RES-JUDICATA AND RES-SUBJUDICE:**

RES-JUDICATA	RES-SUBJUDICE
It is applied to the matter which has been already decided or adjudicated.	It is applied in a matter which is still pending before the court of law.
It prevents the trial or issue in court which has been already decided in the previous suit, with the same facts, parties, and issues.	It bars the trial of a suit in which the matter is pending for decision in the previous suit.
The competent court must have given the judgement in the former instituted suit.	The presence of two suits is necessary one which was formerly instituted and the one which is subsequently instituted.
Both the parties must have litigated under the same title in the former suit.	Both the parties must be litigating under the same title in both the suits.
Here it is essential that the issue, parties, and the facts must be same.	Here if the suit is directly or subsequently connected to the

These two doctrines must be strictly adhered to in order to ensure the efficient operation of the judicial system and to deliver justice to those who are in need given the growing number of cases

¹² Aditi Prabhune, Res-judicata: Section 11 of CPC, <https://www.legalserviceindia.com/legal/article-2646-res-judicata-section-11-of-civil-procedure-code-1908>, 05-04-2023.

in the courts and the increased burden on the courts as a result of numerous frivolous and repetitive lawsuits. These teachings are not to be used and must not be applied with the intention of escaping justice. Instead, the objective is to increase the judiciary's effectiveness.¹³

- **RES-JUDICATA AND STARE DECISIS:**

- **WHAT IS STARE DECISIS?**

Stare Decisis, a Latin word that literally means "to stand in the things that have been decided," is the concept that binds judges to precedent. The legal principle that requires courts to follow precedent when deciding legal issues in order to ensure clarity, consistency, and stability in the administration of justice, with exceptions made for clearly compelling circumstances (as to prevent the perpetuation of injustice).¹⁴

- **KEY DIFFERENCE:**

"A thing adjudicated," "a case already determined," or "an issue concluded by a decision or judgement" are all definitions of the Latin phrase "res judicata." "Stand by decided cases," "uphold precedents," "keep previous adjudications," and "not disrupt existing law" are all definitions of the Latin phrase "stare decisis."

Res judicata binds parties and privies, whereas stare decisis applies to strangers as well and prevents courts from adopting an opposing viewpoint on a matter of law that has already been determined. Res judicata assumes that the same facts will be at issue in subsequent litigation involving the same parties. All parties are subject to the same legal standard under stare decisis.

- **RES-JUDICATA AND COLLATERAL ESTOPPEL:**

- **WHAT IS COLLATERAL ESTOPPEL?**

Collateral estoppel in civil process refers to the use of issue preclusion to apply res judicata principles. Collateral estoppel can be used for issue preclusion to bar one party from re-litigating any issue that has been legitimately, finally, and truly decided on the merits in another case.

The court will consider whether an issue was crucial to the previous holding when determining whether a particular issue has already been resolved. According to this standard, any matter

¹³ Kakoli Nath, res-judicata and res-sub judice, <https://blog.finology.in/Legal-news/res-judicata-res-sub-judice>, 06-04-2023.

¹⁴ Nayan Jain, res-judicata and stare decisis, <https://taxguru.in/goods-and-service-tax/legal-term-ratio-decidendi-obiter-dictare-judicata-stare-decisis>, 06-04-2023.

previously addressed in court that, if resolved differently, would have changed the outcome of the case, is considered to have been resolved.¹⁵

➤ **CONSIDERABLE POINT BETWEEN RES-JUDICATA AND COLLATERAL ESTOPPEL:**

When a second case that is identical to one that has previously been decided is filed, the theories of res judicata and collateral estoppel sometimes come into play. An issue or cause of action that has been thoroughly litigated should not be litigated again, according to the theories. A common name for res judicata is "claim preclusion." The phrase "issue preclusion" is often used to describe collateral estoppel.

When a party believes that a certain matter has already been litigated or could have been litigated and should therefore not be litigated again, they assert res judicata. In order to decide whether res judicata applies, a court often considers three considerations. Prior litigation in which identical claims were filed or could have been raised will be the first factor the court considers. The parties must be the same parties that were involved in the original action's litigation. This is the second condition to be considered. The third need is that the merits of the initial action must have been finally decided.¹⁶

Example: Party 'A' sustained some injury while colliding with party 'B' in a motor vehicle accident. A filed a suit in a court for sustaining injury and to provide damages to him. Court decided the matter in favour of A. After a year B filed a suit against A but for another matter relating to robbery. Here in this scenario A cannot claim for the res-judicata, though the parties are same but the issues and facts are different.

➤ **EXCEPTIONS TO THE CONCEPT OF RES-JUDICATA:**

As we move forward to the brief research about the topic, it is also necessary to know about the exceptions to the concept of res-judicata. Exceptions to the res-judicata is the most important right given under the Indian Constitution article-32¹⁷. It does not apply to the writ of Habeus corpus as far as the high courts are concerned. Article 32 gives power to the supreme court to issue writs

¹⁵ Cornell Law School, https://www.law.cornell.edu/wex/collateral_estoppel, 06-04-2023.

¹⁶ Law Shelf, <https://lawshelf.com/coursewarecontentview/res-judicata-and-collateral-estoppel>, 06-04-2023.

¹⁷ India Const. art. 32.

and some powers under article 226¹⁸ to the high court. Courts are directed to give proper reasoning while applying the doctrine of res-judicata.

Supreme court while deciding the matter between *Raju Ramsing Vasave vs. Mahesh Deorao Bhivapurkar*¹⁹, laid down the three exceptions to the rule of res-judicata are as follows:

- i) when the judgement is passed without the jurisdiction.
- ii) when matter involves a pure question of law.
- iii) when the judgment has been obtained by committing the fraud on the court.

Supreme court in a case between *Fatima Bibi Ahmed Patel vs. State of Gujarat*²⁰, laid down that the res-judicata is not applicable to the criminal cases, by mentioning the criteria to it:

- i) when there is a lack of jurisdiction.
- ii) when the matter has been adjudged without the merit.
- iii) when the matter has been adjudged based on fraud.

Therefore, as res-judicata also applies to the criminal matter it is necessary to also know its exceptions to clearly bifurcate the research into applicability and non-applicability of the concept of res-judicata. Though the statutory implications do not brief into it but there are the precedents set by the apex court which must be taken into consideration.

- **CAN IT BE WAIVED OFF?**

The plea of res-judicata can be waived off to the party to the proceedings, if the defendant does not raise the plea of res judicata then it can be waived off. It is the part of the proceedings and either of the party can waive off. The court can decline the question of res-judicata by stating that it has been not raised by any of the party. The same thing has been decided in a case between *P.C. Ray and Co. Pvt. Ltd. vs. UOI*²¹.

- **RES-JUDICATA UNDER ADMINISTRATIVE LAW:**

The composition, responsibilities, and authority of the administrative organs are the subject of administrative law. Administrative law, commonly referred to as regulatory law, is upheld by a

¹⁸ India Const. art. 226.

¹⁹ (2008) 9 SCC 54.

²⁰ (2008) 6 SCC 789.

²¹ AIR 1971 Cal 512

certain sort of government agency. The government entity gives the legislation the authority to impose regulations. All government employees and organisations must adhere to this. An administrative body of government may enact legislation or carry out a predetermined plan. It is regarded as a subset of public law in theory. The ability to make rules and regulations based on the granting of licences and permits is necessary for the administrative authority, which differs from the legislative and judicial authorities.²²

The fundamental tenets of this law are that no one shall be unheard or denied his or her rights and that an individual shall not preside as the sole judge in any proceeding. Res judicata, which was taken directly from the Civil Process Code, functions as a guiding principle in administrative law.

➤ **CRITICISM TO THE CONCEPT OF RES-JUDICTA:**

Res judicata is also applicable to decisions that might be illegal. The overall impact of one judgement on a subsequent trial or action is covered by the res judicata doctrine, which has been around for a while. It encompasses not only bar-related issues but also those that require litigation. For instance, res judicata will technically apply if a case has been dismissed on a specific issue by a court of law or equity but it is not justified since it is not seen as a final ruling.

If the plaintiff is ineligible to pursue a legal remedy after the chancellor denied equitable relief based on a principle, the court will uphold that ruling. Most equity cases only go as far as collateral estoppel and involve res judicata. Because it highlights the difficulty of overlapping more so than unresolved legal issues.

The creation of a will determined both the title to real estate and the authority to receive rent. A received the ruling in an interpleader on the rents. Before his appeal was decided, A had sued B in an ejectment proceeding, invoking the decree, and had successfully acquired a judgement for the real estate. B had challenged the decision without supersedeas and obtained a reversal. B did not file an appeal against this ruling, but he sued A in ejectment for the land after the ruling was reversed, relying on the decision.²³

➤ **CASE ANALYSIS:**

In the case of *Brobston vs. Darby Borough*²⁴, the plaintiff, Brobston, suffered injuries while

²² Sandy Gail Nyholm, Administrative Law - Res Judicata - Application of Res Judicata to Agencies with Parallel Jurisdiction, <https://digitalcommons.du.edu/cgi/viewcontent.cgi?article>, 06-04-2023.

²³ Shashwant Agarwal, Res judicata in India, <https://www.legalserviceindia.com/article/1454-Res-Judicata>, 06-04-2023.

²⁴ *Brobston v. Darby Borough*, 290 Pa. 331, 138 A. 849 (Pa. 1927)

operating a vehicle on a public road in the Borough of Darby. The machine's steering wheel was being dragged by the driver because a transit firm was blocking the street. The complainant was injured as a result of this. In order to recoup damages, a lawsuit was brought against the street railway in Philadelphia court. The existence of contributory negligence, sometimes known as carelessness on the part of both parties, was established. The defendant was awarded the benefit of the doubt. On the same grounds and against the same transit provider, a subsequent action was once more initiated against the same defendant. The plaintiff admitted that Brobston was the same person who was the plaintiff in the action brought earlier in Philadelphia.

In the case of *Lowe vs. Haggerty*²⁵, when the visitor sued the defendant, a concern was brought up regarding the impact of a prior verdict for the defendant. According to the ruling, the driver of the car that was hit by someone else was ineligible to file a lawsuit. There was no prior record that made the information in the initial proceeding public. It was decided that it was impossible to ascertain what the issue in the earlier lawsuit was. There, the court made decisions on the parties' records, which created a new situation. In this instance, nonsuit was denied, and the plaintiff's appeal was turned down.

- **LANDMARK CASE LAWS IN INDIA:**

Supreme court in the case of *Dayrao vs. State of Uttar Pradesh*²⁶, the doctrine of res-judicata is of universal application was established. The theory of res judicata was given an even more comprehensive foundation by the Supreme Court of India. According to Article 226 of the Constitution, petitioners in this case submitted a writ petition to the High Court of Allahabad. Nonetheless, the lawsuit was dropped. After that, they independently petitioned the Supreme Court using Article 32 of the Constitution's writ jurisdiction. The defendants objected to the petition by claiming that the Supreme Court's earlier ruling would serve as res judicata in the case of an Article 32 petition. The applications were dismissed and rejected by the Supreme Court. The court held that the rule of res judicata applies to a petition under Article 32 of the Constitution. If a petition is filed by the petitioner in the High Court under Article 226 of the Constitution and it is dismissed based on merits, it would be operated as res judicata to bar a similar petition in the Supreme Court under Article 32²⁷ of the Constitution.

²⁵ *Lowe v. Haggerty*, 283 Pa. 459, 129 A. 457 (Pa. 1925)

²⁶ *Dayrao vs state of Uttar Pradesh*, 1961 AIR 1457, 1962 SCR (1) 574.

²⁷ *Supra* Note no. 17

It was decided in the case of *Mathura Prasad v. Dossibai N.B. Jeejeebhoy*²⁸ that res judicata applied between the parties in the prior case and prevented them from bringing new claims in collateral proceedings. A competent court's ruling typically serves as res judicata, even when it comes to legal issues. A legal issue, however, will not serve as res judicata if it is unrelated to the facts that gave rise to the right. A decision has already been changed by a power when the legal theory or the cause of action have changed. Res judicata will not apply in the following process, and the ruling will be deemed lawful.

The author tried to analyse the case laws of the parallel jurisdiction country in the light of Indian judiciary to conclude more simpler and briefly.

➤ CONCLUSION:

The doctrine of Res Judicata prohibits the ability of either party to "turn back the clock"²⁹ while the case is still pending. Public Interest Litigations are among the many things that fall under the broad definition of res judicata. This doctrine covers a wide range of topics linked to society and people and can be used beyond the context of the Code of Civil Process. As time, the scope and the extent have grown, and the Supreme Court's decisions have extended the domains.

The idea of res judicata is widely accepted throughout the world's jurisdictions. The Res Judicata concept has grown to be a significant component of Indian law. When the court believes that the case has already been resolved by the prior lawsuit, Res Judicata may be applied, according to Section 11 of Civil Process Court, 1908. This idea is applied in India not just to civil courts but also to administrative law and other laws. The basis for the res judicata defence is the finality principle, which is a matter of public policy. Res Judicata is a legal principle that limits a plaintiff's ability to recover damages from a defendant twice in order to prevent multiple judgements and safeguard the opposing party's rights.

Due to the numerous frivolous and repetitious lawsuits and the ever-growing number of cases in the courts, it is essential that these two precepts be strictly followed in order to ensure that the legal system runs smoothly and that those who lack access to justice receive justice. These principles are not intended for, and cannot be used to avoid justice. Instead, the objective is to

²⁸ 1971 AIR 2355, 1970 SCR (3) 830

²⁹ Supra Note No. 08.

increase the judiciary's effectiveness.

➤ SUGGESTIONS:

Indian judiciary while mentioning the exceptions to it has confined its boundaries to the three to four points only. The main point is that the concept of res-judicata is not applicable to the writ of Habeus Corpus. Instead of that Indian judiciary should provide the exact guidelines through the act only regarding the applicability and non-applicability to the res-judicata. Also, this concept is being adopted because Indian judiciary is overburdened with the uncountable cases but the one point which has been neglected is that what is the same parties after mutually agreed to the decision adjudged by the court have some disputes in regards of their fundamental rights under Indian Constitution and the second point is that if the court doesn't want to entertain the same case with same parties along with the same issues then it is the duty of the Indian judiciary to provide them some Alternative Dispute Resolution (remedy) in case of infringement of their fundamental rights.

Because the non-applicability of the res-judicata has neglected these concerns of the public at large because by anyhow it is the concept of our constitution that the fundamental right should not be infringed and it must be protected. Then for this there must be another solution to provide them a relief.

➤ REFERENCES:

- Advocate Anik, Doctrine of res-judicata: critical analysis, <https://www.vkeel.com/legal-blog/doctrine-of-res-judicata-critical-analysis>, 06-04-2023.
- Vidhi Agarwal, An introduction to the Res-judicata, <https://www.lawinsider.in/columns/an-introduction-to-res-judicata>, 05-04-2023.
- Civil Procedure Code, 1908, §-11, No. 05, Acts of parliament, 1949 (India).
- Avni Tiwari, Res-judicata and right to information, <https://cic.gov.in/sites/default/files/Res>, 05-04-2023.
- Madhuri Piliانا, Res-Judicata, <https://blog.ipleaders.in/overview-on-doctrine-of-res-judicata/>, 05-04-2023.
- LEGODESK, what is res-judicata, <https://legodesk.com/legopedia/what-is-res-judicata>, 05-04-2023.

- Maryam, doctrine of res-judicata and res-subjudice, <https://www.legalserviceindia.com/legal/article-6220-critical-analysis-of-doctrine-of-res-judicata-and-res-subjudice>, 05-04-2023.
- Megha Bindal, Res judicata and Estoppel, <https://www.lawyersclubindia.com/articles/res-judicata-and-estoppel-differences-explained>, 05-04-2023.
- Aditi Prabhune, Res-judicata: Section 11 of CPC, <https://www.legalserviceindia.com/legal/article-2646-res-judicata-section-11-of-civil-procedure-code-1908>, 05-04-2023.
- Kakoli Nath, res-judicata and res-sub judice, <https://blog.finology.in/Legal-news/res-judicata-res-sub-judice>, 06-04-2023.
- Nayan Jain, res-judicata and stare decisis, <https://taxguru.in/goods-and-service-tax/legal-term-ratio-decidendi-obiter-dictare-judicata-stare-decisis>, 06-04-2023.
- Cornell Law School, https://www.law.cornell.edu/wex/collateral_estoppel, 06-04-2023.
- Law Shelf, <https://lawshelf.com/coursewarecontentview/res-judicata-and-collateral-estoppel>, 06-04-2023.
- India Const. art. 32.
- India Const. art. 226.
- (2008) 9 SCC 54.
- (2008) 6 SCC 789.
- AIR 1971 Cal 512
- Sandy Gail Nyholm, Administrative Law - Res Judicata - Application of Res Judicata to Agencies with Parallel Jurisdiction, <https://digitalcommons.du.edu/cgi/viewcontent.cgi?article>, 06-04-2023.
- Shashwant Agarwal, Res judicata in India, <https://www.legalserviceindia.com/article/1454-Res-Judicata>, 06-04-2023
- *Brobston v. Darby Borough*, 290 Pa. 331, 138 A. 849 (Pa. 1927)
- *Lowe v. Haggerty*, 283 Pa. 459, 129 A. 457 (Pa. 1925)
- Dayrao vs state of Uttar Pradesh, 1961 AIR 1457, 1962 SCR (1) 574.
- 1971 AIR 2355, 1970 SCR (3) 830