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RES JUDICATA: AN ANALYSIS

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Table Of Contents

- [ABSTRACT](#)
- [INTRODUCTION](#)
- [EMERGENCE OF RES JUDICATA](#)
- [WHAT IS RES JUDICATA?](#)
- [SECTION 11](#)
- [CONDITIONS FOR RES JUDICATA](#)
- [ATTRIBUTES OF RES JUDICATA](#)
- [LANDMARK CASES](#)
- [EXCEPTION TO THE DOCTRINE](#)
- [DIFFERENCE BETWEEN RES JUDICATA AND RES SUBJUDICE](#)
- [CONCLUSION](#)

Abstract

How do we determine whether a person can bring a lawsuit again? Under what circumstances can an individual file a suit once again? Accordingly, this article deals with the concept of Res Judicata under Section 11 of the Civil Procedure Code, which addresses the aforesaid issues. The Hon'ble Supreme Court of India recently issued a comment about the Res Judicata doctrine. The Court has ruled that Order VII Rule 11(d) of the Code of Civil Procedure does not apply to this doctrine as a reason to reject a plaint. This has spawned an engaging discussion about the determination of Res Judicata in the legal community, making it an important subject to research in relation to the CPC. This article therefore will throw lights on the legal standing on Res Judicata.

Introduction

Section 11 of the CPC incorporates the notion of Res Judicata. It's a Latin word. It signifies "*a thing or a matter adjudicated*." It states that when a question has previously been decided, no court would have the authority to hear neither a new suit nor new matters that have already been resolved in the previous litigation among the same parties. As a result, if an appropriate authority decides on a problem regarding the same parties as in the prior matter, the parties could not initiate a new suit requesting the court to rule on the subject that was previously decided in the former litigation. Res Judicata also acts as an affirmative defence in a lawsuit on the same claim, or any other claim stemming from the same transaction or set of transactions that may have occurred.¹

Emergence Of RES Judicata

One among the earliest concepts in human history is the Rest Judicata doctrine. As ancient as the law itself, res judicata is. The Latin phrase for the theory of Res Judicata is "*Res judicata pro veritate accipitur*." Several ancient legal systems all have roots in the theory of Res Judicata. According to ancient Hindu Law, the word "previous judgement" or "*Purva Nyaya*" was used by Muslim and Hindu attorneys to refer res judicata. In United States the Fifth Amendment's double jeopardy provision prevents anyone from being put on a second trial after the matter has been decided.

¹ Garner, B. A. (Ed.). (2009). BLACK'S LAW DICTIONARY (9th ed., p. 1425). Dallas: West, AThomson Buisness.

Then the Seventh Amendment to the United States Constitution is where the concept of res judicata first appeared with proper legal force. It speaks to the validity of verdicts in civil jury trials. Except under extremely particular circumstances, a civil trial verdict made by one court cannot be modified by another. The concept of Res Judicata was adopted in England. In the beginning, England courts used foreign resemblances, but after revision, they created their own concept of Res Judicata. Then the common law's Res Judicata theory was incorporated into Indian law through Section 11 of the Civil Procedure Code. After the Civil Procedure Code, Administrative Law also recognised the res judicata's application. After that, additional legislation and Acts recognised it, and the idea of res judicata began to spread across the Indian Legal System.

Three Roman maxims serve as the basis for the principle of Res Judicata:

- *'Nemo debet lis vexari pro eadem causa'* - This phrase indicates that no one should be troubled twice for the same reason;
- *'Interest publicae ut sit finis litium'* - This phrase implies that it is in the state's best interests for the legal dispute to be resolved, and
- *'Re judicata pro veritate occipitur'* - This phrase says that the court's decision should be recognised as being binding.

Res judicata's preconditions include:

- a court's or tribunal's competent ruling
- which is final and conclusive
- any judgement rendered on the merits
- a fair trial
- Whether a prior choice was good or wrong is unimportant.

Res judicata, which prohibits the proceedings of any lawsuit on an issue or a point already decided, is covered by Section 11 of the Civil Procedure Code of 1908, Section 300 of the Code of Criminal Procedure of 1973, Section 26 of the General Clauses Act of 1897, and Article 20(2) of the Constitution of India of 1950.

What Is RES Judicata?

The res judicata concept aims to encourage the impartial and fair 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 particular claims filed during the first instance, as well as in numerous jurisdictions for claims which may have been brought at the same suit.

The concept of res judicata is described in *Satyadhyan Ghosal v. Deorijin Debi*² as, “*The principle of res judicata is based on the need of giving a finality of judicial decisions, it shall not be adjudicated again. Primarily it applies as between past litigation and future litigation. When a matter on question of facts law has been decided between two parties in one suit or proceeding and the decision is final, either because no appeal was taken to a higher court or because the appeal was dismissed, or no appeal lies, neither party will be allowed in a future suit or proceeding between same parties to canvass the matter again.*”

It is significant to reiterate that once a writ appeal has been filed with either the High Court or Supreme Court and has been rejected there on merits, a subsequent writ regarding the same cause of action cannot be filed in a court with similar cause of action.³ In *Lal Chand v Radha Krishnan*⁴, the Hon’ble Supreme court stated that After the verdict is made, judges who presented with a case that is strikingly identical to the previous decision will use the res judicata doctrine to preserve the original decision's effect. It would also make sure that identical cases involving the same parties don't result in multiple judgments being rendered. Also in the case of *Mahesh Kumar Joshi v. Madan Singh Negi*⁵, it was held as “*This doctrine in substance means that an issue or a point decided and having attained finality should not be allowed to be re-opened and re-agitated twice over.*”

SECTION 11

Section 11 of Civil Procedure Code enumerates that, “*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,*

² Satyadhyan Ghosal v. Deorijin Debi, AIR 1960 SC 941.

³ M S M Sharma v Sinha, A.I.R. 1960 S.C. 1186.

⁴ Lal Chand v Radha Krishnan, (1977) 2 S.C.C. 88.

⁵ Mahesh Kumar Joshi v. Madan Singh Negi, AIR 2015 (SC) 974.

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."⁶

The term of "former suit" as used in Section 11 is clarified in Explanation 1 of that section. The term "previous suits" in this context refers to any lawsuits that have been resolved before the one in issue, regardless of when it was first filed. The evaluation of a court's competence is covered in Explanation 2. Again dealing with the issue of a prior lawsuit, Explanation 3 specifies that the prior lawsuit must be stated by one party and disputed by the other. Explanation 4 addresses the subject matter and specifies that any issue that has already been raised as a defence in the prior lawsuit qualifies as an issue in that lawsuit. This is called as "*Constructive Res Judicata*". In *State of Uttar Pradesh v. Nawab Hussain*⁷, M was a sub-inspector who was fired from D.I.G. He disputed the termination decision in the High Court. He claimed that he was not given a reasonable opportunity to be heard prior to the order being issued. The claim, nonetheless, was denied, and the case was rejected. He filed another suit, claiming that he was selected by the I.G.P. and had no authority to fire him. The defendant claimed that constructive res judicata precluded the complaint.

According to Explanation 5, every remedy sought but not granted amounts to rejection or refusal. According to Explanation 6, when someone starts a legal action involving a public right, everyone who has a stake in that right is regarded to be making a claim on behalf of the person who started the lawsuit. This is called as a '*Representative Suit*'. The application of the Res Judicata concept to the implementation of a decree is explained in Explanation 7. According to Explanation 8, the concept of Res judicata will be used in cases when a prior court loses the ability to consider a future lawsuit because of a limitation relating to its jurisdiction. Moreover, the res judicata concept is a procedural law but not a substantive one. It has no impact over the court's jurisdiction.⁸

⁶ S. 11, Civil Procedure Code, 1908.

⁷ State of Uttar Pradesh v. Nawab Hussain, 1977 AIR 1680, 1977 SCR (3) 428.

⁸ Isabella Johnson v. MA Susai through LRs, AIR 1991 SC 993.

Conditions For RES Judicata

Under Section 11 of the CPC, the Doctrine of Res Judicata is only applicable under particular circumstances. For Res Judicata to get effective, the following requirements need to be satisfied,

- The same parties or their agents must file two lawsuits.
- The very same cause title must be used for subsequent legal proceedings.
- The subject in dispute must directly and significantly be the subject of both the lawsuits, and it must be similar.
- One of the lawsuits must be final and have already been decided. When a case is still for appeal, has not reached finality, and is still in dispute, the rule of res judicata does not apply.⁹
- To give the relief requested in the second complaint, the court that resolved the earlier matter must be competent. In those cases where an order was made without proper authority, the concept will not apply.¹⁰

The Apex Court ruled in *Ragho Prasad Gupta v. Krishna Poddar*¹¹ that a simple expression of opinion on a non-issue subject cannot serve as res judicata.

Attributes Of RES Judicata

The Doctrine of Res Judicata seeks to establish an equilibrium among the two opposite extremes. One pit ensures an effective judicial system that gives final decisions with precision and avoids the injustice of a respondent being forced to defend identical claim or legal problem many times. From the other perspective, it safeguards the claimant's interest in having problems and claims handled thoroughly and equitably. Section 11 of Civil Procedure Code does not limit the scope of the Res Judicata. Res Judicata is a legal theory that applies to administrative law, constitutional law, and criminal law. It also applies to other pieces of law and acts. Sir Lawrence Jenkins recognised the rule of Res Judicata in the case of *Sheoprasad Singh v. Ramnandan Prasad Singh*¹² as “the rule...while finding on ancient precedent is commanded by a wisdom which is for all time.”

⁹ Hameeda Begum v. Champa Bai, 2009 (3) MPLJ 472 (492) (DB).

¹⁰ Chandrabhai K. Bhoir v. Krishna A. Bhoir, AIR 2009 SC 1674.

¹¹ Ragho Prasad Gupta v. Krishna Poddar, AIR 1969 SC 316, 1969 (17) BLJR 426, 1969 1 SCR 834.

¹² Sheoprasad Singh v. Ramnandan Prasad Singh, (1916) L.R. 43 I.A. 91; I.L.R. 43 C. 694; 31 M.L.J. 77 (P.C.).

The court said in the case of *Daryao vs. the State of UP*¹³ that “*there would be no end to litigation and no security for any individual; the rights of the person are implicated in the endless confusion and tremendous injustice done under the cover of the law.*”

The doctrine of res judicata include claim and issue preclusion. Collateral estoppel is another name for issue preclusion. After a final decision on the merits is rendered in civil action, the parties cannot sue each other again. For example, if an appellant succeeds or fails a lawsuit in case A, he will most likely be unable to challenge the respondent once more in case B relying on the exact grounds and occurrences. Even if the grounds and situational factors were the same in a different court. In contrast, issue preclusion bans the relitigation of legal questions that have previously been decided by the judges as part of another case. In *Gulam Abbas v. State of Uttar Pradesh*¹⁴, the scope of res judicata was determined. The court used the rules as evidence in this case as a plea to an issue that had already been tried in an earlier case. This case was difficult to decide because the judges needed to use res judicata. It was ruled that “*res judicata is not exhaustive, and that even if the topic is not explicitly covered by the section's provisions, it would be deemed a case of res judicata on general principles.*”

The “*last in time*” rule is used when a court does not follow Res Judicata and issues a different decision on the same claim or problem, and if the third court is presented with the same case. It has an impact on the subsequent decision and is irrelevant if the outcome was different the second time. The court must determine how to apply the earlier case and whether to recognise it at all. Normally, it is the role of the parties to the lawsuit to bring the prior case to the judge's notice.

Landmark Cases

- *Devilal Modi vs. Sales Tax Officer*¹⁵: B contested the legality of an order of assessment made in accordance with Article 226. The petition was rejected on merits. The appeal against the order was likewise rejected by the Supreme Court. B once more filed a writ case in the same High Court challenging the same evaluation ruling. The High Court dismissed the petition this time. Accordingly the Apex Court held that the res judicata principle precluded the petition.

¹³ Daryao vs. the State of UP, 1961 AIR 1457, 1962 SCR (1) 574.

¹⁴ Gulam Abbas v. State of Uttar Pradesh, 1981 AIR 2198, 1982 SCR (1)1077.

¹⁵ Devilal Modi vs. Sales Tax Officer, 1965 AIR 1150, 1965 SCR (1) 686.

- *Avtar Singh v. Jagjit Singh*¹⁶: A initiated a civil lawsuit, and B responded with a claim questioning the court's arbitration. The complaint was handed back to the plaintiff for the presentation after the objection was upheld. When A attended the Revenue Court, he was informed that the Revenue Court lacked jurisdiction and returned the petition. A filed a lawsuit in the Civil Court once more. B argued that the res judicata theory precluded the lawsuit.
- *Mathura Prasad v. Dossabai N.B. Jeejeebhoy*¹⁷: According to the ruling, res judicata applies to the parties to the prior case and prevents them from bringing new claims in collateral actions. 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 events 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.

Exception To The Doctrine

The exceptions to the doctrine of Res Judicata are:

- If the decision was acquired via deception or fraud on the court, or if all of the processes were conducted in accordance with a specific legislation.
- Not all of the judgment's findings would be considered final. Res judicata would only apply to issues that were "directly" and "substantially" resolved in the prior lawsuit.
- If the appeal of the judgement and decree of the court below is still pending in the appellate court, the decision made by that court cannot be regarded as final and the conclusions made therein would not serve as res judicata if it had not been made on the basis of merit.
- Whenever the judgement is not a reasoned decision.
- Res judicata is not applicable in cases where the issue has not already been resolved on the merits.
- Criminal cases when the entire procedure was started unlawfully and without jurisdiction are not covered by the Res Judicata concept.

¹⁶ Avtar Singh v. Jagjit Singh, 1979 AIR 1911, 1980 SCR (1) 122.

¹⁷ Mathura Prasad v. Dossabai N.B. Jeejeebhoy, 1971 AIR 2355, 1970 SCR (3) 830.

- It does not apply when a dispute is only a legal one.
- It does not apply in dismissal in limine or dismissal by default situations.

Res judicata does not apply in matters involving income tax or sales tax. In *Instalment Supply Private Limited v. Union of India*¹⁸, the Hon'ble Supreme Court determined that each year's assessment is final for that year and does not apply to succeeding years. Since it only determines the tax for that specific time frame. In the matter of *P. Bandhopadhy and others v. Union of India and others*¹⁹, it was held that the res judicata does not apply in that case since it was a Public Interest Litigation. There is no need to extend the principle of public interest litigation because the major goal of res judicata is to put an end to litigation. The dismissal of a special leave petition in limine is not binding on the parties. A new petition under Article 32 or Article 226 of the Constitution will not be filed.

In *Beliram and Brothers v. Chaudhari Mohammed Afzal*²⁰, it was determined that a minor's claim could not be launched by the minors' guardian. Nevertheless, it was brought in coordination with the defendants, and the order acquired was gained via deception under the Indian Evidence Act of 1872, therefore it will not be considered res judicata. A complaint was filed in the Court in the case of *Talluri Venkata Seshayya vs Thadikonda Kotiswara Rao*²¹ to have certain temples referred to be public temples. A similar complaint was rejected by the Court two years earlier, and the plaintiff maintained that the prior litigation's plaintiffs were negligent, and so the law of res judicata could not be applied. However, the Privy Council stated that the records were withheld, implying that the petitioner in the previous complaint had good faith. It was held that a party to a lawsuit may renounce the res judicata plea in the case of *P.C. Ray and Company Private Limited v. Union of India*²². If a defendant fails to claim the defence of res judicata, it is renounced. The idea of res judicata is procedural, and either party may waive the res judicata plea. The court may dismiss the res judicata question since it was not presented in the pleadings.

¹⁸ Instalment Supply Private Limited v. Union of India, 1962 AIR 53, 1962 SCR (2) 644.

¹⁹ P. Bandhopadhy and others v. Union of India and others, WRIT PETITION NO.2704 of 2005.

²⁰ Beliram and Brothers v. Chaudhari Mohammed Afzal, (1948) 50 BOMLR 674.

²¹ Talluri Venkata Seshayya vs Thadikonda Kotiswara Rao, (1937) 39 BOMLR 317.

²² P.C. Ray and Company Private Limited v. Union of India, AIR 1971 Cal 512.

Difference Between RES Judicata And Res Subjudice

Sections 10 and 11 of the Civil Procedure Code is concerned with Res Sub Judicata and Res Judicata, respectively. The former applies to current legal actions, whereas the latter applies to topics that have already been decided. The doctrine of Res Sub Judice prohibits two parallel cases between the same parties, i.e., it prohibits the trial of an action while the matter in the prior suit is waiting for determination. The Doctrine of Res Judicata, in contrast, prevents a second trial of the same matter involving the similar litigants.

Conclusion

When understanding the doctrine of Res Judicata, it is critical to remember that the primary goal of this principle is to preclude multiplicity of suits, to ensure that the court's resources are not misused or wasted, and to prevent injustice by preventing the recovery of damages twice for the same matter. Perpetual litigation would be detrimental to society as a whole. It might be seen as something that prevents either party from turning back the clock throughout the course of the lawsuit. The Res Judicata Doctrine must be handled with caution. We must recognise that this idea has a broad reach and that its application is always changing and evolving.