A THOROUGH EXPLAINER OF RES JUDICATA

by

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ABSTRACT:

Res Judicata is a maxim which prohibits the relitigation of a suit on the same cause of action as it was originally litigated on. The maxim has its roots in the Roman Legal system only to be given to our legal practice by the British. In this paper, the modalities of the concept of Res Judicata have been thoroughly explained and examined via principles set through case laws.

The most primary aim of this legal procedure is to make the aggrieved party in a suit unable to demand a retrial or relitigation only to absolve their guilt and/or reduce the damages levied to be paid to the other party.

The principle upholds judicial superiority and respects the decisions given by the courts without the overbearing implication of a challenge to the orders given by the Court of Law. Elucidated further are numerous legal cases and theoretical principles which examines and explains the intricacies of Res Judicata.

Introduction

The transliteration of Res Judicata is, "a matter judged." The maxim, which also acts as a Doctrine, is a principle which says that a cause of action may not be relitigated once it has been judged on the merits of the case. [1]

While all competent individuals and persons (legal and artificial) are allowed to bring forth a suit against any other party on firm basis, the Doctrine of Res Judicata hinders the losing party to a particular suit from litigating the winning party on the same grounds and in the same sense once the litigation is finished.

[1] Res Judicata, Cornell Law School, https://www.law.cornell.edu/wex/res_judicata

This Doctrine helps in the complete escape of excesses of litigation by the parties that were aggrieved.

The Doctrine of Res Judicata is explained under **Section 11 of the Civil Procedure Code** (CPC) which reads, "No court shall try any suit or issue in which the matter 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." [2]

The SC of India in **Lal Chand v. Radha Krishan**[3] stated that once the last judgement is given in a suit, the ensuing judges who are confronted with a suit which is identically same as the previous judgement, they would apply the Res Judicata precept 'to save the impact of the main judgment'. In this way, a similar case can't be taken up again either in the equivalent or in the distinctive Court of India. This is simply to keep them from multiplying judgments, so a common offended party may not recuperate harms from the respondent twice for similar damage.[4]

The Concept of Res Judicata

The Doctrine of Res Judicata is also referred to as Claim Preclusion and in this paper, henceforth, the two terms are used interchangeably. There are two broad categories into which Claim Preclusion may be broken down:

1) Bar- This prohibits an aggrieved plaintiff from further litigating a successful defendant on the same grounds of action. Example- Plaintiff sues the Defendant on a cause of action concerning the breach of a contract and the Court has found in favour of the

[2] Latest Laws, CPC Section 11, Res Judicata, https://www.latestlaws.com/amp/bare-acts/central-acts-rules/cpc-section-11-res-judicata-

[3] 1977 SCC (2) 88

[4] Aditya Singla, "Trace the origin of the principles of 'Res-judicata' and 'Res-subjudice'. Explain its importance in view of provisions
of CPC and use caselaw. Draft a consolidated provision to cover both principles."
https://www.researchgate.net/profile/Aditya-Singla-4/publication/340977869_Traceing_the_origin_of_the_principles_of_%27Res-judicata%27_and_%27Res-subjudice%27_Explain_its_importance_in_view_of_provisions_of_CPC_and_use_caselaw/links/5ea82a05a6fdcccf72691920/Traceing-the-origin-of-the-principles-of-Res-judicata-and-Res-subjudice-Explain-its-importance-in-view-of-provisions-of-CPC-and-use-caselaw.pdf?origin=publication_detail

Defendant, then to try for better luck, the Plaintiff can not initiate a new lawsuit against the Defendant on the same suit.

2) Merger- This prohibits, contrary to the above sub-section, a winning Plaintiff may not relitigate an aggrieved defendant on the same cause of action. Example- Plaintiff sues the Defendant on a particular cause of action and the Court finds in favour of Plaintiff, then the latter may not initiate a suit to try to recover more damages.

In the landmark case of **Satyadhan Ghosal v Deorjin Debi**[5] the doctrine of Res Judicata has been elucidated further by Justice Das Gupta:

"The principle of res judicata is based on the need of giving finality to judicial decisions. What it says is that once a res is judicata. It shall not be adjudged again. Preliminary it applies as between past litigation and future litigation. when a matter whether on a question of fact or a question of a decision is final, either because no appeal was taken on higher court or because the appeal was dismissed, or no appeals lies, neither party will lie, neither part will be allowed in future suit bar proceeding between the same parties to canvass the matter again."[6]

Conditions for Application of Res Judicata

1) There must be two suits: The most pertinent prerequisite is for the aggrieved party to have been dissatisfied with the litigation of the former suit and hence felt the need to apply for a subsequent one. A decision given by the court is pertinent for the restriction on the aggrieved party from instituting a new suit.

2) The same cause of action: For it to constitute as a Res Judicata, the matter that has been initiated by the aggrieved party must be on the same grounds and the same cause of action as it was litigated on earlier. Example- If the Plaintiff was found to be guilty of a malicious breach of contract then, once the litigation of the suit is finished, the Plaintiff can not sue to hope for a different result to lesser damages.

[5] 1960 AIR 941
[6] https://indiankanoon.org/doc/655045/

3) The initial suit must be fully heard and decided by a competent authority- The initial suit must have been competently and judiciously heard and decided by the Court of Law without any lacunae in the transmission of justice. The competent Court must give its full and final determination of the suit which becomes automatically a cause to render any subsequent suit of a similar nature invalid under the clauses of Res Judicata. The transference of the hearing of the case may be done via-

- Ex Parte
- Dismissal
- Decree or Award
- By Oath under the relevant sections of the Oath Act, 1873
- By dismissal owing to the Plaintiff failing to produce evidence at the hearing.

Applicability of Res Judicata in Writ Petitions

Writ petitions can be filed in the High Court under Article 226 and in the Supreme Court under Article 32 of the Indian Constitution. In the landmark case of **Daryo Singh v State of UP**[7] the Petitioner had filed a writ petition under Article 226 of the Constitution in the High Court of Allahabad which was dismissed. He decided to pursue the litigation even further and filed another writ petition on the same cause of action under Article 32 of the Constitution in the Supreme Court. However, the Supreme Court took cognisance of the dismissal as given by the High Court and ordered that the Doctrine of Res Judicata shall apply to writ petitions as well. Although, the doctrine shall not apply to the writ of Habeas Corpus.[8]

Applicability of Res Judicata in Public Interest Litigation, Arbitration Awards and Income Tax Proceedings:

[7] 1961 AIR 1457

[8] Yash Kansal, Concept of Res Judicata under the Civil Procedure Code, Ipleaders, 18th June, 2018 https://blog.ipleaders.in/res-judicata-cpc/?amp=1

1. In the landmark judgement of **Rural Litigation & Entitlement Kendra v State of UP**[9] the Court held that the Doctrine of Res Judicata can not be applied in the cases of Public Interest Litigation

2. In the case of **KV George v Secretary of Government**[10] held that the plea of Res Judicata can not be raised in the cases of Arbitrary and rewards.

3. In the case of **BSNL v Union of India**[11] the court held that the decision in matters of tax given in one assessment year does not operate as Res Judicata in the subsequent year with regards to Income Tax Proceedings.

International perspective of the Doctrine

The origin of the Doctrine has its roots in these three maxims from the Roman era that governed and regulated the eligibility, or otherwise, of the parties to initiate a second suit.

1. **Re Judicata pro veritate occipitur-** The decision given by the Court must be the final and binding one.

2. **Nemo debet lis vaxari pro eadem causa-** No person should be "vaxari" or vexed twice for the same cause of action.

3. **Interest republicae ut sit finis litium-** It is in the interest of the Court and the State that there should be an end to the litigation.

Conclusion

[9] 1985 AIR 652
[10] 1990 AIR 53
[11] AIR 2006 SC 1383

In summation, since the Roman times there has been a need to put a restriction on the number of litigations and avoid any scrupulous litigations to ease the already pressurised judiciary from being further burdened by repeat litigators on the same cause of action.

The Doctrine has worked well to not only uphold justice but also to create a clear demarcation between the acceptable and unacceptable litigations by ensuring no winning party is subject to another gruesome trial only because of the aggrieved party's desire to change the outcome and bring it in their favour.

Having its roots deep in the Roman laws, carried on further by the Common Law guidelines, the Doctrine has witnessed several landmark cases- ones dealing with applicability, others dealing with regulation and clearing any vague or unanswered issues.

However, the Doctrine must not be confused with the right and eligibility of any suitor to the party to appeal the case to a higher Court of Law. This Doctrine does not contradict that right instead makes it impossible for the party to ask for a relitigation of the Suit, under the same causes of action in the same Court only to ask for lesser damages or a reversal in the judgement. This Doctrine must be upheld in all cases of a demand for a repeat litigation in order to maintain sanity, clarity and a clear sense of justice by the Court for all parties.