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Concept of Res Judicata

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ABSTRACT

The concept of Res Judicata finds its evolvement from the English Common Law system, being derived from the overriding concept of judicial economy, consistency, and finality. From the common law, it got included in the Code of Civil Procedure and which was later as a whole was adopted by the Indian legal system.

From the Civil Procedure Code, the Administrative Law witnesses its applicability. Then, slowly but steadily the other acts and statutes also started to admit the concept of Res Judicata within its ambit.

I. INTRODUCTION

The doctrine of Res Judicata in nations that have a civil law legal system is much narrower in scope than in common law nations. According to the dictionary meaning, 'Res Judicata' means a case or suit involving a particular issue between two or more parties already decided by a court. Thereafter, if either of the parties approaches the same court for the adjudication of the same issue, the suit will be struck by the law of 'res judicata'.

Section 11 of Code of Civil Procedure deals with this concept. It embodies the doctrine of Res Judicata or the rule of conclusiveness of a judgement, as to the points decided either of fact, or of law, or of fact and law, in every subsequent suit between the same parties. It enacts that once a matter is finally decided by a competent court; no party can be permitted to reopen it in a subsequent litigation. In the absence of such a rule there will be no end to litigation and the parties would be put to constant trouble, harassment and expenses.

The doctrine of Res Judicata is based on three Roman maxims:

(a) Nemo debet lis vaxari pro eadem causa which means that no man should be vexed (annoyed) twice for the same cause;

(b) Interest republicae ut sit finis litium meaning thereby that it is in the interest of the state that there should be an end to a litigation; and

(c) Re judicata pro veritate occipitur which bears the meaning as a judicial decision must be accepted as correct.

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The pre-requisites which are necessary for Res Judicata are:

1) There must be a final judgment;

2) The judgment must be on the merits;

3) The claims must be the same in the first and second suits;

4) The parties in the second action must be the same as those in the first, or have been represented by a party to the prior action.[2]

(A) Definition

Res judicata means, "A thing decided" in Latin. It is common law doctrine meant to bar re-litigation of cases between the same parties to the court. Once a final judgment has handed down in a law suit subsequent judges who are confronted with a suit that is identical to the substantially the same as earlier one will apply res judicata to preserve the effect of the first judgment. This is to prevent injustice to the parties of a case supposedly finished but perhaps mostly to avoid unnecessary waste of resources in the court system. Res-judicata does merely prevent further judgments from contradicting earlier ones but also prevents them from multiplying judgments so a prevailing plaint could not recover damages from the defendant twice for the same injury. Res-judicata includes two related concepts claim preclusion and issue preclusion (also called collateral estoppels) though sometime res-judicata is used more narrowly the mean only claim preclusion. Claim preclusion on barring a suit from being brought again on a legal cause of action that has already been finally decided between the parties. Issue preclusion bars the re-litigation of factual issues that has already been necessarily determined by a judge or jury as a part of an earlier claim. It is often difficult to determine if either of apply to later law suits that are seemingly related because many cause of action can apply to the same factual situation and vice-versa. The scope of an earlier judgment is probably the most difficult question that judges must resolve in applying res-judicata sometimes merely a part of a thing claim being struck of a complaint or a single factual issue being removed from reconsideration in the new trail.

II. NATURE AND SCOPE OF RES JUDICATA

This doctrine is accepted in all civilized or uncivilized legal system. Under the Roman law a defendant could successfully contest a suit filed by a plaintiff on the plea of exception res judicata it was said that one suit and one decision is enough for any single dispute. In the words of Spencer Bower, Res judicata means "a final judicial decision pronounced by a judicial

[2] https://www.scribd.com/document/90627328/Brief-History-and-Origin-of-Res-Judicata

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decision pronounced by a judicial tribunal having competent jurisdiction over the cause or matter in litigation and over the parties there to. The doctrine of Res judicata has been explained in the simplest possible manner by Das Gupta, J. In the case of Satyadhyan Ghosal v. Deorjin Debi[3] in the following words that the court observed that the principle of Res-judicata is based on the need of giving finality to judicial decision. What it says that once a Res judicata, it shall not be adjudged again. Primarily it applies as between passed litigation and further litigation. When a matter whether a question of fact or a question of 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 or in future suit or proceeding between the same parties to confess the matter again.

(A) Object

The doctrine of Res judicata is based on three maxims that is:

a) Nemo debet bis vexari pro une etc eadem cause (no man should be vexed twice for the same cause)

b) Interest reipublicate ut sit finis litium (it is in the interest of state that there should be an end to litigation); and

c) Res judicata pro veritate occipitur (a judicial decision must be accepted as correct)

III. RES JUDICATA: LITERAL MEANING

Res judicata is the plea available in civil proceedings in accordance with section 11 of the Code of Civil Procedure. It is doctrine apply to give finality to 'lis' in original or appellate proceedings. The doctrine in substance means that an issue or appoint decided and attaining finality should not be allowed to be reopened and re-agitated twice over. The literal meaning of Res is everything that may form objects of rights and includes an object, matter or status and res judicata literally means 'a matter adjudged' a thing judicially acted upon or decided; a thing or matter settled by judgement'. Section 11 of Code of Civil Procedure engrants this doctrine with a purpose that a final rendered by a court of Competent jurisdiction on the merits is conclusive as the rights of the parties and their privies and as to them constitutes an absolute bar to a subsequent action involving the same claim demand or cause of action.

IV. EXTENT AND APPLICABILITY OF RES JUDICATA

The Doctrine of res judicata is a fundamental concept based on public policy and private

[3] AIR 1960 SC 941

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interest. It is conceived in the larger public interest which requires that every litigation must come to an end It is therefore applies to all civil suits execution proceedings, arbitration proceedings, taxation matters, industrial adjudication, writ petitions, administrative orders, interim orders, criminal proceedings.

V. CAUSE OF ACTION, ESTOPPEL, ISSUE ESTOPPEL AND RES JUDICATA

The issue has been discussed in Thoday v. Thoday[4] as follows That 'Cause of action estoppel' is that which prevents party to an action from asserting or denying as against the other party the existence of a particular cause of action the existence or non- existence of which has been determined by a court of competent jurisdiction in previous litigation between the same parties. If the cause of action was determined to exist that is judgment was given on it it is said to be merged in the judgment. If it was determined not to exist the unsuccessful plaintiff can no longer assert that it does he is stopped per res judicatum.

VI. MIXED QUESTION OF FACTS AND LAW

It is true in determining the application of the rule of res judicata the court is not concerned with the correctness or otherwise of the earlier judgment. The matter in issue if it is one purely of fact decided in the earlier proceeding by a competent court must in a subsequent litigation between the same parties be regarded as finally decided and cannot be reopened. A mixed question of law and fact determined in the earlier proceeding between the same parties may not for the same reason be questioned in a subsequent proceeding between the same parties. But where the decision is on question of law that is the interpretation of a statute it will be res judicata in a subsequent proceeding between the same parties where the cause of action is the same.

VII. PLEA OF RES JUDICATA CANNOT BE RAISED FOR THE FIRST TIME BEFORE THE SUPREME COURT PREVIOUS JUDGEMENTS STILL RELEVANT

Res judicata is a mixed question of fact and law. Supreme Court did not find the plea of res judicata having been raised in the plaint. Copies of pleadings and issues framed in the earlier suit had not been rendered in evidence and they did not find any issues on res judicata having framed and tried between the parties in the present suit. No submission raising the plea of res judicata was made before any of the courts below or the High court. Therefore such a plea cannot be permitted to be raised before Supreme Court for the first time and that also at the hearing. However still it cannot be lost sight of that the earlier litigation was between the same

[4] 1964(1) All. ER 341

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parties wherein this very will was relied on by this very plaintiff in support of his title to the property in dispute therein. The plaintiff's right to sue based on this very will was claimed and asserted in the earlier suit. Thus, away from res judicata the judgment given in the earlier suit is relevant piece of evidence under sections 11 and 3 of the Indian Evidence Act 1872 and has a material bearing on the controversy arising for decision in the present suit. A relevant and material peace of documentary evidence of in doubted veracity it ignored and that is a serious error of law having a vitiating effect on the finding on most vital issue in the case.

VIII. NON-FRAMING OF THE PARTICULAR ISSUE

If the parties went to the trail knowing fully as well the real issues involved and adduced evidence in such a case without establishing prejudice it would not be open to a party to raise the question of non-framing of particular issue.

Plea of res judicata is not available where there is no contest on an issue between the parties and there is no conscious adjudication of an issue.

IX. RES JUDICATA AND RULE OF LAW

The doctrine of res judicata is of universal application. In the historic decision of Daryao v. State of U.P.[5] the Supreme Court has placed the doctrine of res judicata on a still broader foundation. In that case, the petitioner had failed writ petition in the High Court of Allahabad under Article 226 of the constitution of India and they were dismissed. Thereafter they filed substantive petitions in Supreme Court under Article 32 of the constitution for the same relief and on the same grounds. The respondent raised a preliminary objection regarding maintainability of the petition by contending that the prior decision of the High Court would operate as Res judicata to a petition under Article 32. The Supreme Court upheld the contention and dismissed the petitions.

X. RES JUDICATA AND RES SUB JUDICE

The rule of Res judicata is readily distinguished from the rule in section 10 for the latter relates to res sub judice that is a matter which is pending judicial inquiry while the rule in the present section relates to Res judicata that is a matter adjudicate upon, or a matter in which the judgment has been pronounced. Section-10 bars the trail of a suit in which the matter directly and substantially in issue is pending adjudicate in a previous suit.

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[5] AIR 1961 SC 1457

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