

# LEGALFOXES LAW TIMES

## ANALYSIS OF DOCTRINE OF RES JUDICATA

By Arnav Ghai and Puneet Maharshi

### **INTRODUCTION:**

Res Judicata is one of the many legal concepts that prevail in the law of the whole world, which has evolved over the years from the English common law system and is adopted in the Indian legal system under s.11 Code of Civil Procedure,1908. It is a concept which ensures that the law cannot be used to unnecessarily drag someone to the court as under the doctrine of res judicata a person cannot file more than one case with the same parties and the same facts, like say for eg. 'A' sued 'B' for breach of contract in the Punjab and Haryana high court, then 'A' cannot sue 'B' for the same offence in the high court of Karnataka.

The need for such a doctrine in a vast legal system as that of India's or any other legal system is so extreme that it cannot even be explained, this is because the whole idea of having a legal system is to maintain peace and tranquility in the society and give people a sense of security at the same time as in to give people the belief that if something wrong happens to them then there is the law to safeguard their rights, the doctrine of res judicata does the same as it prevents people from getting sued unnecessarily and frivolously.

The concept of constructive res judicata also known as artifical form of res judicata is not different from res judicata and is in a way a addition to the latter as this concept says that if a party to the case has taken a plea against the other then the same party won't be allowed to take a plea against the other in the following proceeding in regard to the same matter. Although the idea on which constructive res judicata is based is different from that of res judicata as it would mean hardships and harassment for the defendant.

**Relevance of Res Judicata:**

This concept has been a deciding point in many cases and the importance of it can only be understood by way of case laws as this concept provides a more practical application in real life cases and not just the philosophy in law, as in the case of *State of Uttar Pradesh v. Nawab Hussain*<sup>1</sup> there was a officer who was suspended from the post of deputy inspector general of police and the same person filed a writ in high court with an objective to challenge the suspension. He claimed to not be given a fair chance to explain himself and be heard, later this argument was turned down by the court and the appeal was dismissed then he filed another plea claiming it to be something else but the objective of the plea was same and was relevant to the same facts in the plea filed earlier and the argument raised was that he was appointed by the I.G.P. so there was no right to suspend him, this case went to the supreme court and it held that this case was barred by constructive res judicata as the argument raised in the second plea could have also been raised earlier and it wasn't something new but nothing more than twisting of facts to make the plea heard again on which the court has already ruled.

**Pre – Requisites of Res- Judicata-**

There are largely four pre requisites for res judicata, which are:

- 1) There should be a final judgement in the case.
- 2) The claims raised in the first and the second appeal must be the same.
- 3) The parties involved in the second appeal must be the same as those in the first one.

---

<sup>1</sup> 1977 AIR 1680

These pre requisites are crucial to the understanding of res judicata as it is a concept which can be misunderstood, as in there is a vast possibility of one thinking that res judicata will apply to a case, whereas in reality it would not.

The principle of res judicata has evolved over the years and many judges have had many interesting takes on the doctrine, like hon'ble justice Das Gupta said in the case of *Satyadhan Ghoshal v. Deoranjan Deb*<sup>2</sup> that the doctrine of res judicata is largely based in giving finality to the judgement judicial decisions.

To sum up, the main objective of res judicata is to ensure that nobody gets sued in the court of law again and again for the same thing on which either the case is decided or the hearing is going on, this concept averts the situations where a person is needlessly sued for the same offence by filing multiple suits and it also reduces the burden which is on the court as it helps dismiss cases at first which are filed for a previously judged case or in relation to any other case.

#### Scope of Res Judicata



The scope of Res Judicata has been decided in the case law of *Gulam Abbas vs State of U.P*<sup>3</sup>, in this factual scenario, the court made the rules as evidence as a plea of an issue already tried in an earlier case. The one thing that judges find it difficult while applying the principles of Res Judicata would be the scope of an earlier judgement. Sometimes it maybe the case of a part of lawsuit being affected , such as for instance a single claim being removed from complaint, or a single issue removed from the facts in a newer trial. The principles of Res Judicata are known to have a wider application than just the section 11 of the CPC, even a matter which maybe held to be covered under agriculture relief act for that matter might be covered under the principles of Res Judicata , as even though the matter may not be under the purview of the sections of Res Judicata , but still might be under it. In the case law of *Satyadhan Ghosal vs*

<sup>2</sup>1960 AIR 941

<sup>3</sup>1981 AIR 2198

*Smt. DeorajinDebi*<sup>4</sup>, wherein it was held that the principle of Res Judicata was applicable in the same suit at different stages based on the findings of this case.

### Can Res Judicata be Waived

In the case law of *P.C Ray and Company Private Limited vs Union of India*<sup>5</sup>, it was decided that the doctrine of Res Judicata can be waived by a party to a particular proceeding. If in a particular factual scenario , the plaintiff or defendant does not raise the doctrine of res judicata. For defense , it will be waived. The res judicata as a principle belongs to both the parties of a case , they have the right to exercise it any time they want. While as the court , might decline the use of res judicata , just on the basis that it was not properly raised when the court proceedings were happening.

### How Res Judicata can be Defeated

For the doctrine of Res judicata to apply to a particular case , it is very necessary that the conditions , that are essential for the doctrine should be met such as the suit which is followed or being succeeded should be on the similar cause of action as the original suit. When a party decides to file suit , on reasonable grounds for the matter of Public interest litigation , it can be seen as the defeat of the doctrine as the same cannot be extended. As there is no Mala fide intention behind filing of the PIL.

### Res Judicata as concept under Administrative Law

Administrative law , is a form of regulatory law that can be seen dealing with structure , power , function of the bodies of the administration . It derives power to make or amend rules from the government itself . It can be applied to all the government related bodies such as public offices and agencies, it is also recognized as a public law branch. The basic principle on which the administrative law functions is that no person can be deprived of his or her right to be heard in a particular case , he or she cannot be the judge in their own case. Res judicata is like a working principle and comes under the purview of administrative law.

<sup>4</sup>1960 AIR 941

<sup>5</sup>AIR 1971 Cal 512

### Criticism to Res Judicata

Res Judicata as a doctrine can be applied to the legal judgement, that are believed to be contrary to the law in general, can be used repeatedly for longer time period and this has an effect on judgement , when another trial for the same suit happens. Res judicata as a doctrine has an effect on the efficient working of the legal system for instance , a particular case is set aside by the court of law, on some specific grounds but after that if the principle of technical res judicata applies to it , it will not be justifiable at all. The principle of res judicata provides for the problem of overlapping of the judgement or cases, as there is less chance left to litigate or actually solve the issues at hand.

### Some Important Cases of Res Judicata in India

*Daryao vs State of Uttar Pradesh*<sup>6</sup>–

In the particular factual scenario it was held that doctrine of res judicata is a universal principle , the supreme court valued the doctrine and gave it the recognition by placing it on a higher pedestal. In the particular case it was seen that the petitioner filed suit under article 226 of the constitution , suit was dismissed, then again the petitioners appealed as regarding article 32 of the constitution , it was a kind of objection that the doctrine of res judicata would apply in the given situation by taking the earlier case of high court as precedent , it was again dismissed by the supreme court. The court in this particular case gave the ruling that the doctrine of res judicata when a petition is filed as regarding the article 32 of the constitution.

*Devilal Modi vs Sales Tax Officer*<sup>7</sup>

in another important case of the doctrine of res judicata, the validity of an order, was challenged as per article 226 of the constitution. The request was dismissed on the basis of

---

<sup>6</sup>1961 AIR 1457

<sup>7</sup>1965 AIR 1150

merits. The supreme court rejected the plea on similar arguments. Another petition was filed under the high court and was rejected again . the supreme court then ruled out that the petition is barred of doctrine of res judicata.

### *Avtar singh vs Jagjitsingh<sup>8</sup>*

In this particular factual scenario , a civil suit was filed in the court of law , where there was a problem arising as related to arbitration of the court. The problem raised was accepted and the complaint was returned to the plaintiff for the purpose of presentation. When the revenue court was approached it did not have the adequate jurisdiction on the matter. After that a civil suit for the same matter , but it was decided ultimately that it being barred by the doctrine of Res Judicata.

### **Section 11 and Constructive Res Judicata-**

It is in the benefit of justice that a party to a suit must bring forward all aspects of its case in regards of the matter in the suit. The matter, both, substantially and directly in question may be in issue either actually or constructively. Both of these matters constitute to res judicata if only the same were an issue in the first suit and the same is also an issue in the consequent or subsequent suit. Therefore, if there was a matter which might have been highlighted or raised in front of the court, by the plaintiff, in the first suit but is not raised by plaintiff there he/she shall be prohibited from raising the similar question in the consequent or the subsequent suit amongst the same parties.

### Section 11 of the Code of Civil Procedure

***"Res judicata-*** 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

---

<sup>8</sup>1979 AIR 1911

*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.”<sup>9</sup>*

Explanation IV to Section 11 of the Code of Civil Procedure is the one where the idea and concept of Constructive Res Judicata is discussed as well as elaborated.

*“Explanation IV.-Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.”<sup>10</sup>*

Explanation IV to Section 11, essentially talks about the point or matter which would have or could have been a ground of either defence or attack and might have been brought in the sight of the court in the prior suit, that particular point or matter cannot be brought up in front of the court in any subsequent suit.

#### **Relevant Case Laws-**

The Supreme Court of India in the case of *Forward Construction Co. & Ors. v. Prabhat Mandal, Andheri & Ors.*<sup>11</sup>, explained and explored the room of possibilities in the doctrine of Constructive Res Judicata as envisioned in Explanation IV to the Section 11 of Code of Civil Procedure, 1908 and overturned the verdict of the Honourable High Court and was of the opinion that there was an absence of the impugned ground in the prior petition and because of it the doctrine of Constructive Res Judicata shall not apply. The Apex Court also took the liberty to point out the judgement given by the High Court shall not operate because of its conspicuous application of Res Judicata. The Supreme Court essentially held that the ‘Explanation IV’ to Section 11 of the Code of Civil Procedure, 1908 offers that any matter which might have been a ground for defence or attack in the former suit is intended to be deemed to have stood as a matter substantially and directly as an issue in subsequent suit. A decision is decisive and final not solely as to actual point or matter determined but also to every additional matter which the parties ought to or might have contested and have had it adjudicated as subsidiary to or

<sup>9</sup>Code of Civil Procedure, 1908

<sup>10</sup>Ibid

<sup>11</sup>AIR 1986 SC 391

fundamentally connected with the primary subject or question of the litigation and every other matter coming inside the periphery of the genuine purview of the main action both in regard of the matters of defence or claim. The principle fundamental to Explanation IV is that 'where the parties to the suit, have had a chance or an opportunity of contradicting and challenging a matter that must be taken to be the similar thing as if the original matter had been actually refuted and decided.

In the case of *State of U.P. V. Nawab Hussain*<sup>12</sup>, a sub-inspector of police force was dismissed and fired from his service by the Deputy Inspector General of Police. The fired sub-inspector contested the order of dismissal of himself. He filed a writ petition in the Honourable High court of Uttar Pradesh, on the fundamental ground that he was not awarded a reasonable chance of being perceived and heard before the passing the order of his dismissal. The argument was, nevertheless, negated and the petition was dismissed in the High Court. He, after that, filed a suit in the Appellate Court against the impugned dismissal order and further raised an additional argument that because he was appointed by the Inspector General of Police, the Deputy Inspector General had no authority to dismiss him from his post. The state in reply contended that the suit filed is inadmissible as it is barred by the fundamental principle of Constructive Res Judicata. The trial court as well as the appellate court and the Honourable High Court gave the decision in the favour of the dismissed officer and stated that the suit filed by the officer was not barred, but the Supreme Court of India was of the opinion that since the argument relating to his appointment was within the knowledge of the dismissed sub inspector and it could have been contested in the first writ petition. Therefore the suit is barred by the doctrine of Constructive Res Judicata.

### **Conclusion-**

The fundamental principle of the doctrine of Constructive Res Judicata could be understood as a radical idea that checks and limits either parties to the suit, to "move the clock back" throughout the pendency of the court proceedings. The scope of Constructive res judicata is open wide and with a lot to explore and it includes Public Interest Litigations(PIL) as well. This

---

<sup>12</sup>AIR 1977 SC 1680

doctrine is also functional outside of the Civil Procedural Code. The scope and its implications have expanded and amplified with time and the Supreme Court has stretched out the range with its rulings

