



- **Res Judicata** is a phrase which has been evolved from latin maxim , which stand for ‘**the thing has been judged**’ meaning there by that the issue before the court has already been decided by another court, between the same parties. Therefore , the court will dismiss the case before it as being useless.
- **Definition :-** Res Judicata means a matter finally decided on its merits by a court having competent jurisdiction and not subject to litigation again between the same parties.
- **According to Sec. 11 of C.P.C. , 1908 :-** The doctrine of the Res Judicata means the matter is already judged. It means that no court will have the power to try any fresh suit or issues which has been already settled in the former suit between the same parties.

The doctrine of Res Judicata (Sec. 11, CPC) i.e. the rule of conclusiveness of a judgment is based on the three maxims.

- 1- No man should be vexed twice for the same cause.
 - 2- It is in the interest of state that there should be an end to a litigation.
 - 3- A judicial decision must be accepted as correct.
- The Principle of Res Judicata is founded on the ancient Indian Principle of Pragnyaya (Previous Judgment)
 - **Daryao Vs. State of Uttar Pradesh AIR 1961 SC :-** In this case court held that Res Judicata is based on the consideration of Public Policy.
- Conditions for applicability of the doctrine of Res Judicata (Sec 11)**
- 1- The matter must be directly and substantially in issue in two suits.
 - 2- The prior suit must have been between the same parties or persons claiming under them.
 - 3- Such parties must have litigated under the same title in the former suit.
 - 4- The court which determined the earlier suit must be competent to try the latter suit (Subject to be provisions contained in Explanation VIII)
 - 5- The question directly and substantially in issue in the subsequent suit should have been heard and finally decided in the earlier suit.
- Question of Res Judicata mixed question of Law or Fact.

Explanation of Sec. 11



<p>1. Former Suit</p> <p align="center">↓</p> <p>Which has been divided formerly although it was not instituted formerly</p>	<p>2. Competency of Court</p>	<p>3. On Merit</p> <p align="center"> </p> <p>Accepted Denied</p>	<p>4. Constructive Res Judicata</p>	<p>5. If no relief has been granted and court is silent on that point it shall be considered as it has been rejected or denied by such courts</p> <p align="center">↓</p> <p>(If judge is silent)</p>	<p>6. Representative Suit</p>	<p>7. Res Judicata shall also apply to execution proceeding</p>	<p>8. The supreme court shall also be bound by the principle of Res Judicata in respect of matter or issue which has been finally determine by competent court having the limited Jurisdiction.</p>
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➤ **Constructive res judicata (Explanation IV to Sec 11)**

“ Any matter which might and out to have been made ground on defense of attack in a former suit shall be deemed to have been a matter directly and substantially in issue in such suit”

(Fatah singh vs. Jagan nath AIR 1925)

Explanation VII to Sec. 11 :- Res – judicata shall also apply to execution proceeding.

(Ram Kripal Vs. Roop Kumari Allahabad High Court)

It specifically provides that the provisions that the provisions of Section 11 Civil directly apply to execution proceedings also.

Kalipada Vs. Dwajipada

Sec. 11 is inclusive not exclusive court may include a new ground for res-judicata by using its internet power. (Sec. 151)

Sulochna Amma Vs. Narayanan Ayyar Air 1994 SC

Any judgement made by an incompetent court is not barred by the principle of res-judicata.

Manohar Lal Chopra Vs. Saeth Hera Lal Air 1962 SC

Sec. 11 is not mandatory.

➤ **Res Judicata between co-defendants :-** An adjudication with operate as Res Judicata between co-defendants if the following conditions are satisfied.

- 1- There must be a conflict of interest between co-defendants.
- 2- It must be necessary to decide that conflict in order to give relief to the plaintiff.
- 3- The question between co-defendants must have been finally decided; and
- 4- The co- defendants were necessary or proper party in the former suit. (**Vide – Munni Bibi Vs. Triloki Nath , AIR 1931 PC**)

➤ **Difference between Res Sub Judice and Res Judicata**

S.No.	Res Sub Judice	Res Judicata
1	Sec. 10 of CPC (Stay of suit)	Sec. 11 of CPC
2	No court shall proceed	No court shall try
3	Where two or more suits are under proceedings, no one has been disposed off	Previous suit or issue has been decided
4	Both suits are pending in the same court or different courts within India.	In the same court or different court.
5	All the courts must be of competent jurisdiction to determine both the suit previous court must be competemnt to determine the latter suit	Previous court must be of competent jurisdiction
6	Between the same parties or under the same title	Between the same parties under the same title or between their legal representative claimed under the same title.
7	On the same cause of action or issue	On the same cause of action or same issue
8	Res Sub Judice applies to a matter pending trial (Sub – Judice)	Whereas Res Judicata applies to a matter adjudicated upon (res judicatum)

Difference between Res Judicata and Estoppel

S.No.	Res Judicata	Estoppel
1	Sec. 11 of CPC 1908	Sec.115 of Evidence Act , 1872
2	Result of decision of a court	It follows from the act of the parties
3	Res Judicata bars multiplicity of suits	Estoppel Prevents the multiplicity of representations
4	It's based on public policy	It proceeds upon the doctrine of equity
5	It prohibits a man averring the same thing twice in successive litigations	It prevents from saying one thing at one time and the opposite at another.
6	It binds both the parties to a litigation	It binds only that party who made the previous statement or showed the previous conduct.

Conclusion:- hence, we can conclude “Res Judicata means a final judicial decision pronounced by a judicial tribunal having competent jurisdiction over the parties thereto.”

It enacts that once a matter is finally decided by a competent court, no party can be permitted to re-open it in a subsequent litigation.

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