



DOCTRINE OF RES JUDICATA AND MAINTAINABILITY OF SUITS – A STUDY

Law

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ABSTRACT

Doctrine of 'Res Judicata' is a well established doctrine in civil law as well as common law countries which states that any case which is finally decided by a competent court is not subject to further appeals. Therefore, this doctrine is often invoked during court proceedings for rejection of a claim. Supreme Court in a recent case has referred to acceptance of such claims under this doctrine for rejection of claims and has laid down various guidelines regarding the same. Moreover, in the case of V. Rajeshwari the court has laid down that the doctrine does not determine the jurisdiction of court but merely addresses the public policy of finality of decisions and avoidance of vexing a person more than once. The court in another case has further stated that order VII Rule 11(d) of the Civil Procedure Code, 1908 has limited application. Moreover, High Courts have ruled that a claim under Order 7 Rule 11 (d) would not undergo rejection for the reason that it is barred by limitation, which has been upheld by Supreme Court in various cases. The aim of this paper is to study the doctrine of Res Judicata through various rulings of Supreme Court and High Courts and to draw conclusions as to how this doctrine is applied in cases.

KEYWORDS

Res Judicata, Civil Procedure Code, 1908.

INTRODUCTION

There have been instances of the Doctrine of Resjudicata¹ being invoked by the parties to claim that the suit when filed must be rejected. Such a claim and its acceptance as a ground of rejection of a claim have been discussed in a recent case² decided by the Supreme Court. In deciding the issue, the Supreme Court referred to several cases bearing on the issue. It is of interest to study the principles laid down in several cases to understand the claim made by the parties and its acceptability.

In V.Rajeshwari's case,³ the Supreme Court stated held as follows:-

- i) The rule of resjudicata does not strike at the root of the jurisdiction of the court trying the subsequent suit;
- ii) It is a rule of estoppel by Judgment based on the public policy that there should be a finality to litigation and no one should be vexed twice for the same cause;
- iii) The plea of Resjudicata is founded on certain facts and then applying the law to the facts so found;
- iv) It is necessary that the foundation for the plea must be laid in the pleadings and then an issue must be framed and tried. A plea not properly raised in the pleadings or in issues at the trial, would not be permitted to be raised for the first time at the stage of appeal⁴;
- v) Not only the plea has to be taken, it has to be substantiated by producing the copies of the pleadings, issues and the Judgment in the previous case;
- vi) May be, in a given case, only copy of Judgment in previous suit is filed in proof of plea of resjudicata and the Judgment contains exhaustive or in requisite details the statement of pleadings and the issues which may be taken as enough proof;
- vii) The basic question to decide the issue of resjudicata is first to determine the case of the parties as put forward in their respective pleadings of their previous suit and then to find out as to what had been decided by the Judgment which operates as 'Res Judicata'⁵.

In the case of Kamala & others,⁶ while dealing with order VII Rule 11(d) of the Civil Procedure Code, the Supreme Court stated as follows:-

- Order 7 Rule 11(d) has limited application;
- It must be shown that the suit is barred under any law, and such a conclusion must be drawn from the averment made in the plaint;
- Different Clauses 2 Order 7 Rule 11 should be mixed up;
- Whereas in a given case, an application for rejection of the plaint may be filed on more than one ground specified in various suit clauses thereof, a clear finding to that effect must be arrived at;
- What would be relevant in invoking Cl (d) of Order 7 Rule 11 of the code are the averments made in the plaint. For that purpose there cannot be any addition or subtraction;
- Absence of jurisdiction on the part of a court can be invoked at different stages and under different provisions of the code⁷ such as one referred to order 14 Rule 2;
- For the purpose of invoking Order 7 Rule 11 (d) of the code, no amount of evidence can be looked into. The issue on merit of the matter which may arise between the parties would not be within

the realm of the court at that stage. All issues shall not be the subject-matter of an order under the said provision;

- The principles of resjudicata, when attracted, would bar another suit in view of Sec 12 of the code;⁸
- The question involving a mixed question of law and fact which may require not only examination of the plaint but also other evidence and the order passed in the earlier suit may be taken up either as a preliminary issue or at the final hearing, but the said question cannot be determined at that stage;
- It is one thing to say that the averments made in the plaint on their face discloses no cause of action, but it is another thing to say that although the same discloses a cause of action, the same is barred;
- The jurisdiction of the court is barred by any law would convey the meaning that the subject-matter thereof, the application for rejection of the plaint should be entertained.

Various High Courts had interpreted that a plaint under Order 7 Rule 11 (d) cannot be rejected on the ground that it is barred by limitation, i.e., "to be barred by a provision of law".⁹ This view was upheld in Popat and Kotecha Property case,¹⁰ by the apex court. This leads to the finding that a suit cannot be dismissed as barred by limitation without proper pleadings, framing of issue on limitation and taking evidence, for a question of limitation is a mixed question of fact and law and on ex-facie reading of the plaint, it could not be held that the suit was barred by time".

CONCLUSION

In conclusion, it may be summoned up thus:-

- The applicability of 'Res Judicata' cannot be decided by mere reading of the plaint;
- Suit being barred can be decided only from the pleadings, issue framed and tried unless a copy of previous Judgment contains exhaustive or the requisite details, the statement and the pleadings and issues;
- Pleadings in the previous suit should be examined to find out as to what had been decided by the Judgment which operates as 'Res Judicata';
- A plea of res judicata should be raised at the earliest stage at the trial court and not at the appellate stage;
- All the essential requirement under the code of Civil Procedure Code for attracting the doctrine of Res Judicata should be fulfilled (Order 7, Rule 11, Sec 11);
- Improper application of the doctrine of Res Judicata may result in injustice to a party, when his suit is dismissed contrary to law or in breach of law;
- A mere plea of Res Judicata is founded on certain facts and applying the law to the facts so found;
- A plea of Res Judicata lies in the foundation of pleadings, issues being framed and tried. Unless this is done, the party affected will not be able to show that the doctrine of estoppel is not attracted in the present case.
- Such denial may violate the principles of natural justice as well;

- In cases of mixed questions of law and fact, a mere reading of a plaintiff is not sufficient, as in other cases to determine that it is barred under the doctrine of Res Judicata.

REFERENCES

1. See for details order 7, Rule 11 of Sec 11 of the Civil Procedure Code 1908.
2. Vaish Aggarwal Panchayat Vs. Inder Kumar & Others AIR 2015 SC P.3357.
3. V.Rajeshwari Vs. T.C. Sarvanabava (2004)1 SCC P.551.
4. Jagdish Chandra Deo Dhaval Deb's case AIR 1936 PC 258. See also Medapati Surayya Vs. Tondapu Bala Gangadhara Ramakrishna Reddi AIR 1948 PC 3; Katragadda China Anjaneyulu Vs. Katragadda China Ramayya AIR 1965 AP 177.
5. Syed Mohd. Salie Labhai Vs. Mohd. Hanifa AIR 1976 SC P.1569.
6. AIR 2008 SC P.3174.
7. The expression 'code' refers to the code of Civil Procedure Code throughout this study.
8. For details see Sec 12 of the code.
9. Mohan Lal Sukadia University Vs. Priya Soloman AIR 1999 Raj P.102; Khaja Quthubullah Vs. Govt., of A.P. AIR 1995 A.P. P.43; Vedapalli Suryanarayana Vs. Poojarla Venkata Sanker (1980)1 An LT 488 and Arjan Singh Vs. Union of India AIR 1987 Delhi P.165
10. (2005) 7 SCC P.510.