
DOCTRINE OF RES SUB JUDICE, RES JUDICATA: FINDING A BALANCE BETWEEN JUDICIAL ECONOMY AND REACHING JUSTICE

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ABSTRACT

Res Judicata and Res Sub Judice are the foundations of the civil procedure of India, being struck between economical and administering off justice in a fair manner. The concept of Res Judicata, which was written under Section 11 of Code of Civil Procedure in 1908, is the concept on which the same is written on the principle that once a good court has decided on the same issue between the same persons in the same cause, it cannot be re-opened. It gives certainty to litigation process, avoids duplication of actions and protects judiciary resources against vexatious or habitual suits. On the other hand, Res Sub Judice, which is put in place in Section 10 of CPC, prohibits judgment of a court of a case where the same issue with similar parties is in existence. This doctrine guarantees the efficiency of the systems, avoidance of conflicting decisions and judicial uniformity. These combined set of doctrines keeps the integrity of the judicial process intact and decrease unnecessary litigation and work load. But when enforced literally, without judicial discretion, it may at times create a barrier of access to justice or postpone effective remedies. Therefore, the two doctrines should be employed with a sense of touch, which will help to foster efficiency and still uphold the key principle of fair adjudication. Proper application of them indicates the way the judiciary balances the procedural discipline and the substantive one.¹

¹ Difference Between Res Judicata and Res Sub Judice| CPC, Pahujalawacademy, <https://www.pahujalawacademy.com/difference-between-res-judicata-and-res-sub-judice>

INTRODUCTION

The Res Judicata and the Res Sub Judice are critical to the Indian civil justice in a way that guarantees justice and efficiency. Res Judicata or a repute matter is a matter which is already adjudged by a court and no matter can be re litigated on the matter. This avoids litigation that is eternal, it also saves money spent on courts and also boosts faith to the finality of the court decisions. Their attempts of solving conflicts definitively ensure that parties move on instead of actually cycle claims. Conversely, the doctrine of Res Sub Judice, i.e. under judgment, does not permit simultaneous litigation over the same issue between a pair of parties when a case is already governed over by another literary court. It is also an interlocutory stay, which helps to avoid conflicting decisions and makes judicial results uniform. Collectively, these tenets indicate a judicial prudence in creating a realisation of a balanced approach by achieving procedural economy and fair justice. Nevertheless, strictness would cause stalling of justice or denying litigants to have a fair hearing in extraordinary instances. Thus, animal discretion is necessary to promote justice and also to regulate judicial workload. By knowing these doctrines, one can see that they have a dual purpose to protect the judicial efficiency as well as to have possible limitations to substantive fairness.

OBJECTIVES OF STUDY

- To critically examine the conceptual frameworks and law grounds of Res Sub Judice and Res Judicata as upheld in the Indian Code of Civil Procedure, 1908.
- To explore the role of these doctrines in ensuring the protection of judicial economy in multiplicity of litigation, judgments that contradict and the saving of judicial resources.
- To assess the importance of these doctrines in achieving finality and constancy in both judicial decisions, and to increase confidence of people in the legal system.
- To determine the possible constraints and issues with the strict enforcement of these doctrines, especially in as far as it affects the access to justice and prompt redress to litigants.
- To examine how the balance courts are balancing between procedural efficiency and substantive delivery of justice in the exercise of the Res Sub Judice and Res Judicata.

- To give suggestions on how these doctrines can be used effectively and fairly, it is important to make sure that they are used as instruments of justice and not a setback.

RESEARCH PROBLEM

the issue of interest in the research in relation to the principle of res sub judice and res judicata in the Indian legal system is their two-sidedness as used to call the levels of judicial expediency and the challenges to substantial justice. As much as these doctrines represent a measure to curtail multiplicity of proceedings, judicial economy, and finality, their strict usage may lead to wrongful denials and prolonged dispensations to dispense justice. The major ruling question is whether to weigh the efficiency such doctrines can bring against the fundamental property right of the litigants to get justice. It has been criticized that this can reduce justice to its being denied due to technical reasons as opposed to justice being denied based on merits. These may complicate even more when it is about multiple causes of actions, or cross-jurisdictional or emergent facts which may change the course of justice. Moreover, such doctrines can easily be abused by individuals who want to take advantage of them to give them strategic benefits, thus extending the lawsuits unnecessarily. The growing number of trans-border and cross-jurisdictional cases also leads to the complicated question of the consistent application of these doctrines and the right to remedies. In that way, the research problem is highly critical to consider the premise of whether the Res Judicata and Res Sub Judice enable judicial efficiency or is a hindrance to justice especially the aggrieved or marginalized litigants in need of a speedy solution. It attempts to look at the ways in which these doctrines can be best structured to ensure efficiency and equity in the Indian judicial system.

RESEARCH QUESTIONS

1. What role do the principles of Res Sub Judice and Res Judicata as provided in Sections 10 and 11 of the Code of Civil Procedure (CPC), respectively play in protecting judicial economy in India?
2. What degree do these doctrines bar multiplicity of litigation and conflicting decisions of courts of concurrent jurisdiction?
3. What are the difficulties and constraints of the application of Res Sub Judice and Res Judicata to the strictness in providing access to timely and substantive justice to

litigants?

4. What have been the interpretations and balances of these doctrines and how have the Indian courts applied them when trying various civil cases with the principles of judicial efficiency and fairness? 5. How can the doctrines be improved or revamped to alleviate the possible obstacle to justice without undermining judicial economy?
5. How do the doctrines of Res Sub Judice and Res Judicata, as codified under Sections 10 and 11 of the Code of Civil Procedure (CPC), respectively, contribute to safeguarding judicial economy in India?

HYPOTHESIS

This paper recommends that the use of the doctrine of Res Sub Judice and Res Judicata is very imperative in the handling of the massive cases in Indian courts through judicial economy and preventing redundancy of the court cases. The purpose of such principles is that, possessing a subject in consideration, or one which has been decided upon at last, the parties who are litigants are not provided the opportunity to make actions parallel or repetitive. However, this paper also concludes that a fixed and rigid application of these principles may place automatic restraint on the access of the litigants to the justice. In one case, the right of parties who are entitled to obtain the benefit of the timely relief may be denied the possibility to obtain the right to receive it on the grounds that their claims are unfairly disposed of due to a procedural bar as opposed to unfair grounds. In addition, in many instances, courts are faced with the dilemma of not only ensuring efficiency in the process of the procedures but also the right to a fair trial. The hypothesis proposes that judicial flexibility and meanings of such contexts is needed to prevent the propensity of these doctrines to be an instrument of impediment of justice. Also, legislative clarity monitoring and potential reform may assist in taking further their application in such a manner that these doctrines may serve to safeguard the judicial means and at the same time they may be utilized to guard the rights of the litigants.

RESEARCH METHODOLOGY

The research will apply doctrinal legal research approach which is believed to be suitable in the examination of legal doctrines, statutes as well as judicial precedents particularly in the case of Res Sub Judique and Res Judicata regarding the Indian Code of Civil Procedure, 1908.

Such approach involves critical evaluation and critical study of the major sources of law such as legal statutes, judicial precedents and regulations and supported by secondary sources such as scholarly articles, law journals and official commentaries. The investigation begins with the definition of the research problem and the systematic collection of the relevant legal materials that include Sections 10 and 11 CPC, leading judicial decisions, and scientific publications. The materials received are scrutinized keenly in as far as their relevancy, authority and reliability are concerned. The instances of inconsistencies in the decision making of judges, statutory interpretation, assessment of implications on the litigants and the courts of these doctrines are discussed. The paper also critically reviews scholarly arguments as well as incorporating comparative views that puts the Indian approach in a broader legal context. Besides, real complications and the latest judicial tendencies are determined on the basis of the empirical findings in the secondary literature. In this methodological view of the systematic and procedural approach is where the study will seek to provide the complete balanced narration of the doctrines of Res Sub Judice and Res Judicata in the legal field adding both theoretical and practical merit to both the law scholars, practitioners and policy makers as well.

LITERATURE REVIEW

The Res Judicata and Res Sub Judice are the doctrines upon which the Indian civil justice primarily operates, which are based on maximizing the judicial efficiency and finalizing the litigation procedures. Section 11 of the Code of Civil Procedure (CPC) 1908 res Judicata, is used to prevent issues previously determined between a particular pair of parties. Based on the Latin maxim *res judicata pro veritate accipitur*, it requires that a decision of a court be accepted as final, does not forcing parties to undergo several lawsuits. *Satyadhyan Ghosal v. the Supreme Court of India*. Deorajin Debi confirmed that Res Judicata encourages judicial finality and the integrity of the judicial process in that it would avoid repetitiveness of litigation. Res Sub Judice which is established under Section 10 CPC on the other hand does apply to cases that are under adjudication in another court. It prohibits the courts to prosecute a similar cause under the same parties in a court of law at the same time, hence conflicting verdicts are avoided and it saves on judicial resources. This principle assists the public policy by giving coherence and effectiveness with regard to adjudication with no procedural confusion caused by the presence of several suits in the same subject. Historical and conceptual studies are finding their origins in Roman law with influences of Hindu and Muslim legal traditions. Scholars stress their dualism in facilitating judicial economy through reducing cases backlog and procedural justice

by limiting abuse of process.

DISCUSSION AND ANALYSIS

A. Safeguarding Role in the Promotion of Judicial Finality.

The doctrine of Res Sub Judice and the doctrine of Res Judicata plays a vital protective function in the finalization on judicial finality upon which stability and functionality of the legal system is founded. Res Judicata meaning a matter that has already been judged is enacted in Section 11 of the Civil Procedure Code (CPC). It prohibits the courts to listen to the cases, which have issues or cause of action that have been ruled out with finality in the previous cases between the same parties. This doctrine enforces the principle of finality which bars re-litigation of claims that have been tried, and this guarantees the rule of law and saves judicial power. Res Judicata conserves the judicial resources by preventing replay the litigation process and it protects the parties involved in the litigation against harassment and cost strains of undergoing many litigation procedures on the same cause of action.²

Res Sub Judice literally meaning under judgment is largely a procedure mechanism that is intended to assist in evading the pitfalls of concomitant litigation over same matters that are under hearing by other courts or through other tribunals. Section 10 of CPC directs the courts to stay the proceedings in case the proceedings are adjudicated on the same issue in a different court. This principle grants uniformity in the judicial procedures in that there is no repetition of judicial rulings on the judiciary system, neither do the courts intrude on the jurisdiction and decision of the other courts.³

Taken together these doctrines foster the rule of law and have the effect of ending finality in judicial process since once an issue has been effectively adjudicated then this matter should not be re-opened except in rare instances. This finality is not only required of the efficiency of the judiciary and of its credibility, but also in safeguarding the right of litigants to legal repose and certainty. The shield against the interminable litigation is an old adage such as *nempe debuit*

² Doctrine of Res Sub Judice, The Law Advice, <https://www.thelawadvice.com/articles/res-sub-judice-and-res-judicata-from-pending-battles-to-final-verdicts>

³ Doctrine of Res Judicata, Legal Egalitarian, <https://legalegalitarian.com/doctrine-of-res-sub-judice-and-res-judicata/>

bis vexari pro una et eadem causa (no man shall be twice unable on the same cause), and the social interest in causing disputes to end fruitfully.⁴

B. Protective Role in Judicial Finality assurance.

Res Sub Judice and Res Judicata are doctrines that play a fundamental protectionist role in bringing to existence judicial finality which is critical in the stability and power of the judicial system. Res Judicata, which is a part of the Section 11 of the Code of Civil Procedure (CPC), does not allow re-introduction of a suit or matter that has been fully determined and is outside the jurisdiction of a court. This doctrine ensures that after a final judgment on a situation has been made by a court whether it is a question of factual issue or a question of law it cannot be re-examined by the same parties thus providing certainty and finality of judicial matters. This value is based on legal maxims with well-established principles such as "nemo debet bis vexari pro una et eadem causa" (no one should be harassed twice due to the same cause) and interest reipublicae ut sit fines litium (it is in the interest of the state that there be an end to litigation) thus indicating the policy basis of the doctrine to discourage vexatious and repeated litigation.⁵

In Section 10 of CPC, Res Sub Judice serves a procedural protection since it remains a suit when the same issue between the same parties is abiding in another court. It is meant to avoid contradictory ruling and redundancy in judicial processes, which ensures consistency in administering of justice. This doctrine also makes courts uphold the jurisdiction and decisions of other courts by giving priority to the dismissal of pending matters before taking to consideration similar subsequent suits.⁶

C. Problems and Critiques: Obstruction to Justice.

Res Sub Judice and Res Judicata are the keystones of judicial finality, still, both had serious critics and opponents, which cast doubt on their effectiveness and justice. The major criticism is based on the fact that these doctrines may serve as an impediment to substantive justice particularly where a strict interpretation can cause unjust results. Critics say that the strict following of Resjudicata may lead to case refusal especially when by occurrence of new

⁴ Difference Between Res Judicata And Res Sub Judice, Rest The Case, <https://restthecase.com/knowledge-bank/difference-between-res-judicata-and-res-sub-judice>

⁵ Difference Between Res Judicata and Res Sub Judice, Pahujalawacademy, <https://www.pahujalawacademy.com/difference-between-res-judicata-and-res-sub-judice>

⁶ Res Judicata and Res Sub Judice, iPleaders, <https://blog.ipleaders.in/res-judicata-res-sub-judice/>

evidence or change in circumstances following a final decision, which frustrates the course of justice.⁷

In the same measure, Res Sub Judice, although meant to prevent parallel adjudication by suspending proceedings, could unwelcome act as a deterrent to justice by frustrating bona fide claims that take months to be resolved. Some of the cases may have issues that are significantly different even though the subject matter is similar and applying the doctrine blanketly may be problematic. This may give rise to needless extension of disagreements, particularly when dealing with a multi-layered or intricate matter where a stay may put a case out of court unfairly before it can be actually heard on its merits.⁸

Also, the doctrines in most instances can experience practical difficulties in their application, which include what can be considered to be the same issue or substantially the same matter, and this may differ depending on the judicial interpretation. The inconsistency with application can also result in inconsistency of results and jeopardize the predictability needed in delivering justice. Critics of these doctrines note that they place too strong a value on judicial economy to the detriment of individualistic justice, particularly to marginalized or less resourceful litigants struggling to cope with the procedural complexities. Furthermore, as it has been mentioned, there is the possibility of misuse of the doctrines by the strategic litigants to languish the justice or prevent the adjudication, which is why the legal system requires more sophisticated and adaptable instruments of using these doctrines. A balance between efficiency and fairness is a continued dilemma that has to be constantly judicialized so as to avoid the doctrines becoming a hurdle instead of an aid towards justice.⁹

F. Balancing Act and Evolving Jurisprudence.

The Res Sub Judice and Res Judicata set of doctrines highlights a judicial balancing act of protecting judicial economy and serving justice, and the jurisprudence of these two rules is still developing. Res Sub Judice as stipulated in Section 10 of the Civil Procedure Code (CPC) serves the purpose of preventing concomitant litigation of the same parties and on the same

⁷ Difference Between Res Judicata and Res Sub Judice, PahujaLawAcademy, <https://www.pahujaLawAcademy.com/difference-between-res-judicata-and-res-sub-judice>

⁸ Res Judicata and Res Sub Judice, iPleaders, <https://blog.ipleaders.in/res-judicata-res-sub-judice/>

⁹ RES SUB JUDICE and RES JUDICATA: From pending battles to final verdicts, The Law Advice, <https://www.thelawadvice.com/articles/res-sub-judice-and-res-judicata-from-pending-battles-to-final-verdicts>

matters leading to the impossibility of contradicting judgment and overworking of the courts. In contrast, the provisions of Res Judicata, Section 11 CPC, prevent re-adjudication of the issues that have already been prescriptively determined, with a heavy stress in the finality of legal rulings and the certainty of the law certainty.¹⁰

The application of these doctrines based on judicial balancing involves striking a balance between the requirement to have procedural efficiency and the substantive right to hear. Courts have come to appreciate the fact that strict adherence to these doctrines may at times hamper the course of justice particularly where fresh evidence, changed circumstances or irregularities in the process warrant reopening of matters that have been conclusively determined. In turn, the development of jurisprudence has led to the inclusion of exceptions and elasticity in interpretation to give the court the liberty to promote fairness without jeopardizing judicial economy. As an example, Res Sub Judice was emphasized by the Supreme Court of India in Pukhraj D. Jain v. G. Gopalakrishna as judiciously applied to prevent any misuse of the law, and to avoid unjustified delays in the delivery of justice.¹¹

In addition, the history of jurisprudence shows a delicate balance in which courts put the finality interests of the finality against the possible prejudice of the parties in an effort to ensure that these doctrines do not turn into a tool of injustice. The current legal literature suggests that a balancing model should preserve the main aims of the doctrines, which include the prevention of multiplicity of suits and conflicting decisions, and support the actual claims and the new realities so that the results can be fair. This dynamic jurisprudence is a continuum in trying to keep the legal system coherent and upright by avoiding empty litigation and redundancy at the expense of ensuring that litigants have access to justice which reflects a dynamic tension between efficiency and fairness in the modern judicial administration.¹²

E. Comparative Perspectives and Lessons

The Res Sub Judice and Res Judicata doctrines, though based on India civil procedure tradition, are analogous and treated differently in many jurisdictions, which could provide significant

¹⁰ Difference Between Res Judicata And Res Sub Judice, Rest The Case, <https://restthecase.com/knowledge-bank/difference-between-res-judicata-and-res-sub-judice>

¹¹ Res Judicata and Res Sub Judice, iPleaders, <https://blog.iplayers.in/res-judicata-res-sub-judice/>

¹² RES SUB JUDICE and RES JUDICATA: From pending battles to final verdicts, The Law Advice, <https://www.thelawadvice.com/articles/res-sub-judice-and-res-judicata-from-pending-battles-to-final-verdicts>

comparative information. In common law jurisdictions like the United States and the United Kingdom, these principles underline the fact that it is important to avoid conflicting decisions and resolve disputes in an efficient way. The principles are interwoven with the idea of issue preclusion and claim preclusion to provide stability and predictability of the results of litigation. The common law systems tend to pay a lot of attention to the precedents of cases to define the extent to which these doctrines may be applicable, which explains the importance of judicial discretion in terms of balancing finality and fairness. The principles similar to those of *Res Sub Judice* are frequently written down in procedural codes in civil law systems of many European countries in a more systematic system of concurrent management of litigation. Such systems promote statutory guidelines that regulate parallel proceedings to provide uniformity and consistency but certain flexibility in reopening cases to provide justice by the changing circumstances. Civil law jurisdictions are also more accommodating in terms of the principles of judicial comity and mutual acknowledgement of judicial acts, and so are more institutionally accommodative when it comes to handling unresolved and closed litigations.¹³

CONCLUSION

The *res Sub Judice* and *Res Judicata* doctrine are considered to be the key factors in the civil procedure law because not only do they secure the judicial economy, but also ensure that the problems with the law are resolved. On these foundations which are in turn based on Sections 10 and 11 of the Civil Procedure Code, respectively, these discourage the concurrent trial of the same matter and bar the re-trial of the matters that were already settled in the past. Their policy background plan is to bring further efficiency in the form of avoiding duplication of suits, conflicting decisions and waste of assets like a judge.¹⁴ *Res Judicata* signifies the worth of completeness, and warrants that where an efficient judicial establishment has made their determination, the concerned parties must abide by it and in this manner will evade prolonged litigation and conserve judicial authority pronouncement. It is based on the time-honored maxims such as *nempebius vexari idem causa* (one must not press the same cause twice) or end of litigation (*ut sit fines litium interest reipublicae*). However important these doctrines may be due to their role in discipline and economy, as far as judicial discipline is concerned, these doctrines have been criticized based on the fact that they do not lead to access to justice

¹³ Doctrine of *Res-Sub Judice* and *Res-Judicata*, Legal Egalitarian, <https://legalegalitarian.com/doctrine-of-res-sub-judice-and-res-judicata/>

¹⁴ Difference Between *Res Judicata* and *Res Sub Judice*, PahujaLawAcademy, <https://www.pahujaLawAcademy.com/difference-between-res-judicata-and-res-sub-judice>

especially in areas where they are strictly followed. The science of jurisprudence has been evolving and the courts increasingly more liberal in their efforts to balance procedural finality with the substantive fairness. One needs to be able to bend and alter these doctrines in order to escape injustice due to new evidence or new circumstances to have a society legally sound but not blind to effectiveness. In conclusion, the terms Res Sub Judice and Res Judicata are important and complex tools of law. They exist as safeguards to judicial economy but they should be apply sparingly to the extent that they become obstacles to justice. The constant perfection judicial interpretation underscores the necessity of striking a balance between judicial efficiency and the fundamental rights of litigating parties to a just hearing and consequently improve an active and impartial law system.¹⁵

¹⁵ Chapter 4 - Res Subjudice and Res Judicata, Manupatra, <http://student.manupatra.com/Academic/Abk/Code-of-Civil-Procedure/Chapter4.htm>

BIBLIOGRAPHY

- Tipu, Umar Farooq, "Doctrine of Res Sub Judice and Res Judicata in C.P.C, 1908" (October 18, 2020), SSRN, <https://ssrn.com/abstract=3714151>
- Sharma, Sarthak, "Res Judicata and Res Sub-Judice," Journal of Legal Studies and Research, Volume 6 Issue 5, October 2020, The Law Brigade, <https://thelawbrigade.com/wp-content/uploads/2020/11/Sarthak-Sharma-JLSR.pdf>
- Bharti, Tanya, "Res Judicata and Res Sub Judice," iPleaders Blog, May 27, 2019, <https://blog.ipleaders.in/res-judicata-res-sub-judice/>
- "Difference Between Res Judicata and Res Sub Judice," Pahujalawacademy, September 30, 2025, <https://www.pahujalawacademy.com/difference-between-res-judicata-and-res-sub-judice>
- "RES SUB JUDICE and RES JUDICATA: From Pending Battles to Final Verdicts," The Law Advice, April 28, 2024, <https://www.thelawadvice.com/articles/res-sub-judice-and-res-judicata-from-pending-battles-to-final-verdicts>
- "Difference Between Res Judicata And Res Sub Judice," Rest The Case, June 10, 2025, <https://restthecase.com/knowledge-bank/difference-between-res-judicata-and-res-sub-judice>
- "Chapter 4 - Res Subjudice and Res Judicata," Manupatra Academic, December 19, 2001, <http://student.manupatra.com/Academic/Abk/Code-of-Civil-Procedure/Chapter4.htm>
- Legal Egalitarian, "Doctrine of Res-Sub Judice and Res-Judicata," <https://legalegalitarian.com/doctrine-of-res-sub-judice-and-res-judicata/>
- IJNRD, "Doctrines in Res Sub Judice: A Comprehensive Review," SSRN, February 16, 2023, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4484556
- Law Journals, "Tracing the Doctrines of Res Sub judice and Res Judicata: A Comprehensive Review," <https://lawjournals.celnet.in/index.php/jltcpl/article/view/1595>