Doctrine of Res Judicata

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Doctrine of Res-Judicata section-11 CPC (Civil Procedure Code 1908)

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- Nemo debt lis vaxari pro eadem causa
- Interest republicae ut sit finis litium

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Meaning & Example:

▶ Once the case has been decided between the same parties and the same subject matter the no other courts can decide that case again.

Satyadhan ghosal vs. Deorajin Debi Supreme court rightly pointed and observed in this case held that-Once a matter is finally decided by a competent court,no party can be permitted to reopen it in subsequent litigation.

Maxims under Res-Judicata

- The concept of Res-Judicata works on three maxims and they are as follows.

- **1. Re-judicata pro veritate occipitur**: judgement given by the court will be true and everyone should follow it.

- **2. Nemo debet lis vaxari pro eadem causa:** For the same offence, no person should be tortured and harassed twise.

- **3. Interest republicae ut sit finid litium:** There should be an end of litigation in Courts.

Scope of Res-Judicata

▶ The concept of Res-Judicata applies everywhere

▶ Civil- sec 11 Res judicata

▶ Criminal- sec 300 Cr.P.C

▶ Constitutional Law Article-20(2) etc.

▶ **Object:-**

▶ There should be an **end of litigation** otherwise a person will be harassed many times for the same offence he has committed.

• Protection against double zeopardy (endless proceeding).

• Avoid re-determination of same issues which have already been adjudicated upon dicission of court must be accepted as correct or final.

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Condition of Res-Judicata

- **If the following conditions are there,then only the concept of Res- Judicata will apply.**

- Parties of the present suit must be the same as of the former suit filed by the same parties.

- Subject matter is the same.

- That old case must be decided by the court between the same parties and in the same subject matter.

- The judgement passed by the court should have jurisdiction to decide the case.

Problems with Res-Judicata

- Sometimes the Res-judicata works against the justice.
- Very few exceptions are there to apply Res- Judicata.
- In Appeals, Res-Judicata will not apply.
- Even if the judgement is contrary, still Res-Judicata will apply.

Exceptions of Rs-Judicata

- 1. Parties filed the suit with different **cause of action,**

- 2. Judgement given by the court **involves fraud,**

- 3. Court who gave the Judgement **didin't had the jurisdiction.**

- **Jagdish Sharan Aggarwal and others (2009)1 SCC 689.** held that where a matter has been decided without jurisdiction.

Difference between Res-subjudice and Res-judicata

Res-subjudice

- Object of res subjudice is to prevent two paraller litigations and avoid conflict of judgments.

- It is applicable where two suits are pending in the court of law for same matter of controversy.

- By res subjudice is applicable if both suits involve same matter in controversy(all issue)

- By res subjudice trail of subsequent suit is stayed.

Res-Judicata

- Object of res judicata is to give finality to decision given by court.

- It is applicable where a suit is pending and matter in controversy is already decided in a formal suit.

- Res judicata is applicable to suit (all issue) or to any issue of them.

- By res judicata , trail of subsequent suit is barred.

Conclusion

- One of the first and highest duties of all courts is to take care that the act of the court does not injury to the suitors. It has been said that an act of the court shall harm none(actus curiae neminem gravabit).All courts,therefore,are bound to take care that their acts do not cause harm or injury to suitors.In the case of A.R Antulay vs. R.s Nayak

THANK YOU