



INTERNATIONAL JOURNAL OF HUMAN RIGHTS LAW REVIEW

An International Open Access Double Blind Peer Reviewed, Referred Journal

Volume 4 | Issue 6 | 2025

Art. 09

**Preventing Parallel and Repetitive
Litigation - Application of Section 10 and
11 CPC through Case Laws**

Adv. Chandra Kant

*Advocate
Patna High Court*

Sakshi

*Law Student
Lloyd Law College, Greater Noida*

Recommended Citation

Adv. Chandra Kant and Sakshi, *Preventing Parallel and Repetitive Litigation - Application of Section 10 and 11 CPC through Case Laws*, 4 IJHRLR 130-141 (2025).

Available at www.humanrightlawreview.in/archives/.

This Article is brought to you for free and open access by the International Journal of Human Rights Law Review by an authorized Lex Assisto & Co. administrator. For more information, please contact humanrightlawreview@gmail.com

Preventing Parallel and Repetitive Litigation - Application of Section 10 and 11 CPC through Case Laws

Adv. Chandra Kant

Advocate
Patna High Court

Sakshi

Law Student
Lloyd Law College, Greater Noida

Manuscript Received
16 Nov. 2025

Manuscript Accepted
17 Nov. 2025

Manuscript Published
18 Nov. 2025

ABSTRACT

*The doctrines of Res Sub Judice under Section 10 and Res Judicata under Section 11 of the Civil Procedure Code (CPC) serve as fundamental safeguards against parallel and repetitive litigation in India. These provisions uphold the principles of judicial fairness, efficiency, and finality by preventing courts from simultaneously trying identical issues and by barring re-litigation of matters already adjudicated by competent courts. Section 10 ensures that disputes involving the same parties and issues are not tried concurrently in different courts, thereby avoiding conflicting judgments and conserving judicial resources. Section 11 reinforces finality by prohibiting parties from reopening settled controversies, as affirmed in landmark judgments such as *Daryao v. State of U.P.* and *Satyadhyan Ghosal v. Deorajin Debi*. The paper examines the essential conditions, scope, and exceptions of both doctrines while emphasizing their role in promoting judicial economy, preventing abuse of process, and maintaining consistency in judicial decisions. Through an analysis of key case law—including *Arjun Singh v. Mohindra Kumar*, *K.K. Modi v. K.N. Modi*, and *State of Punjab v. Bua Das Kaushal* the study highlights how these principles preserve the integrity of the legal system and serve broader public policy objectives. Ultimately, the doctrines ensure that litigation is purposeful, conclusive, and aligned with the overarching goal of delivering timely and just outcomes.*

KEYWORDS

Finality, Consistency, Efficiency, Preclusion, Fairness

I. INTRODUCTION

The principle of just, fair and finality on which Indian civil litigation system is built. Through section 10 and 11 of CPC embodies this principle where courts prevents themselves to entertain repetitive proceedings on the same cause of action or issues. While section 10 restrict the court to take multiple case from running simultaneously and avoid court to decide conflicting judgments from different courts this is called res subjudice and on the other hand section 11 states that once the case is finally decided or adjudicated, the same parties can not re-file the litigation on the same cause of action. this is called res judicata. These two both doctrines restrict repetitive litigations and upheld justice, fairness in judicial system. This also prevent litigants from delay , unnecessary harassment and maintain the sanctity of court decisions. Section 10 and 11 is codified under CPC described as - RES SUBJUDICE UNDER section 10 prevent the suit trial which is pending in another competent court thereby this helps to get a non - conflicting decision and conserve court time. Another doctrine is RES JUDICATA under section 11 prohibits re - litigation on the same issue that has been conclusively decided and prevent the parties to reopen the same controversies. It is affirmed in the supreme court landmark judgement *Daryao v. State of U.P. and Satyadhyan Ghosal v. Deorajin Debi*¹ where the court prominence that stability and credibility of Indian judicial system should prevent the same dispute by endless revive and also prevents the courts from being burdened by the cases.

II. CONCEPT AND MEANING

- ***Res Sub Judice (Section 10 CPC)***

The term Res Sub Judice literally means “a matter under judgment.” Section 10 of the CPC states:

“No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, where such suit² is pending in the same or any other Court in India having jurisdiction to

¹ AIR 1961 SC 1457

² Code of Civil Procedure, 1908

grant the relief claimed.”

In simple terms, Res Sub Judice stops courts from handling two cases at the same time if they involve the same issue and the same parties. Its main purpose is to avoid duplicate proceedings and prevent conflicting decisions.

- **Res Judicata (Section 11 CPC)**

The doctrine of Res Judicata, derived from the *maxim nemo debet bis vexari pro eadem causa* (no person should be vexed twice for the same cause), is codified in Section 11 of the CPC. It provides:

“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, and has been heard and finally decided by such Court³.”

The principle rests on the idea that every legal dispute should come to an end. Once a competent court has heard a case and given its decision, the same issue cannot be brought up again between the same parties. This ensures fairness, prevents endless rounds of litigation, and helps maintain the authority of judicial decisions. It also saves time and resources by avoiding repeated arguments over matters that have already been settled by a proper court.

III. ESSENTIALS AND CONDITIONS

Essentials of Res Sub Judice

For Section 10 of the Civil Procedure Code (Res Sub Judice) to apply, a few important conditions need to be met. These ensure that courts deal with cases efficiently and avoid confusion or contradictory judgments.

- **Existence of two suits:** There must be two cases—one filed earlier (the previously instituted suit) and another filed later (the subsequent suit). Both must involve the same subject matter. Section 10 does not stop anyone from filing a new case, but it prevents the court from proceeding with its trial while a similar case is still pending.
- **Same matter in issue:** The dispute or issue raised in both suits must be directly and substantially the same. It should not just be a similar question but essentially the same legal or factual issue being argued in both cases. This helps ensure

³ Code of Civil Procedure, 1908

that courts do not waste time duplicating efforts over identical matters.

- **Same parties or their representatives:** Both suits must involve the same individuals or those who claim under them, such as legal heirs, assigned representatives, or business partners. This condition prevents parties from indirectly litigating the same dispute through others.
- **Earlier suit pending before a competent court:** The first suit must already be pending before a court that is legally competent to hear and decide the matter. This means the court must have the proper jurisdiction and authority to grant the relief being sought.

When all these conditions are met, the court handling the later suit must pause its trial until the first one is decided. This rule helps maintain judicial consistency, saves time and resources, and upholds the integrity of the legal process.

Essentials of Res Judicata

Section 11 of the Civil Procedure Code, known as the principle of Res Judicata, ensures that once a legal issue has been properly decided, the same matter cannot be taken to court again between the same parties. This rule promotes finality, saves judicial time, and prevents conflicting judgments.

For Section 11 to apply, several key conditions must be met:

- **A former suit must have been decided:** There must be an earlier case that has already been heard and resolved by a court. Res Judicata does not apply if the earlier case is still pending or has not yet reached a conclusion.
- **Same matter in issue:** The issue raised in the new case must be directly and substantially the same as the one that was decided before. It means the core dispute or question involved in both cases must essentially be identical, not just similar in nature.
- **Same parties or their representatives:** The parties in both suits must be the same, or they must be connected through legal relationships such as legal heirs, successors, or representatives in interest. This prevents people from reopening settled disputes under a different name.
- **Final decision in the earlier case:** The earlier suit must have been heard and completely decided by a competent court.

Temporary or interim decisions do not attract the rule of Res Judicata.

- **Competence of the earlier court:** The court that decided the former case must have been legally empowered to hear and decide that matter.
- **Decision on merits:** The previous decision must have been based on an actual examination of facts and law, not dismissed due to a technical reason or procedural defect.

Together, these conditions ensure justice is effective and conclusive, avoiding endless litigation over the same issue.

IV. EXCEPTION OF BOTH DOCTRINES

*Exception of Res Judicata*⁴

The doctrine of Res Judicata rests on the idea that once a dispute has been fairly decided by a competent court, it should not be reopened. It promotes finality in litigation and prevents repeated trials over the same issue. However, this rule is not absolute. There are certain exceptions where the doctrine does not apply because applying it would lead to injustice or conflict with the principles of fairness.

Res Judicata cannot operate when a court's decree or order has been obtained through fraud or intentional misrepresentation. Fraud undermines the integrity of judicial proceedings, and any decision based on deception cannot be treated as final. Similarly, if a judgment was not decided on the merits of the case—for example, when it was dismissed for technical reasons or for lack of prosecution—it cannot serve as a ground for Res Judicata.

Another situation where the principle does not apply is when a special leave petition is dismissed without a detailed judgment or declaration. Since the case was not actually examined or determined, it cannot create a bar on future litigation. Likewise, if a subsequent lawsuit arises from a completely different cause of action, the court cannot reject it under Res Judicata simply because the parties happen to be the same.

The rule also fails to apply when the earlier court lacked the proper jurisdiction to hear or decide the matter in the first place. A decision made without jurisdiction holds no legal authority. Moreover, when the issue involves a pure question of law—such as constitutional interpretation or a change in statutory

⁴ C.K. Takwani, Civil Procedure, 9th ed. (Eastern Book Company, 2021), pp. 162–164

understanding—Res Judicata does not prevent the matter from being reconsidered.

Interlocutory orders issued during the course of earlier proceedings do not operate as final judgments, so they do not trigger Res Judicata. Similarly, if a law has been amended or a new legal right has been introduced after the original decision, parties can bring a new case based on those new rights. Additionally, if a previous suit was dismissed by default, meaning the case was not heard or decided on its substance, the principle does not apply. Finally, if a party fails to raise the plea of Res Judicata, the court is not bound to apply it automatically.

These exceptions ensure that justice is not hindered by technicalities and that fairness prevails over procedural rigidity.

In the case of *State of Punjab v. Bua Das Kaushal*⁵, the Supreme Court held that judgments obtained through collusion have no binding effect on the parties involved. Such decisions are not genuine determinations of a dispute but rather the result of mutual deceit, making the principle of res judicata inapplicable in those circumstances.

***Exception of Res Sub Judice*⁶**

The principle of Res Sub Judice, as laid down under Section 10 of the Civil Procedure Code, is designed to prevent multiple courts from simultaneously trying cases involving the same subject matter and the same parties. However, this principle does not apply universally to every situation where two suits share some connection. There are specific circumstances where Section 10 cannot be invoked because the nature of the claims or issues differs in such a way that separate trials become necessary.

When the claims presented in each suit are entirely unique and independent of one another, the doctrine of Res Sub Judice does not come into play. Each case, in that situation, raises its own distinct cause of action that requires separate consideration. Even when the two suits share certain common elements but also involve separate or unrelated issues, the court may determine that Section 10 is not applicable. This is because the existence of both shared and individual issues means there is no complete overlap in the subject matter.

Similarly, if the disputes between the same parties revolve around

⁵ AIR 1971 SC 1676

⁶ C.K. Takwani, Civil Procedure, 9th ed. (Eastern Book Company, 2021), pp. 162–164

different legal rights or facts, the doctrine cannot restrict the court from proceeding with the subsequent suit. The rule applies only when the matter directly and substantially in issue is the same in both proceedings. Therefore, different or unrelated matters between the same individuals are not barred under this section.

Another important point is that for Section 10 to apply, it is not essential that all the issues decided or raised in the first suit must reappear in the later one. The court focuses on whether the core dispute is the same, not on whether every single issue overlaps. This ensures judicial efficiency while allowing fair opportunity for distinct claims to be heard.

In the case of *Arjun Singh v. Mohindra Kumar*⁷, the Supreme Court clarified that Section 10 of the Civil Procedure Code does not prevent a person from filing a new suit. What it restricts is the continuation or trial of that suit while another case involving the same matter is already pending before a competent court. The purpose of this rule is to avoid conflicting judgments, not to bar the filing itself.

V. RATIONALE AND POLICY CONSIDERATIONS

When multiple cases on the same issue are filed, it puts unnecessary pressure on the courts and causes inconvenience to the parties involved. The principle of Res Sub Judice helps prevent this by allowing only one competent court to handle the matter, avoiding confusion and overlap. On the other hand, Res Judicata ensures that once a court has given its decision, the issue is settled permanently, promoting stability and certainty in the legal system. Moreover, these doctrines play an important role in maintaining the credibility and fairness of the judicial system. By stopping parties from misusing legal procedures or choosing courts that might favor them, they safeguard the integrity of the legal process. They also promote consistency by ensuring that once a matter is decided, it is not reopened before different courts. This finality helps conserve judicial time, reduces unnecessary disputes, and strengthens public trust in the justice system, as people can rely on court decisions to be stable, predictable, and based on genuine consideration of the issues involved.

1. Finality of Litigation

One of the most important goals of the justice system is to bring every legal dispute to a definite conclusion. If cases were allowed to continue endlessly without closure, it would undermine the

⁷ AIR 1964 SC 993

authority of the judiciary and erode public trust in the legal process. The principle of finality ensures that once a court has adjudicated upon a matter, the same issue is not reopened through fresh litigation between the same parties. It provides peace of mind to litigants by confirming that the dispute has been settled once and for all.

Without finality, the entire purpose of adjudication would lose its meaning. Endless cases would create uncertainty about rights and obligations, leaving the public doubtful about whether justice can ever be achieved. Finality therefore stands as a cornerstone of judicial discipline and stability. It reminds every litigant that while the courts are open to all, the opportunity to seek justice must be used responsibly and not as a tool for delay or retaliation. Once a matter has been heard fully and decided with proper reasoning, the parties are expected to respect and abide by that decision, even if it is unfavorable to them.

2. Judicial Economy

The judiciary is an essential institution, but it has limited time and resources. Courts must address thousands of cases every year, which makes efficiency and prioritization crucial. The doctrines of Res Sub Judice and Res Judicata work together to promote judicial economy by preventing multiple courts from hearing the same dispute or revisiting issues that have already been settled.

The Supreme Court, in *Union of India v. Pramod Gupta (2005)*, emphasized that judicial economy requires courts to avoid repeated adjudication of the same or substantially similar issues. The logic behind this is simple: judicial energy should be focused on new disputes and unresolved matters, not consumed by revisiting settled ones.

If courts allowed repeated litigation on the same facts or issues, the system would become clogged, delaying justice for others. By blocking duplicate or overlapping proceedings, these doctrines preserve the efficiency of the legal process. They also save litigants from unnecessary expense, emotional strain, and the frustration of endless hearings. Judicial economy ultimately ensures that justice is delivered not just fairly but also promptly, maintaining the credibility and functionality of the judicial framework.

3. Consistency and Integrity of Judgments

Consistency in court decisions is vital for the stability of any legal system. When similar matters result in contradictory judgments,

it creates uncertainty and weakens faith in the rule of law. Both Res Sub Judice and Res Judicata help uphold consistency by ensuring that a single issue is handled by one competent court at a time, and once decided, remains conclusive.

Conflicting rulings make it difficult for lawyers, judges, and citizens to understand what the law truly means. Such inconsistency can damage the moral authority of the judiciary. By avoiding overlapping trials and ensuring that a final judgment carries binding authority, these doctrines reinforce the integrity and reliability of court decisions.

Moreover, a predictable legal system allows people to plan their affairs with confidence. Businesses, individuals, and government agencies can rely on judicial outcomes to make informed decisions without fear of sudden reversals. The harmony maintained through consistent judgments builds trust in the courts and strengthens the social fabric by confirming that justice is steady, impartial, and credible.

4. Protection Against Abuse of Process

While courts exist to serve justice, the system can sometimes be manipulated by individuals seeking to misuse it for personal gain or to harass their opponents. Litigants might file multiple suits on the same issue or reintroduce identical claims in different forums hoping for a favorable outcome somewhere. The doctrines of Res Sub Judice and Res Judicata act as strong shields against such abuse of process.

In *K.K. Modi v. K.N. Modi (1998)*⁸ the Supreme Court highlighted that these doctrines safeguard the judicial process from being exploited for ulterior motives such as forum shopping or vexatious litigation. By preventing parties from repeatedly dragging the same disputes before courts, they protect defendants from unnecessary harassment and conserve judicial resources for genuine cases.

This protection also upholds fairness in procedure. Justice loses meaning when it becomes a tool of oppression rather than resolution. By barring re-litigation, the doctrines ensure that litigation remains a means to resolve conflict—not to sustain it. They remind litigants that the courtroom is not a battlefield for endless personal struggles but a space designed to achieve lawful settlement through proper adjudication.

5. Public Policy Considerations

⁸ 3 SCC 573

Beyond individual fairness and procedural efficiency, Res Sub Judice and Res Judicata serve a broader public function. They are rooted in the principles of public policy, reflecting society's need for order, stability, and trust in the justice system. These doctrines ensure that legal proceedings are not misused and that the entire system operates transparently, efficiently, and with moral authority.

Public confidence in the judiciary is built not only on correct decisions but also on the perception that justice is administered with consistency and integrity. As often stated, justice must not only be done but must also appear to be done. By preventing confusion through multiple cases on the same matter, the doctrines preserve this appearance of fairness. They guarantee that no person receives conflicting orders from different courts, which could otherwise lead to chaos, inefficiency, and mistrust.

Moreover, from a governance standpoint, these doctrines reinforce judicial independence. When courts respect each other's jurisdiction and prior decisions, it strengthens the collective credibility of the judiciary. It shows that the system values cooperation over competition among courts and is guided by logic rather than ego. This unity enhances respect for the law as a whole.

Public policy also demands that the law promote certainty in civil, commercial, and personal relationships. By ensuring that judgments are final and binding, the doctrines contribute to social harmony. Citizens feel secure knowing that once they have settled a dispute legally, it will not be reopened endlessly. This assurance encourages stability, trust, and respect for the rule of law—core elements of a healthy democracy.

Both doctrines, therefore, are not merely procedural rules but expressions of deeper constitutional values: justice, equality, and the right to fair treatment under law. They balance the rights of individuals with the broader interests of society by keeping the justice system efficient, fair, and dependable.

VI. CONCLUSION

The doctrines of Res Sub Judice and Res Judicata are essential safeguards that maintain the fairness, efficiency, and integrity of the judicial system. Together, they ensure that justice is delivered in an orderly and conclusive manner. Res Sub Judice, laid down under Section 10 of the Civil Procedure Code, prevents multiple courts from hearing the same dispute at the same time. Its objective is to avoid conflicting judgments and unnecessary duplication of proceedings. This principle allows one competent

court to deal with a matter completely before another court takes it up, thereby saving time and resources for both the judiciary and the litigants.

Res Judicata, on the other hand, contained in Section 11 of the Code, ensures finality in litigation. Once a court of proper jurisdiction has decided a matter between the same parties, the same issue cannot be raised again. This doctrine gives a sense of closure, minimizes repetitive litigation, and reinforces public trust in the justice system. It upholds the idea that disputes must eventually come to an end and that judicial decisions are binding and respected.

Both doctrines promote judicial economy, prevent the misuse of court processes, and protect parties from harassment through repeated suits. They also uphold the consistency and credibility of judicial pronouncements, ensuring that legal rules remain predictable and stable. The Supreme Court, in the above mentioned judgements, has reaffirmed that these doctrines prevent delay, confusion, and abuse of the legal process.

Moreover, these principles are grounded in broader public policy. They reflect the belief that justice should not only be done but must also appear to be done. By reducing multiplicity of proceedings and securing finality of judgments, these doctrines preserve the authority of the courts and strengthen the rule of law. In essence, they convert the idea of justice from a continuous struggle into a definitive and meaningful resolution.