



Res-Judicata u/s 11 of Code of Civil Procedure

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Introduction

Doctrine embodies rule of conclusiveness of a judgment

Point decided either of fact or of law, or of fact and law.

Bar of jurisdiction of court

Doctrine having universal value

One suit and one decision is enough for every single dispute

Finality to judicial decision

Provision: Sec. 11 of Code of Civil Procedure

"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, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court".

Explanation – I

The expression former suit shall denote a suit which has been decided prior to a suit in question whether it was instituted prior thereto.



Explanation - II

For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

Explanation - III

The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.



Explanation - IV

- **Any matter which might and ought to have been made ground of defense or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.**

Explanation - V

Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.

Explanation - VI

Where persons litigate *bona-fide* in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating





Explanation - VII

The provisions of this section shall apply to a proceeding for the execution of a decree and references in this section to any suit, issue or former suit shall be construed as references, respectively, to a proceeding for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.

Explanation - VIII

An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as *res judicata* in a subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised.

Nature and Scope:

Larger public interest

Justice, equity and good conscience

Salutary principle of public policy

Avoid multiplicity of proceeding

Rule of conclusiveness

Avoid vexatious litigation.

Object:

1. no man should be vexed twice for the same cause

2. it is in the interest of the State there should be an end of litigation

3. judicial decision must be accepted as correct.

History:

Doctrine has ancient history

Ancient Hindu Law – PURVA NYAYA (former judgment)

Roman Law – one suit one decision was enough for any single dispute

The suffering citizen must appeal to the law-giver and not to the lawyer.

Extent and Applicability:

Civil Suits

Execution
Proceeding

Arbitration
Proceeding

Taxation
Matters

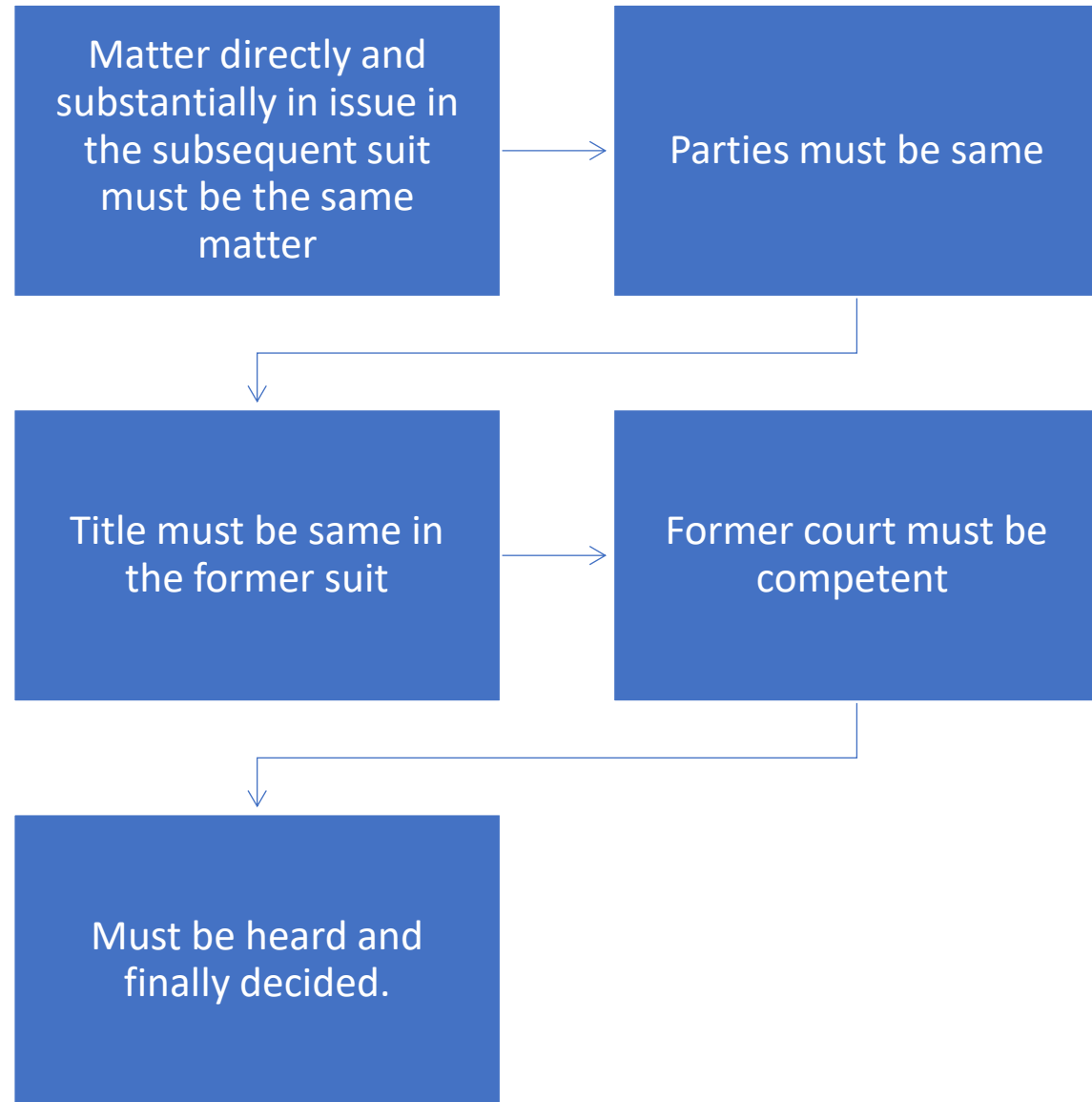
Industrial
Adjudication

Writ Petitions

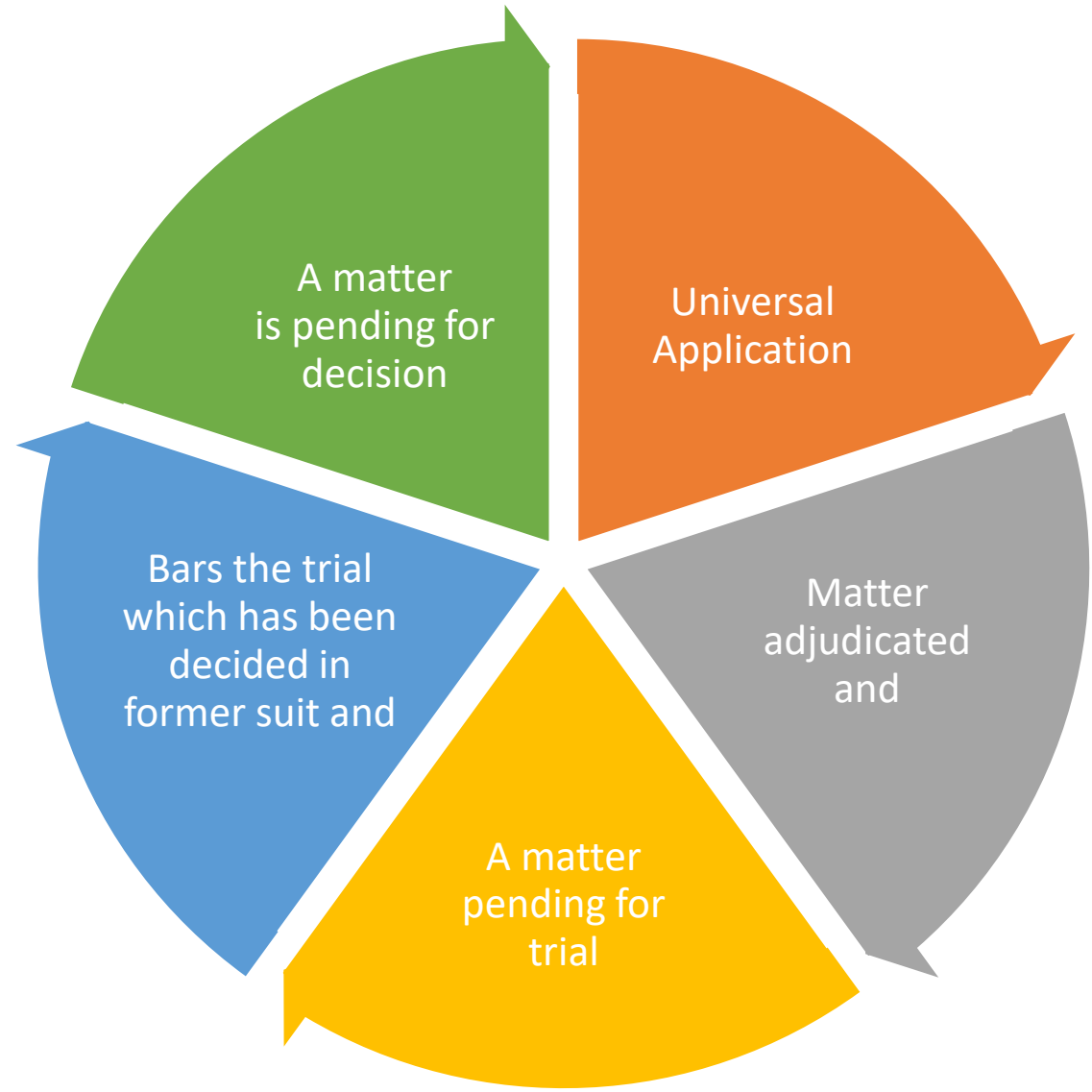
Administrative
Orders

Criminal
Proceeding, Etc.

Conditions:



Res-Judicata and Res-Subjudice: Difference



Res- Judicata and Estoppel:



Doctrine is the branch of the law of estoppel



Res-judicata is really estoppel by verdict or estoppel by judgment (record)



The rule of constructive res-judicata is nothing else but a rule of estoppel.



Public policy and equity



Res-judicata bars the multiplicity of proceeding whereas estoppel prevents multiple representations



Oust the jurisdiction of court to try suit whereas estoppel is a rule to evidence and shuts the mouth of the party.

Other Phenomena:

Public Interest Litigation

Writ Petitions

Criminal Proceeding

Dismissal for default

Ex-party decree

Compromise decree

Withdrawal of suit

Conclusion: