

CIVIL PROCEDURE CODE

PART 3

Res Sub-judice:

- **‘Res’** means **“a matter“**. **‘Sub-judice’** means **“pending judicial inquiry“**. The expression **‘Res Sub-judice’** means **“a matter which is pending judicial enquiry”**.
- According to Section 10 of the Civil Procedure Code, 1908, when a suit is pending before a competent court, between the same parties and under the same title then, no other court in India should entertain and try such suits.
- This **Section 10 of the Civil Procedure Code, 1908** is based on the principle **“Res Sub-Judice”** and the object of this section is to prevent multiple instances of suits relating to the same issue between same parties. This prevents the courts from trying two parallel suits simultaneously.

Res Judicata

- **‘Res’** means “a matter“. **‘Judicata’** means “already decided“. The expression **‘Res Judicata’** means “a matter already decided by a competent court“.
- **Section 11 of the Civil Procedure Code, 1908 deals with the Res Judicata.** According to Section 11, a court shall not try any issue in which the parties and subject matter are same and already been decided by a competent court.

This is based on the following principles:

- A person should not be vexed twice for the same cause.
- There should be an end to a litigation, in the interest of the state.
- Every decision of the court must be accepted as correct and conclusive.
- Sometimes **Res Judicata** is considered as a kind of **Principle of Estoppel**. Estoppel is related to evidence, and it stops a person from saying some other thing contrary to what he has said earlier.

Interlocutory Applications

- The Civil Procedure Code provides for many interlocutory applications under various sections and rules. Interlocutory applications are used in almost every civil proceedings. It is usually considered as an integral part of the suit.
- Usually, from the time of institution, till the disposal of suits, any number of interlocutory applications can be filed. These applications are essential to the efficient and judicious disposal of suits. **An Interlocutory application can be filed by any party to the suit and is indicated by abbreviation ‘I.A.’ and consequently numbered.**
- If a party files an interlocutory application, the opposite party will be given an opportunity to file the counter for the same.

Special Suits

- **Suits by Indigent Persons**
- When a suit is filed before a competent civil court, the party has to pay the prescribed court fee. If the suit is filed without the prescribed court fee, the suit is liable to be rejected.
- In some cases, the plaintiff may not be able to pay the prescribed court fee due to poverty, etc. In such circumstances, to help such persons to protect their rights, the Civil Procedure Code, 1908 has provisions under Order XXXIII to provide an exemption from the court fee. **An Indigent person is the one who is poor and cannot afford to pay the court fee. This kind of suits are also called as “Pauper Suits”.**

Inter-Pleader Suits

- In fact, **“Inter-pleader Suits”** is not defined in the **Code of Civil Procedure, 1908**. **‘Inter-plead’** generally means to litigate with each other to find a solution concerning a third party.
- In **“Inter-pleader”** suits, the dispute is not between the plaintiff and defendants. In fact, the plaintiff in such suits has no interest in the subject matter of the dispute. The dispute is between the defendants and they inter-plead against each other.

- **For Example:** ‘X’ is having lawful possession of a Gold Chain in which he has no interest. ‘Y’ and ‘Z’ are independently claiming the Gold Chain. ‘Y’ is claiming that he is the rightful owner of the Gold Chain and ‘Z’ claims the same. In such circumstances ‘X’ sues ‘Y’ and ‘Z’ to find out the decision of the court as to the ownership of the Gold Chain. In such suits, defendants ‘Y’ and ‘Z’ will adversely claim and litigate. Plaintiff ‘X’ will be silent and be the spectator in such disputes. Hence the real dispute lies between the defendants in the “Inter-pleader” suits.
- **In “Inter-pleader” suits, the plaintiff must be in lawful possession of a property belonging to some other person.** The property may be movable or immovable, and the plaintiff must not have any interest in the property. There shall be two or more claimants for the property and the plaintiff must be ready to hand over the property to the right claimant based on the decision of the court.

Appeals & Other Important Provisions

- When a suit is heard by the trial court, the trial court enquires the issue, arrives at a conclusion and pronounces a decree either in favor of the plaintiff or the defendant.
- In such suits, the aggrieved party may prefer to appeal against the decision of the trial court. The term ‘**appeal**’ is not defined in Civil Procedure Code, 1908. An Appeal cannot be claimed as the inherent right and can be preferred only where it is expressly provided by the statute. But any person can bring in a suit of civil nature as it is an inherent right.

- **Reference**: Section 113 and Order XLVI of the Code of Civil Procedure, 1908 deals with reference. Reference means referring a case to the higher court to seek the opinion of the higher court when there is a doubt in the question of law.
- **Review**: Section 114 and Order XLVII of the Code of Civil Procedure, 1908 deals with the **Review**. According to this, a Court may reconsider a decision given by the same court. But a court cannot review its decision *Suo moto*.
- **Revision**: Section 115 of the Code of Civil Procedure, 1908 deals about **Revision**. The Higher Courts have revision jurisdiction and can call for the record of any case which is already decided. This power is given for the efficient exercise of supervisory jurisdiction of Higher Courts.