1½/10

Q1: Explain the Rule of Res Judicata. Differentiate between direct res Judicata in Constructive Res Judicata

Ans: Section 11 deals with concept of Res Judicata as per the civil procedure code.

The Conditions of Res Judicata - Section 11.

1. Matter directly or substantial in Issue
2. Same parties
3. Same cause of Action or title
4. Court competent to try the earlier suit

Then the ~~subsequent~~ Subsequent suit shall be barred.

The concept of Res Judicata under Section 11, ~~defines~~ are based on 3 Maxim.

1. There should be end to the litigation
2. No person shall be vexed twice for same issue.
3. Judicial decision must be accepted correct by the parties

Firstly define Res-Judicata Sec. 11

Explanation IV of Res Judicata defines constructive Res Judicata.

Both Res Judicata and constructive Res Judicata are different from each other.

1. Res Judicata is barred directly however, constructive Res Judicata is barred indirectly.
2. Under Res Judicata, both parties are same, subject matter is similar, whereas same parties take another plea which was in their knowledge before barred by constructive Res Judicata

* Nemo debet vis vexari pro una et eadem causa

* interest republicae ut sit finish litium

* Res Judicata pro veritate occupiat

* Daryao v/s state of UP

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The concept of res judicata prevent the parties from lengthy litigation.

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Q2. Write short note on! -

- Rejection of Plaint.

2½

Plaint is a application filed by the Plaintiff with an affidavit in the competent Court with the Subject matter of suit. Order VII briefly describes Pleadings and its essentials in respect of Plaint.

~~Order VII, Rule 11 describes~~

Order 7, Rule 11 defines conditions when any plaint can be rejected.
The 7 grounds of Rejection of Plaints are mentioned below.

11(a) when cause of action is not mentioned
11(b) The Relief is mentioned in Plaint is Undervalued
11(c) The plaint lacks proper stamp
11(d) when the suit is barred by the Court
11(e) The plaint Submitted is not in duplicate
11(f) Where plaint does not comply with Rule 9, Order 7.

When Cause of action is not mentioned [11(a)]

The plaint must specify the cause of Action for the competent Court do take appropriate actions. When cause of action is not specified, it waste the precious time of Court.

Relief mentioned in Plaint is Undervalued. (11(b)

The plaintiff to specify the relief in the plaint, the relief must not be undervalued or more than actual value of relief.
. When the specified relief is undervalued, the

court have to reject the plaint.

Write Order 7, Rule 13 ↓ does not bar Filing of fresh suit Order 7, R. 12 ↓ Recording of Reasons ↓

The Plaintiff lacks Stamp paper [11 (c)]

The plaint filed by the plaintiff must be stamped depending the value of relief stated in the plaint. When the court finds the stamp papers not added to plaint or stamp papers not according to the relief stated, the court can reject the said plaint.

When the suit is barred by the court [11 (d)]

The condition when law is barred by any court then in such scenario, the suit will not be entertained by the Court. Any law which is barred will affect the suit filed in the court.

The Plaint filed not in duplicate [11(e)]

The plaint in any suit to be filed in duplicate. In case, plaintiff fails to submit in duplicate, the court can reject the said plaint.

When Plaint does not comply with Order 7, Rule 9.

When the plaint filed by the plaintiff does not include the prerequisite list of the document which are required as per Rule 9, Order 7 the court can reject the plaint.

The court hold powers to reject the plaint not submitted as per rule 11, Order 7.

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2

Temporary Injunction

Section 91, 92 and Order 39 deals with provisions of Temporary Injunction. The Latin maxim "Ubi jus ibi Remedian" means where there is a right, there is a Remedy. Temporary Injunction is judicial remedy to the Plaintiff. Temporary Injunction is the temporary status quo in the suit until the further orders of court.

Order 37 SRA Temporary injunction are such continue until a specified time until further orders. Regulated by CPC may be granted at any stage of suit

Condition when Temporary Injunction can ordered

The court can order temporary Injunction when:-

1. There is injury caused to the plaintiff in respect of their property
2. Threat is caused to plaintiff or his property.
3. The interest is created towards the third party of Plaintiff Property.

When any of the above condition arise the court issue Temporary Injunction, Under Order 39 towards plaintiff.

In case the Injunction orders not adhere, the penalities and punishment can be followed.

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In case of Dalrat Singh & Another, the court state the temporary injunction can be issued, when the following conditions arised :-

(a) Irreparable loss
(b) Peiome facie case
(c) Balance of Convience.

Order 39, Rule 1, state that any one can file application of temporary Injunction for statutory Relief.

Rule 2 :- When the defendant commit breach of Peace or Contract.

Rule 2A States about noncompliance of an injunction with legard of injunction

Rul 3 States when the court is requised to issue notice do the opposite party regarding the application of Injunction

Rule 4 :- The injunction order, can be discharged, varied or set aside when the parties is dissatisfied by order of court.

The concept of Temporary Injunction is vital and process oriented way of granting injunction in favour plaintiff.

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Q3: What is an Interpleader Suit? When and by whom can it be instituted?

4/10

Section 88 and Order 35 deals with Interpleader Suit as mentioned in Civil procedure Code. The Plaintiff on behalf of claimant, where defendant out of 2 are fighting to be the real owner, the suit filed by Plaintiff is termed as Interpleader Suit.

define interpleader

When the Plaintiff is not the real owner, then the suit is filed on plaintiff behalf.

For Example:

A's having 2 wives, A' died due health issue, A's father instituted a Interpleader Suit between wives of A to find actual owner of property of A.

The example states that Interpleader Suit can instituted by Plaintiff behalf after his death. This suit can be instituted between the two defendant to ascertain the true and actual owner of property, money or any debt.

CONDITIONS FOR INSTITUTING SUITS

1. Plaintiff representation
2. Two defendants to find out actual & True owner
3. Dispute over any property, money or claim
4. There should not be prior pending suit on the property, money or an claim

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Order 35, Rule 1 to 6 deals with rules on instituting an Interpleader Suit.

Rule 1:- There must be a plaint filed by plaintiff behalf filed in Court.

Rule 2:- payment of the thing claimed into Court to be made.

Rule 3 talks about Procedure when defendant is suing the plaintiff.

Rule 4 lays down the procedure of Interpleader suit at first hearing.

Rule 5: Mention who cannot file interpleader suit,

Tenants and agents are two parties who cannot file interpleader suit.

Rule 6 States charge for plaintiff cost.

The concept of Interpleader suit involves file of suit on behalf of Plaintiff to decide the actual owner from 2 defendant.

Good Luck
Team Edzorb

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Mains Evaluation By Edzorb Law

N Nishtha Singh

★★★★★ 09/12/2022

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Garvit Dave

★★★★★ 25/08/2021

Dear ma'am Greetings of the day! On a personal note, Edzorb law helped me a lot, rather it helped me immensely in my preparation. As we all know that standard books for the preparation are very bulky & language is also hard but the way Edzorb team has put effort to explain the concept through pictorial example which are related to our day to day life, thus making it very simple and easy to understand various provision. With regards to notes, I would contend that they are very simplified and provide in depth knowledge of every subject, one can never feel tired while studying. The best thing is the highlighted portion of it. To summarise The course, is very helpful for quick revision. Thank you EDZORB for your extreme efforts. With best regards Garvit dave



Nisha Singh

★★★★★ 02/01/2023

Edzorb law is a digital app that helps simplify preparation.I adore and recommend the app as it provides overall preparation tactics. Even if you are traveling you can just access it from anywhere. The simplified notes are the best way to revise Bare Act, and the Q bank is designed to ensure full coverage of topics for an overall preparation. I am grateful to be a member of the Edzorb family.

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