



SUPREME COURT CLARIFIES BAR ON SUBSEQUENT SUITS:
OMISSION OF RELIEF IN EARLIER PROCEEDINGS ATTRACTS CONSTRUCTIVE
RES JUDICATA AND ORDER II RULE 2 CPC

Case: *Channappa (D) Thr. LRs. v. Parvatewwa (D) Thr. LRs.*

Case No.: (2026) INSC 343

Court: Supreme Court of India

Coram: Justice Dipankar Datta and Justice Augustine George Masih

I. BACKGROUND AND CONTEXT

The Hon'ble Supreme Court, in a significant ruling on procedural law, examined the maintainability of a subsequent suit where a plaintiff had omitted to seek complete reliefs in earlier proceedings concerning the same subject matter.

The dispute traces back to competing claims over immovable property, arising from an alleged adoption and subsequent assertion of ownership rights.

Parvatewwa, since deceased, represented through legal representatives ("Plaintiff") and Channappa, since deceased, represented through legal representatives ("Defendant") are the principal parties to the dispute.

Following the death of the Plaintiff's husband on January 15, 1961, the Defendant is stated to have been adopted by the Plaintiff on March 23, 1961. Decades later, in 2002, the Plaintiff instituted a suit ("Suit I") seeking a declaration that the adoption deed dated March 23, 1961 was null and void, along with a consequential injunction restraining interference with the Plaintiff's property rights.

Significantly, even at this stage, the Defendant had asserted ownership rights over the suit property, thereby placing the issue of title squarely in dispute.

During the pendency of appellate proceedings arising from Suit I, the Plaintiff instituted a second suit in 2007 ("Suit II"), seeking declaration of ownership and recovery of possession of the same property, alleging dispossession by the Defendant.

The litigation history involved:



- **Trial Court (Suit II):** Dismissed Suit II as barred by limitation, res judicata, constructive res judicata, and Order II Rule 2 of the Code of Civil Procedure, 1908 (“CPC”).
- **First Appellate Court:** Reversed the finding on limitation but upheld dismissal on res judicata and Order II Rule 2 grounds.
- **High Court (Second Appeal):** Set aside concurrent findings and decreed Suit II in favour of the Plaintiff.
- **Supreme Court:** Examined the correctness of the High Court’s interference under Section 100 CPC.

II. LEGAL FRAMEWORK

The dispute required interpretation of key provisions of CPC:

- i. **Order II Rule 2 CPC:** Mandates that a plaintiff must claim all reliefs arising from the same cause of action in one suit. Omission of any such relief, without leave of the Court, bars a subsequent suit for the omitted relief.
- ii. **Section 11 CPC (Res Judicata) and Explanation IV (Constructive Res Judicata):** Bars re-litigation of issues that were, or ought to have been, raised and decided in earlier proceedings between the same parties.
- iii. **Section 105 CPC:** Permits challenge to interlocutory orders in an appeal against the final decree, even where no independent appeal lies.
- iv. **Section 100 CPC:** Limits the jurisdiction of the High Court in second appeal to substantial questions of law, prohibiting re-appreciation of evidence or interference with concurrent findings of fact unless perverse or legally unsustainable.

III. ISSUES BEFORE THE COURT

The Supreme Court considered the following two principal questions:



1. Whether Suit II instituted by the Plaintiff was barred by res judicata, constructive res judicata, and Order II Rule 2 CPC;
2. Whether the High Court was justified in interfering with concurrent findings in second appeal under Section 100 CPC.

IV. JUDICIAL ANALYSIS

A. Bar under Order II Rule 2 CPC: Completeness of Relief

The Court undertook a detailed examination of the doctrine underlying Order II Rule 2 CPC, emphasising that it is founded on the principle that:

“A defendant ought not to be vexed twice for the same cause of action, and the plaintiff must exhaust all available reliefs in one proceeding.”

Applying the test laid down in Gurbux Singh v. Bhooralal, the Court held:

- The cause of action in Suit I and Suit II was substantially identical, rooted in the dispute over proprietary rights;
- The Plaintiff was fully aware of the Defendant’s competing claim of ownership at the time of instituting Suit I;
- Despite such knowledge, the Plaintiff confined Suit I to challenging the adoption deed and seeking an injunction, without seeking declaration of title or recovery of possession;
- No leave was sought to reserve such reliefs for future proceedings.

The Court underscored that once title is in dispute, a mere injunction suit is insufficient, and the plaintiff is required to seek comprehensive declaratory relief. The omission to do so was therefore substantive in nature and attracted the statutory bar under Order II Rule 2 CPC.

Accordingly, the Court concluded that Suit II, which sought the omitted reliefs, was not maintainable.



B. Constructive Res Judicata: Bar on Piecemeal Litigation

The Court further invoked Explanation IV to Section 11 CPC and emphasized that the doctrine of constructive res judicata extends beyond issues actually decided to those that ought to have been raised.

It was observed that:

- The Plaintiff had the opportunity to raise all claims relating to title and possession in Suit I;
- Such claims were not merely available but necessary to be raised, given the Defendant's assertions;
- Matters which "might and ought" to have been raised are deemed to have been directly and substantially in issue.

The Court held that such an approach amounts to an abuse of process and is barred by constructive res judicata, while emphasizing, "*Constructive res judicata is a rule against litigation by fragmentation, ensuring finality and preventing abuse of process.*"

C. Interlocutory Orders and Section 105 CPC

The Court clarified the legal position regarding interlocutory orders, particularly those rejecting applications under Order II Rule 2 CPC:

- The rejection of an application under Order II Rule 2 at an interim stage does not attain irrevocable finality;
- Such orders, being non-appealable, can be challenged in an appeal against the final decree under Section 105 CPC.

The Court clarified that treating such orders as final would defeat the legislative scheme and improperly elevate interlocutory findings to conclusive determinations.

D. Scope of Second Appeal under Section 100 CPC

On the jurisdictional question, the Court strongly reaffirmed doctrinal limits:



- Section 100 CPC permits interference only on substantial questions of law;
- Concurrent findings of fact are binding unless perverse, unsupported by evidence, or contrary to settled law.

The Apex Court noted that both the Trial Court and the First Appellate Court had undertaken a detailed examination of the pleadings and evidence and had concurrently concluded that Suit II was barred. The High Court, however, reassessed the factual matrix and reversed these findings without identifying any perversity or misapplication of law.

The Supreme Court held that such an approach effectively amounted to a reappraisal of evidence, which is impermissible under Section 100 CPC.

V. CORE LEGAL PRINCIPLES

- A plaintiff must claim the entirety of reliefs arising from a cause of action in one proceeding;
- Omission to do so triggers the bar under Order II Rule 2 CPC;
- Constructive res judicata precludes claims that ought to have been raised earlier;
- Interlocutory orders remain open to challenge in appeal under Section 105 CPC;
- Section 100 CPC strictly limits second appellate jurisdiction to substantial questions of law.

VI. DECISION

The Supreme Court allowed the appeal and set aside the judgment of the High Court. In doing so, it restored the concurrent findings of the Trial Court and the First Appellate Court, holding that Suit II was barred by the provisions of Order II Rule 2 CPC as well as the doctrine of constructive res judicata. Consequently, the subsequent suit instituted by the Plaintiff seeking declaration of title and recovery of possession was held to be not maintainable and was accordingly dismissed.



VII. CONCLUDING REMARKS

The judgment underscores the importance of procedural discipline in civil litigation, particularly in ensuring that claims arising from a single cause of action are comprehensively adjudicated in one proceeding.

It brings into focus the underlying objective of doctrines such as Order II Rule 2 CPC and constructive res judicata, which seek to prevent multiplicity of proceedings and secure finality in adjudication. These principles operate as essential safeguards against fragmented litigation and repeated invocation of judicial processes on substantially identical issues.

The decision also reiterates the structural limits of second appellate jurisdiction under Section 100 CPC, emphasising that such jurisdiction is confined to substantial questions of law and does not extend to reappreciation of facts.

Taken together, the judgment is likely to have broader implications for civil litigation practice by reinforcing that omissions in pleadings and reliefs at the initial stage cannot be cured through subsequent proceedings, and that attempts at re-agitating settled disputes will continue to be subject to strict judicial scrutiny.

Judgement Dated: April 9, 2026 [Read [Here](#)]

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