



# RES SUB JUDICE

ANSWER OUTLINE



FAREEHA IMDAD

**1. Introduction:**

**2. Relevant provision:**

Section 10 and section 151

Of Civil Procedure Code, 1908

**3. Cross Reference:**

Section 34 of Arbitration Act, 1940

Article 203 of constitution of Pakistan 1973

**4. Meaning of Res sub-judice:**

**5. Doctrine of Res sub-judice:**

Section 10 codifies the principle of res sub-judice

PLD 2008 KAR 224

The policy of law is to confine the parties to one suit, thus obviating the possibility of contradictory adjudications with regard to the same matters in issue.

**6. Application of section 10:**

**7. Conditions for the applicability of section 10:**

In order that the provision of section 10 is applicable, five conditions must be fulfilled;

**I. Same matter in issue:**

2011 MLD 261

The entire matters in issue in both the suits must be the same in order to attract the provisions of section 10.

**II. Previously instituted suit is pending before competent court:**

**III. Both the suits must be between same parties:**

PLD 1971 Dacca 286

Both the suits must be between same parties or their representatives.

**IV. Court before which suit is pending must be competent to grant relief:**

**V. Parties must be litigating under the same title:**

**8. When conditions of section 10 are fulfilled:**

2011 MLD 1311

“If all the conditions afore-mentioned are fulfilled it is mandatory upon the court trying the subsequently instituted suit to stay proceedings in the suit.”

**9. Stage at which stay is granted:**

**10. Section 10 puts no bar to suits:**

Section 10 does not bar the institution of subsequent suits but only the trial of such suits.

**11. Inherent power of court u/section 151:**

2008 YLR 157

“Where all the conditions are not strictly fulfilled the suit may, for ends of justice be stayed under section 151”

**12. Scope of section 10:**

**13. Object of section 10:**

2009 CLC 354

“The object of the rule contained in section 10 is to prevent courts of concurrent jurisdiction from simultaneously entertaining and adjudicating upon two parallel litigations in respect of the same matters in issue.”

**14. Effect of section 10:**

**15. Doctrine of Res sub-judice not applicable in case of Foreign courts:**

The pendency of a suit in a foreign court does not attract the provisions of this section.

**16. Interim orders:**

**17.Appeal:**

**18.Final analysis**