

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL REVISION APPLICATION NO.04 OF 2026

APPLICANTS

(Ori. Defendants)

- : 1. HDFC Bank Limited,
Branch Manager, Bharuka Bhavan,
Opp. Yashwant Stadium, Dhantoli,
Nagpur-12.
2. HDFC Bank Limited,
Cluster Head, Fidvi Towers, 4th Floor,
Sadar, Mount Road, Nagpur-440 001.
3. HDFC Bank Limited,
Senior Vice President, Human
Resources, West 1 Think Techno
Campus, Buklding-Alpha, Next to
Kanjur, Marg Railway Station (East)
Kanjur Marg (E), Mumbai – 400 042
4. HDFC Bank Limited,
Aditya Puri (M.D.), 1 Think Techno
Campus, Buklding-Alpha, Next to
Kanjur, Marg Railway Station (East)
Kanjur Marg (E), Mumbai-400 042

..VERSUS..

NON-APPLICANT :

(Ori. Plaintiff)

Mrs. Archana w/o Sachin Dongre,
Aged about 45 years, Occu. Nil, R/o
Jaiprakash Nagar, Khamla, Nagpur-
440025.

Mr.V. V. Bhangde, Advocate for applicant.

Mr. Amit Khare, Advocate for respondent.

CORAM : **ROHIT W. JOSHI, J.**

DATE OF RESERVE : **16.03.2026**

DATE OF DECISION : **06.04.2026**

J U D G M E N T :

1) The present Civil Revision Application is filed in order to challenge order dated 26.08.2025 passed by the learned 26th Joint Civil Judge, Senior Division, Nagpur, on application at Exhibit 49 in Special Civil Suit No.347 of 2017.

2) The applicants are defendants in the said suit. The respondent/plaintiff filed the aforesaid suit for declaration, restoration of service and claim for damages in view of termination of her services by the applicants on 28.02.2017. The plaintiff was working with the defendants as Relationship Manager at Nagpur. She filed the aforesaid suit at Nagpur contending that cause of action for filing the suit arose at Nagpur. Averments regarding territorial jurisdiction are made in paragraph 22 of the plaint, which reads as under:-

“The plaintiff states that her interview was conducted at Nagpur. Her appointment letter also points out the place at Nagpur. The entire work was done at Nagpur. The plaintiff further states that the defendants are residing at Nagpur. Similarly, the plaintiff all throughout worked at Nagpur. The entire communications were done by the plaintiff at Nagpur and her performance were reviewed at Nagpur. Likewise, the termination letter was also issued at Nagpur. Thus, in such facts and circumstances the entire cause of action was at Nagpur and hence this Hon’ble Court has proper jurisdiction to try and entertain the instant case for its proper adjudication and justice.”

3) The plaintiff was appointed in service vide appointment order dated 06.12.2013. The appointment order provides that any dispute in relation to the employment of the plaintiff will be subject to exclusive jurisdiction of Courts at Mumbai.

4) The defendants had filed an application vide Exhibit-9 under Order VII Rule 10 of the Code of Civil Procedure, 1908, (for short, the CPC) contending that the learned Trial Court did not have the territorial jurisdiction to

entertain the same in view of the clause conferring exclusive jurisdiction upon Courts at Mumbai.

5) The said application was rejected by the learned Trial Court vide order dated 05.04.2018. The learned Trial Court has observed that the entire cause of action had arisen at Nagpur and the defendants also had a branch office at Nagpur and therefore Courts at Mumbai did not possess jurisdiction to entertain the suit. The learned Trial Court referred to the settled legal position that although parties may restrict jurisdiction to one of two Courts, when both the Courts have the jurisdiction, they cannot by contract confer jurisdiction on a Court which otherwise is not vested with it.

6) Being aggrieved by the said order, the defendants challenged the same before this Court in Civil Revision Application No.81 of 2018. The Civil Revision Application came to be rejected vide judgment dated 16.08.2018 on the same ground, i.e., the Courts at Mumbai did not have jurisdiction and therefore by way of agreement, jurisdiction could not be conferred.

7) The present applicant filed application for review, being MCA No.967 of 2018 which came to be rejected by this Court vide order dated 09.07.2008.

8) After the review was rejected, a similar dispute pertaining to territorial jurisdiction with respect to an identical clause in the appointment order issued by the defendant/HDFC came up for consideration before the Hon'ble Supreme Court in the case of ***Rakesh Kumar Verma Vs. HDFC Bank***¹.

9) In the said case, the appellant before Supreme Court was appointed in service vide order dated 24.07.2002. He joined his service at Patna. The appointment order contained a clause conferring exclusive jurisdiction upon Courts at Mumbai. The relevant clause in the present case and in the matter before the Hon'ble Supreme Court is as under:-

“The terms and conditions set out in this letter of appointment constitute service conditions applicable to your employment in the bank and with regard to any dispute thereof, the Bombay Courts will have

1 2025 SCC Online SC 752

exclusive jurisdiction.”

10) The services of the employee in the case before the Hon'ble Supreme Court were terminated by HDFC, challenge to which was raised by filing suit before Court at Patna. HDFC filed an application raising objection to territorial jurisdiction of Patna Court. The learned Trial Court rejected the application, however, the Civil Revision Application preferred by HDFC was allowed, holding that the Court at Patna did not have jurisdiction in the light of aforesaid clause conferring jurisdiction upon Courts at Mumbai.

11) In the light of aforesaid decision, the defendants filed another application vide Order VII Rule 10 of the CPC before the learned Trial Court vide Exhibit 49. The said application came to be rejected vide order dated 26.08.2025, which is impugned in the present Civil Revision Application. The learned Trial Court has rejected the application on the ground that earlier application filed by the defendants for the same purpose was rejected and Civil Revision Application preferred by the defendants was also dismissed by this Court. In sum and substance, the learned Trial Court has rejected

the application on the ground that the earlier order passed, which is confirmed by this Court, operates as res judicata.

12) Mr. Bhangde, the learned Advocate for the applicants/defendants contends that the learned Trial Court has failed to consider two exceptions to the rule of res judicata viz. (i) erroneous decision on a pure question of law relating to jurisdiction of Court does not operate as res judicata and (ii) in case of change in interpretation of law rule of res judicata is not applicable.

13) In support of his contention, Mr. Bhangde, has placed reliance on judgments of the Hon'ble Supreme Court in the case of *Mathura Prasad Bajoo Jaiswal and ors. Vs. Dossibai N. B. Jeejeebhoy*², *Canara Bank Vs. N. G. Subbaraya Setty and anr.*³ and judgment of this Court in the case of *Prabhakar Ambadas Kothale Vs. Shantabai Prabhakar Kothale*⁴.

14) At the outset one must remember that all orders without jurisdiction are not nullity in the eyes of law. An order which suffers from inherent lack of jurisdiction is a

2 1970 (1) SCC 613

3 (2018) 16 SCC 228

4 2008(2) Mh.L.J. 794

nullity in the eyes of law and can be ignored. However orders suffering from procedural aspects of jurisdiction such as territorial jurisdiction, pecuniary jurisdiction, limitation, res judicata etc., are not nullity in the eyes of law. Errors pertaining to such procedural aspects of jurisdiction are errors committed within the jurisdiction of the Court. Such orders do not suffer from inherent lack of jurisdiction. They are binding between the parties even if they are erroneous. Such orders are required to be challenged to have them set aside. Unless such orders are set aside by a competent Court, they continue to operate and are completely binding on the parties.

15) Legal position in this regard is explained by the Hon'ble Supreme Court in the case of *Ittyavira Mathai vs Varkey Varkey*⁵, as under:-

“8. Even assuming that the suit was barred by time, it is difficult to appreciate the contention of learned counsel that the decree can be treated as a nullity and ignored in subsequent litigation. If the suit was barred by time and yet, the court decreed it, the court would be committing an

5 AIR 1964 SC 907

illegality and therefore the aggrieved party would be entitled to have the decree set aside by preferring an appeal against it. But it is well settled that court having jurisdiction over the subject matter of the suit and over the parties thereto, though bound to decide right may decide wrong; and that even though it decided wrong it would not be doing something which it had no jurisdiction to do. It had the jurisdiction over the subject-matter and it had the jurisdiction over the party and, therefore, merely because it made an error in deciding a vital issue in the suit, it cannot be said that it has acted beyond its jurisdiction. As has often been said, courts have jurisdiction to decide right or to decide wrong and even though they decide wrong, the decrees rendered by them cannot be treated as nullities.”

16) It will also be profitable to refer to judgment of the Hon’ble Supreme Court in the case of ***Urban Improvement Trust, Jodhpur Vs. Gokul Narain (Dead) by LR’s and ors.***⁶, wherein the Hon’ble Supreme Court has distinguished between a decree suffering from lack of inherent jurisdiction which is treated as a nullity and a decree being passed by a Court lacking territorial or pecuniary jurisdiction which is

6 (1996) 4 SCC 178

required to be challenged and set aside. Relevant observations of paragraph 15 are reproduced herein-below.

“15....On appeal, this Court had held that a decree passed by a court without jurisdiction over the subject-matter or on any other ground which goes to the root of its exercise of jurisdiction or inherent jurisdiction, is a nullity. A decree passed by such a court is a nullity and is non est. Its invalidity can be set up whenever it is sought to be enforced or is acted upon as a foundation for a right even at the stage of execution or in collateral proceedings. The defect of jurisdiction strikes at the authority of the court to pass a decree which cannot be cured by consent or waiver of the party. If the court has jurisdiction but there is any defect in its exercise of jurisdiction it does not go to the root of its authority. Such a defect like territorial jurisdiction could be waived by the party which could be corrected only by way of an appeal or revision.”

17) It will also be profitable to refer to judgment of the Hon'ble Supreme Court in the case of ***Pandurang Dhondi Choughule and ors. Vs. Maruti Hari Jadhav and ors.***⁷. In this judgment the Hon'ble Supreme Court has held that res judicata also deals with jurisdictional aspect of a Court.

⁷ AIR 1966 SC 153

Relevant observations in paragraph 10 of the judgment are as under:-

“10. It is well-settled that a plea of limitation or a plea of res judicata is a plea of law which concerns the jurisdiction of the Court which tries the proceedings. A finding on these pleas in favour of the party raising them would oust the jurisdiction of the Court, and so, an erroneous decision on these pleas can be said to be concerned with questions of jurisdiction which fall within the purview of S.115 of the Code.

18) It must be stated that Section 11 of the CPC mandates that no Court shall try any suit or issue which is already decided by a Court of competent jurisdiction in a previously instituted suit between the same parties. The provision is couched in negative terms which implies that it is mandatory in nature. The provision also uses the word, ‘shall’ which also conveys its mandatory nature.

19) The contentions raised by the learned advocate for the applicants/defendants are required to be examined in the light of this legal position.

20) There cannot be any dispute that the Courts at Mumbai alone will have the territorial jurisdiction to entertain the present suit, in view of judgment of the Hon'ble Supreme Court in the case of *Rakesh Kumar Verma (supra)* relied upon by the learned advocate for the applicants/defendants. *Rakesh Verma* is decided after rejection of initial application filed by the defendants for return of plaint and rejection of the revision application as also application for review preferred by the applicants/defendants assailing the said order.

21) The effect of the subsequent judgment passed in a different case dealing with identical controversy is required to be examined in the backdrop of the fact that earlier application for return of plaint and civil revision arising out of the said order are rejected and the said order has assumed finality between the parties.

22) Before dealing with the contentions raised by the learned advocate it will be appropriate to deal with Order 47 Rule 1 of the CPC. Order 47 deals with power of review. Explanation to Order 47 Rule 1 categorically provides that

the fact that the decision on a question of law on which the judgment of the Court is based, is reversed or modified by a subsequent decision of a superior Court in any other case will not be a ground for review of the judgment. Thus, the legislature was alive to the situation that the foundation on the basis of which an order is passed may be subsequently eroded by a judgment of a superior Court in another legal proceeding. The legislature, however, has expressly laid down that change in interpretation of law by a superior Court will not be a good ground for review. The provision thus gives primacy to rule of res judicata.

23) There cannot be any dispute with respect to legal position that an order suffering from inherent lack of jurisdiction is required to be treated differently than an order passed by a Court lacking in jurisdiction on account of procedural aspects of jurisdiction, such as territorial jurisdiction. Whereas, an order passed by a Court without subject matter of jurisdiction i.e., without inherent jurisdiction is a nullity in the eyes of law, an order suffering from procedural aspects of jurisdiction is not a nullity and at

best may be branded as illegal. An order passed by a Court without territorial or pecuniary jurisdiction is required to be challenged to have it set aside. Unless such order is set aside it is completely binding on parties.

24) Since the earlier order passed by the learned Trial Court with respect to territorial jurisdiction is confirmed by this Court and the same is not challenged further, in the considered opinion of this Court the said order will operate as res judicata between the parties and as such it was not open for the applicants/defendants to file fresh application seeking return of plaint in view of subsequent decision of the Hon'ble Supreme Court.

25) It will now be appropriate to deal with the authorities cited by Mr. Bhangde with respect to exceptions to the principle of res judicata.

26) In the case of *Mathura Prasad Bajoo* the Hon'ble Supreme Court has culled out exceptions to the rule of res judicata. The following paragraphs are extracted for ready reference:-

“7. Where the law is altered since the earlier decision, the earlier decision will not operate as *res judicata* between the same parties : [Tarini Charan Bhattacharjee's case \(supra\)](#). It is obvious that the matter in issue in a subsequent proceeding is not the same as in the previous proceeding, because the law interpreted is different.

9. A question of jurisdiction of the Court, or of procedure, or a pure question of law unrelated to the right of the parties to a previous suit, is not *res judicata* in the subsequent suit. Rankin, C. J., observed in *Tarini Charan Bhattacharjee's case (supra)* :

10. A question relating to the jurisdiction of a Court cannot be deemed to have been finally determined by an erroneous decision of the Court. If by an erroneous interpretation of the statute the Court holds that it has no jurisdiction, the question would not, in our judgment, operate as *res judicata*. Similarly by an erroneous decision if the Court assumes jurisdiction which it does not possess under the statute, the question cannot operate as *res judicata* between the same parties, whether the cause of action in the subsequent litigation is the same or otherwise.

11. *It is true that in determining the application of the rule of res judicata the Court is not concerned with the correctness or otherwise of the earlier judgment. The matter in issue, if it is one purely of fact, decided in the earlier proceeding by a competent Court must in a subsequent litigation between the same parties be regarded as finally decided and cannot be reopened. A mixed question of law and fact determined in the earlier proceeding between the same parties may not, for the same reason, be questioned in a subsequent proceeding between the same parties. But, where the decision is on a question of law, i. e., the interpretation of a statute, it will be res judicata in a subsequent proceeding between the same parties where the cause of action is the same, for the expression "the matter in issue" in Section 11, Code of Civil Procedure means the right litigated between the parties, i.e., the facts on which the right is claimed or denied and the law applicable to the determination of that issue. Where, however, the question is one purely of law and it relates to the jurisdiction of the Court or a decision of the Court sanctioning something which is illegal, by*

resort to the rule of res judicata a party affected by the decision will not be precluded from challenging the validity of that order under the rule of res judicata, for a rule of procedure cannot supersede the law of the land.”

27) In the said case, an application for fixation of fair rent was filed by the landlord. This was a second application filed for the same purpose i.e, fixation of fair rent. Earlier application was rejected by the learned Trial Court on the ground that provisions of Bombay Rent Act, under which the said application was filed were not applicable to open lands. This order passed by the learned Trial Court was confirmed by the High Court. However, subsequently the High Court took a different view holding that provisions of Rent Act were applicable to open lands as well. It will be pertinent to state that the Hon'ble Supreme Court had upheld the subsequent view taken by the High Court that provisions of Rent Act were applicable to open lands. In view of the subsequent decision the landlord filed fresh application for fixation of fair rent. The said application was rejected by the learned Trial

Court on the ground of res judicata. The order was confirmed by the High Court. The matter was carried by the landlord before the Hon'ble Supreme Court. The Hon'ble Supreme Court held that rule of res judicata will not be applicable and subsequent application filed by the landlord was maintainable in view of change in interpretation of the statutory provisions of Rent Act. The judgment deals with subject matter jurisdiction i.e., inherent jurisdiction of a Court. The observations of the Hon'ble Supreme Court holding that erroneous decision on the point of jurisdiction does not operate as res judicata are made in the context of subject matter jurisdiction and not procedural aspects of jurisdiction. As regards change in interpretation of law, perusal of paragraph 11 will demonstrate that the law is laid down with respect to a separate proceeding instituted on a different cause of action. Perusal of paragraph 11 will indicate that the Hon'ble Supreme Court has emphasized that a question of law decided in a previous proceeding operates as res judicata in a subsequent proceeding between the same parties on the same cause of action.

28) The ratio of the said judgment with respect to jurisdiction will not be applicable in the present case since the objection is not subject matter jurisdiction or inherent jurisdiction, but to territorial jurisdiction which is a procedural aspect of jurisdiction. The ratio pertaining to interpretation of pure question of law not operating as res judicata will also not be applicable since the said judgment holds that adjudication of pure question of law does not operate as res judicata in a separate proceeding on a different cause of action. Here rule of res judicata is sought to be bypassed on the ground of interpretation of clause in an agreement dealing with territorial jurisdiction based on a subsequent Supreme Court decision, although the proceeding and cause of action are the same.

29) In the case of *N. G. Subbaraya Setty and anr.*, the respondent had obtained loan from the appellant/bank and had defaulted in repayment of the same. The loan was initially set off against assignment of a trade mark relating to incense sticks. The bank however cancelled the agreement of assignment. This cancellation was challenged by the

borrower by instituting a suit. The suit was decreed in favour of the borrower and against the bank holding that the cancellation of assignment agreement by the bank was bad in law. The Court granted money decree in favour of bank towards use of the trade mark for a period from 01.10.2003 to 31.03.2004. This decree was not challenged by the bank. The borrower filed a fresh suit for recovery of money for subsequent period from 01.04.2004 to 30.04.2007. The suit was decreed on the principle of res judicata. The matter reached the Hon'ble Supreme Court. The Hon'ble Supreme Court held that the claim of the borrower, based on assignment deed was barred by Section 45 of the Trade Mark's Act, 1999 since the assignment deed was not registered and Section 6 and 8 read with Section 46(4) of the Banking Regulation Act, 1949 on the ground that the said provisions prohibited a bank from doing any business other than banking business. It is held that the decree in the earlier civil suit which was based on misinterpretation of law will not operate as res judicata in a subsequent suit which is based on different cause of action. The Hon'ble Supreme

Court has reiterated the legal principles laid down in the case of *Mathura Prasa Bajoo (supra)*.

30) The ratio of the said judgment will not apply to the present case since the fresh application is filed in the same proceeding and on the same cause of action.

31) It will however be relevant to refer to some important observations by the Hon'ble Supreme Court with respect to res judicata which read as under:-

“Res judicata is, thus, a doctrine of fundamental importance in our legal system, though it is stated to belong to the realm of procedural law, being statutorily embodied in Section 11 of the Code of Civil Procedure, 1908. However, it is not a mere technical doctrine, but it is fundamental in our legal system that there be an end to all litigation, this being the public policy of Indian law. The obverse side of this doctrine is that, when applicable, if it is not given full effect to, an abuse of process of the court takes place”

32) In the case of *Prabhakar Ambadas Kothale* the husband had filed a proceeding for divorce under Section 13 (1-A) (ii) of the Hindu Marriage Act on the ground that the

husband and wife could not stay together after a period of more than two years from the date of decree for restitution of conjugal rights. The suit filed by the husband was initially dismissed on the ground that the husband could not take advantage of his own wrong in order to seek a decree for divorce on the ground that parties did not reside together for a period of two years despite a decree for restitution. Thereafter, the Hon'ble Supreme Court interpreted the provision in the case of *Dharmendra Kumar Vs. Usha Kumar*⁸. In view of the said judgment the husband filed a fresh divorce petition on the same ground that the parties did not reside together for a period of two years from the date of decree for restitution of conjugal rights. The learned Trial Court allowed the application for divorce in view of subsequent decision by the Hon'ble Supreme Court in the case of *Dharmendra Kumar (supra)*. The matter reached this Court in Second Appeal. The question which arose for consideration before this Court is as to whether dismissal of the earlier divorce petition by the husband on the same ground viz. not residing together for a period of two years

8 AIR 1977 SC 2218

after decree for restitution, would operate as res judicata.

Following the judgment in the case of ***Mathura Prasad Bajoo***

this Court rejected the contention with respect to res judicata

observing as under :-

“It is admitted position that there was no cohabitation between the parties after 8-2-1977 and till 19-2-1979. The trial Court therefore has found that a fresh cause of action accrued in favour of the present appellant. I also find that as per the law existing after 19-8-1977, a fresh cause of action accrued in favour of the present appellant on 19-2-1979 as in spite of restitution of conjugal rights decree parties had not cohabited. It is to be noted that though this Court has delivered judgment on 8-2-1977 in Second Appeal No. 385/1977, the proceeding there started on an application filed on 7-3-1970 by the present appellant. It is therefore, clear that after 7-3-1970 till 19-2-1979 there was no cohabitation. It is further clear that appellant has not been held to be at fault for this later not staying together. At the most it can be held that he did not take any positive steps towards cohabitation and remained only a mute spectator. But that is not sufficient as per law prevailing during this period to deprive

him of his right. Not only this, as already held above even if this accrual of fresh cause of action in favour of the present appellant is ignored, it is more than clear that the earlier judgment between the parties was passed upon wrong interpretation or incorrect interpretation and the interpretation of those provisions on 19-8-1977 by the Hon'ble Apex Court changed the position and earlier adjudication between parties therefore could not have been held as res judicata between them in subsequent petition. The lower Appellate Court was therefore not correct in taking a contrary view of the matter.”

33) This Court held that fresh period of separation for two years gives rise to a fresh cause of action and therefore earlier incorrect interpretation of statutory provision will not operate as res judicata. This Court also held that incorrect interpretation of statutory provision cannot operate as res judicata in a subsequent proceeding between the parties even if cause of action is the same.

34) Rule of res judicata is excluded with respect to adjudication of pure legal question in case of change in interpretation of law when such pure legal question falls for

consideration between the same parties in a separate proceeding on a different cause of action. When the cause of action is the same, different interpretation of law, subsequent to previous decision will not be an exception to operation of earlier decision as res judicata.

35) In the present case, although the interpretation of law has changed since passing of earlier orders, the cause of action is the same and therefore earlier decision, though erroneous in law, will operate as res judicata between the parties. Such interpretation will be in tune with the mandate of Explanation to Order 47 Rule 1 of CPC.

36) In the present case, in view of subsequent judgment by the Hon'ble Supreme Court the applicants/defendants filed a fresh application calling upon the learned Trial Court to revisit its earlier order rejecting application for return of plaint. In other words, the defendants are seeking review of the earlier order in the light of subsequent decision of the Hon'ble Supreme Court, although subsequent application for return of plaint is not titled as an application for review. If the defendants were to file an application for review of the

earlier order in the light of subsequent decision of the Hon'ble Supreme Court, the said application could not be entertained in view of statutory injunction under explanation to Order 47 Rule 1 of CPC. The question that falls for consideration is as to whether the defendants can be allowed to by-pass the said provision by entertaining fresh application on the ground that erroneous decision on question of territorial jurisdiction will not operate as res judicata. The answer has to be in the negative. It must be reiterated that territorial jurisdiction like res judicata is only a procedural aspect of jurisdiction of a Court. It will also be appropriate to refer to Section 21(1) of the CPC which provides that a decree cannot be set aside by Appellate or Revisional Court on the ground of territorial jurisdiction, unless such objection is raised at the earliest and there has been a consequent failure of justice on account of lack of territorial jurisdiction. As against this, res judicata is consistently held to be an important principle of a public policy which is essential to preserve the rule of law. The principle of res judicata is a principle of equity, justice and good conscience.

37) Mr. Bhangde, contends that when parties, by an agreement, restrict jurisdiction to one of several Courts which have jurisdiction to adjudicate the suit, the jurisdiction of all Courts except the agreed Court lack the jurisdiction to entertain the suit. His contention is that jurisdiction of all other Courts except the Court agreed upon between the parties stands excluded in such a case. Mr. Bhangde, therefore, contends that since the parties have, by contract, restricted jurisdiction to the competent Courts at Mumbai and the Honb'le Supreme Court has interpreted the said clause in the case of *Rakesh Kumar Verma* to hold that Courts at Mumbai alone will have the jurisdiction, all other Courts will inherently lack jurisdiction to deal with the suit. He, therefore, contends that the earlier order passed by the learned Trial Court, as also the order passed by this Court dismissing Civil Revision Application and application for review preferred by the applicant/bank, will not operate as res judicata.

38) I am afraid the said contention cannot be accepted in its entirety. When two or more Courts have subject matter

jurisdiction, i.e., inherent jurisdiction, to try a particular suit and the parties, by contract, restrict the jurisdiction to a particular Court, the territorial jurisdiction of other Courts is excluded.

39) The agreement restricting territorial jurisdiction to a particular Court will not have the effect of depriving other Courts, which are otherwise competent to deal with the subject matter of suit of their inherent jurisdiction to deal with the suit.

40) In the present case, order passed by the learned Trial Court on the aspect of territorial jurisdiction is confirmed by this Court in Civil Revision Application and application for review of order passed by this Court was also rejected. These orders have not been assailed any further and have attained finality between the parties. For the reasons recorded above, in the considered opinion of this Court, the said order will operate as res judicata between the parties. The case of defendants does not fall within any of the exceptions to the rule of res judicata. Rather, *Mathura Prasad Bajoo Jaiswal* itself clarifies that a question pertaining to

interpretation of law will operate as res judicata in a subsequent proceeding between the same parties when cause of action is the same. The said observation in the case of *Mathura Prasad Bajoo Jaiswal* will apply to the present case with a greater force, since the subsequent application is based on same cause of action and is filed in the same civil suit. As regards objection pertaining to jurisdiction, the objection is not with respect to inherent lack of jurisdiction and, therefore, applicability of res judicata will not be excluded on that ground as well. The subsequent application filed by the defendants under Order 7 Rule 10 of CPC seeking return of plaint on the ground of lack of territorial jurisdiction, is rightly rejected in the light of earlier orders.

41) Civil Revision is therefore **dismissed**, with no order as to costs.

(ROHIT W. JOSHI, J.)

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