

ORDER II

Order II Rule 1

Order II Rule 1 CPC lays down the fundamental principle governing the framing of a suit. It provides that every suit shall, as far as practicable, be framed in such a manner as to afford grounds for a final decision on all matters in dispute between the parties, and to prevent further litigation concerning the same subject matter. The emphasis of this provision is on ensuring that the dispute is comprehensively adjudicated in a single proceeding.

The primary object of this rule is to avoid multiplicity of suits, reduce unnecessary burden on courts, and ensure that the parties are not compelled to engage in repeated litigation over the same issues. It promotes judicial efficiency, prevents conflicting judgments, and upholds the principle of finality in litigation. Thus, the plaintiff is expected to draft the plaint in a manner that includes all relevant issues and disputes arising between the parties so that the Court can settle them conclusively.

ORDER II RULE 2

Order II Rule 2 CPC is a fundamental procedural provision which mandates that a plaintiff must include the entire claim arising out of a single cause of action in one suit. This rule gives effect to the broader principle laid down under Order II Rule 1, which requires that a suit should be framed so as to finally determine all disputes and prevent further litigation.

The object of Order II Rule 2 is to avoid multiplicity of proceedings, prevent conflicting decisions, and protect the defendant from being vexed repeatedly for the same cause of action. A litigant who splits his claims or reliefs and institutes multiple suits on the same cause of action is considered to be abusing the process of the Court.

Rule 2(1)

Order II Rule 2(1) provides that every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of a cause of action. This provision imposes a mandatory obligation upon the plaintiff to bring forward his entire claim in one proceeding.

However, the rule permits the plaintiff to relinquish a portion of his claim, for instance, to bring the suit within the pecuniary jurisdiction of a particular court. Such relinquishment is voluntary but carries serious consequences, as the plaintiff cannot later sue for the relinquished portion.

Rule 2(2)

Order II Rule 2(2) CPC provides that where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished. This provision creates a complete bar on the right to sue in respect of that part of the claim which the plaintiff could and ought to have claimed in the earlier suit. The rule is based on the principle that a plaintiff must bring forward his entire claim arising from a cause of action in one proceeding, and any deliberate omission or relinquishment amounts to a permanent abandonment of that claim.

The object of this provision is to prevent multiplicity of suits and to avoid harassment of the defendant by repeated litigation on the same cause of action. If a plaintiff were permitted to split his claim and file multiple suits for different portions of the same relief, it would not only burden the courts but also lead to inconsistent decisions and unnecessary vexation of the defendant. Therefore, the law mandates that the entire claim must be included in one suit, and failure to do so results in forfeiture of the omitted portion.

For the application of Order II Rule 2(2), it is essential that both the earlier and the subsequent suits arise from the same cause of action. The expression “cause of action” refers to every material fact which the plaintiff must prove to obtain a judgment in his favour. If the cause of action in the subsequent suit is different, the bar under this provision will not apply. Thus, identity of cause of action is the central requirement for invoking this rule.

CASE LAWS

1. Gurbux Singh v. Bhoora Lal (1964 SC)

- It must be established that both the earlier and the subsequent suits arise from the same cause of action.
- It must be proved that the plaintiff was legally entitled to claim the relief in the earlier suit which is subsequently claimed.
- It must also be shown that the plaintiff omitted or relinquished such relief in the earlier suit without obtaining the leave of the Court.
- The burden of proving these conditions lies on the defendant, who must produce the plaint of the earlier suit to establish the bar under Order II Rule 2.

2. Jayantilal Chimanlal Patel v. Vadilal Purushottam Das Patel (2017 SC)

- The Court cannot apply the bar under Order II Rule 2 Suo motu, and the plea must be specifically raised by the defendant.
- It must be established by the defendant, through proper evidence including the plaint of the earlier suit, that the conditions for the application of Order II Rule 2 are satisfied.

3. Bapu Saheb Chima Saheb Naik v. Mahesh Vijay Sinha (2017 SC)

- A prerequisite for invoking Order II Rule 2 is that the cause of action in the earlier and subsequent suits must be clearly proved to be identical.

Cuddalore Powergen Corporation Ltd. v. Chemplast Cuddalore Vinyls Ltd. (2025 SC)

- It was held that the object of Order II Rule 2 is to prevent multiplicity of suits and to ensure that a person is not vexed more than once for the same cause of action.
- The Court clarified that Order II Rule 2 mandates inclusion of the entire claim arising from the same cause of action in one suit; however, it does not require inclusion of different causes of action arising from the same transaction.
- It was observed that the expression “cause of action” means every material fact which the plaintiff must prove to obtain a judgment, and it has no relation to the defence of the defendant or the nature of relief claimed.
- The Court laid down that the correct test for applicability of Order II Rule 2 is to determine whether the subsequent suit is founded on a cause of action distinct from that of the earlier suit, and if different evidence is required, the causes of action are different.
- It was further held that for invoking the bar under Order II Rule 2(3), the defendant must establish that both suits arise from the same cause of action, that the plaintiff was entitled to claim multiple reliefs, and that the plaintiff omitted to claim the relief in the earlier suit without obtaining leave of the Court.
- The Court emphasized that the defendant must produce the plaint of the earlier suit in evidence to establish identity of cause of action and deliberate omission of relief.
- It was finally held that the bar under Order II Rule 2 is technical in nature and must be strictly proved, and it cannot be presumed on the basis of inference or assumptions.

Order VII Rule 11(d) vs Order II Rule 2 CPC

Order VII Rule 11(d)

Order VII Rule 11(d) CPC deals with rejection of plaint, not with the general right to sue. It provides that a plaint shall be rejected where the suit appears, from the statements contained in the plaint, to be barred by any law.

The determination under this provision must be made solely on the basis of a meaningful reading of the plaint and the documents annexed thereto. The expression “statement in the plaint” includes not only the averments in the plaint but also the documents relied upon by the plaintiff. Importantly, the Court cannot consider the written statement, defence, or external evidence while deciding an application under this clause.

Thus, if on the face of the plaint itself the suit is barred by law (such as limitation or res judicata), the Court must reject the plaint at the threshold stage.

Meaning of “Barred by Law” under Order VII Rule 11(d)

The expression “barred by any law” refers to a situation where the institution of the suit itself is prohibited by law. In such cases, the Court does not proceed to trial, as the defect is apparent from the plaint itself.

Therefore, the key requirement is that the bar must be evident from the plaint alone, without requiring any investigation into disputed facts or evidence.

Bar under Order II Rule 2

Order II Rule 2 CPC, on the other hand, does not bar the filing of a suit in the strict sense. Instead, sub-rules (2) and (3) impose a restriction on the right to claim certain reliefs which were omitted or relinquished in an earlier suit arising from the same cause of action.

Thus, under Order II Rule 2:

The right to sue for specific claims or reliefs is curtailed, But the filing of the suit itself is not absolutely barred.

Right to Sue vs Bar to Suit

There is a subtle but crucial distinction between the two provisions:

- Under Order II Rule 2, the law restricts the plaintiff's right to claim certain reliefs due to prior omission or relinquishment.
- Under Order VII Rule 11(d), the law bars the institution of the suit itself, making it liable for rejection at the threshold.

In other words, Order II Rule 2 results in denial of relief, whereas Order VII Rule 11(d) results in rejection of the plaint.

Requirement of Evidence

Another important distinction lies in the requirement of evidence:

- The applicability of Order II Rule 2 generally requires evidence, including comparison of plaints in the earlier and subsequent suits, to determine:
 - 1) Identity of cause of action

2) Omission of relief

3) Absence of leave of Court

- **In contrast, under Order VII Rule 11(d), no such evidence is required. The Court decides the issue purely on the basis of the plaint itself.**

Whether Order II Rule 2 Can Be a Ground under Order VII Rule 11(d)

Order II Rule 2 cannot be invoked as a ground for rejection of plaint under Order VII Rule 11(d).

This is because:

Order II Rule 2 does not create a bar to the filing of a suit

It only restricts the grant of relief in certain circumstances

Its application requires factual determination and evidence, which is beyond the scope of Order VII Rule 11(d)

Therefore, a plea under Order II Rule 2 must be raised by the defendant and proved during trial, and cannot be used to reject the plaint at the threshold stage.

If the defendant raises a plea under Order II Rule 2, the Court must:

- **Compare the plaint of the earlier suit and the subsequent suit**
- **Examine whether both suits arise from the same cause of action**
- **Determine whether relief was omitted without leave**

Only after such examination can the Court decide whether the subsequent claim is barred. However, this exercise cannot be undertaken at the stage of Order VII Rule 11(d).

On a conjoint reading of Order II Rule 2 and Order VII Rule 11(d), it becomes clear that the two provisions operate in different fields. While Order VII Rule 11(d) deals with rejection of plaint where the suit is barred by law on the face of the plaint, Order II Rule 2 deals with restriction on claims and reliefs and requires evidentiary determination. Therefore, a plea under Order II Rule 2 cannot form the basis for rejection of a plaint under Order VII Rule 11(d).

Order II Rule 2(3) CPC

Order II Rule 2(3) CPC deals with a situation where a plaintiff is entitled to claim more than one relief arising out of the same cause of action, but chooses to claim only some of them in the suit. The provision permits the plaintiff to sue for all or any of such reliefs; however, it imposes a restriction that if the plaintiff omits to claim any relief without obtaining the leave of the Court, he shall not afterwards sue for the relief so omitted. Thus, the rule creates a bar against a subsequent suit in respect of omitted reliefs, unless prior permission of the Court has been obtained.

A conjoint reading of Order II Rule 2(2) and Rule 2(3) makes it clear that they operate in two distinct fields. Rule 2(2) deals with omission or relinquishment of a part of the claim, whereas Rule 2(3) deals with omission of one among several reliefs arising from the same cause of action. The crucial distinction is that under Rule 2(2), there is no concept of leave of the Court, and once a part of the claim is omitted or relinquished, it cannot be subsequently claimed. In contrast, under Rule 2(3), the plaintiff may reserve the right to sue for omitted reliefs, but only if he has obtained leave of the Court at the time of the earlier suit.

For the successful application of the bar under Order II Rule 2(3), the defendant must establish certain essential conditions.

- **Firstly, it must be proved that the subsequent suit arises from the same cause of action as the earlier suit.**
- **Secondly, it must be shown that the plaintiff was entitled to claim more than one relief in respect of that cause of action.**
- **Thirdly, it must be established that the plaintiff omitted to claim the relief in the earlier suit.**
- **Lastly, it must be proved that such omission was made without obtaining the leave of the Court.**

Unless all these conditions are satisfied, the bar under this provision cannot be invoked.

The plea under Order II Rule 2(3) is regarded as a technical bar, and therefore it must be strictly pleaded and proved by the defendant. The burden of proof lies entirely on the defendant, who must produce the plaint of the earlier suit to demonstrate the identity of cause of action and omission of relief. The Court cannot presume the bar on the basis of inference rather, it must be established through clear and satisfactory evidence. In the absence of the earlier pleadings on record, the plea under Order II Rule 2 cannot be sustained.

