



An Overview of the Specific Relief Act, 1963

Introduction

- ▶ Replaced the earlier **Specific Relief Act, 1877**
- ▶ The Law Commission observed that the SRA, 1877, was not exhaustive and provided recommendations in its Ninth Report, which was forwarded to the Government of India on **19th July, 1958.**
- ▶ The Specific Relief Bill, which sought to implement the recommendation of the Law Commission, was passed by both the Houses of Parliament and received the assent of the President on **13th December, 1963.**
- ▶ Date of Enforcement : **1st March, 1964**
- ▶ It has eight chapters and 42 sections in total.
- ▶ The Specific Relief (Amendment) Act, 2018

From Compensation to Enforcement: Why Specific Relief Matters?

- ▶ If the Contract Act answers the question, “**What happens when a contract is broken?**”, the Specific Relief Act answers, “**Can we still ensure that the contract is performed?**”
- ▶ In simple terms, the Contract Act, 1872, tells us when a contract is breached and provides for **compensation**; the Specific Relief Act steps in **where compensation is not adequate** and provides **for enforcement of the actual obligation**.

Meaning of Specific Relief

- ▶ Specific relief refers to the legal remedy provided by the court to enforce specific performance or prevent the breach of an obligation.
- ▶ The Act provides the legal framework for granting specific relief in **civil cases, and its purpose is to provide 'equitable remedies' where monetary compensation is inadequate.**
- ▶ It may involve compelling a party to carry out their contractual obligations or restraining them from committing a wrongful act.

Scope of Specific Relief Act

- ▶ The scope of specific relief is broad and covers a wide range of contractual and civil disputes.
- 1. **Contracts: Specific Relief can be sought in cases involving breach of contract**, where the court may order the defaulting party to perform their contractual obligations.
- 2. **Property Disputes:** Specific relief can be granted **in cases concerning the ownership or possession of property**, where the court may order the restoration of possession or specific acts related to property.
- 3. **Trusts and Trustees:** Specific relief is available **in cases involving trusts and trustees**, allowing the court to enforce the duties and obligations of trustees.
- 4. **Tortious Acts:** Specific relief can be sought **in cases involving tortious acts**, where the court may grant injunctions to prevent or restrain the wrongful actions of individuals.
- 5. **Intellectual property rights:** Specific relief is available **in cases of infringement of intellectual property rights**. Further, the court has the power to grant relief in **other cases**, depending on the circumstances and the relief sought.

Types of Specific Relief: What can Courts Actually Grant?

- 1. Recovery of possession of property (Sec. 5-8):** The provision aims to protect the rights of individuals and ensure that they are not wrongfully deprived of their property. It allows rightful owners to regain possession and prevents unlawful and unauthorised occupation. The **Purpose is to restore both immovable and movable property**
- 2. Specific performance in respect of contracts (Sec. 10):** Relief may involve the court ordering the performance of a specific act as required by a contract or legal obligation. In other words, **it means forcing the party to do exactly what they promised. (enforcement of contract)**
- 3. Substituted Performance (Sec 20):** (Alternative enforcement)
- 4. Rectification (S.26)** Correct Documents)/**5. Rescission (S.27-30):** (to Undo Contract)/**6. Cancellation (S.31-33):** Nullify harmful documents
- 7. Declaratory Relief (S.34-35):** Clarify Rights/ **8. Injunctions (S.36-42):** to prohibit a person from doing a particular act.

Recovering Possession of Property: (S.5-8)

- ▶ **Immovable Property (Sec. 5 & 6):** These sections are designed to protect the rights of rightful owners who have been dispossessed or wrongfully kept out of their property. It allows rightful owners to regain possession and prevents unlawful and unauthorised occupation.
- ▶ **Movable Property (Sec 7 & 8):** deals with the recovery of specific movable property.
- ▶ **Importance of sections 5-8:** It plays a **significant role in protecting property rights and ensuring justice in cases of dispossession or unlawful occupation.**

Specific Performance of Contract (Section 10) : From exception to mandatory rule.

- ▶ It means that if someone breaches a contract, the other party can seek **specific performance**, which requires the breaching party to fulfil their **contractual obligation**.
- ▶ This section states that the specific performance of a contract **can be enforced by the court, subject to the provisions contained in sub-section (2) of section 11**, and **sections 14 and 16** of the Act.
- ▶ Post 2018 amendment, the court **must grant** specific performance of the contract unless the case falls under specific barred categories.

Sec.14 : Contracts that cannot be specifically enforced

- ▶ Post 2018 Amendment-
- ▶ **Where “Substituted Performance” (Section 20) has been taken.** Sec.20 allows a party to obtain performance of the contract by the third party, and the cost of such performance is then recovered from the other party who failed to comply with the terms of the contract.
- ▶ For e.g. If A has agreed to sell his car to B, but later refuses to do so, B can obtain substituted performance of the contract by buying a similar car and recovering the cost from A. **Once substituted performance has been obtained, the contract cannot be enforced as per sec. 14 of the Act.**
- ▶ **Contracts that are so complex they require constant court supervision:** This means that if the court cannot monitor or oversee the performance of the contract on an ongoing basis, then it cannot force the parties to perform it.
- ▶ For e.g., if A agrees to teach B a particular skill over a period of time, but there is no way for the court to monitor whether A is actually teaching B, the contract cannot be specifically enforced.

Sec.14 : Contracts that cannot be specifically enforced

- ▶ **Contracts involving personal skills:** If the contract is **so specific to the abilities, expertise or qualifications of the parties** that the court cannot force them to perform it.
- ▶ For e.g, if A agrees to paint a portrait of B, but A is the only artist with the skill to paint that particular style of portrait, the court cannot force A to perform the contract, as it is too specific to A's personal abilities.
- ▶ **If the contract is in its nature determinable, then it cannot be specifically enforced.** A determinable contract is one where the parties have agreed to a certain course of action, but have also included provisions for its termination.
- ▶ For example, if A agrees to lease a property to B for a period of one year, but includes a clause that the lease will be terminated if A decides to sell the property, then the contract is determinable and cannot be specifically enforced.

Section 16: Personal Bars to Relief

- ▶ Conditions under which specific performance of a contract cannot be enforced.
- ▶ If a person has obtained a substituted performance of the contract under section 20, they cannot claim specific performance.
- ▶ If a person become **incapable of performing their part of the contract, violates any essential term of the contract, acts in fraud of the contract, or act in a manner that subverts the relationship intended to be established by the contract**, then they cannot claim specific performance.
- ▶ Additionally, if a person has **failed to prove that they have performed or are ready and willing to perform the essential terms of the contract** which are to be performed by them, except the terms prevented or waived by the defendant, they cannot claim specific performance.

Section 20 : Significant innovation introduced by the 2018 amendment is the Substituted Performance of Contract

- ▶ This section stipulates that the Party suffering from breach can opt for substituted performance through **a third party** or **by their own agency**.
- ▶ They can **recover the expenses and costs incurred** from the party committing the breach.
- ▶ Notice of at least **thirty days** must be given to the party in breach before opting for substituted performance.
- ▶ If the contract is performed through a third party or by the suffering party's own agency, they **cannot claim specific performance against the party in breach**, but **can still claim compensation from the defaulting party**.

Section 20 A-C- Special provision for Infrastructure projects : Balancing Justice and Development

- ▶ These are special provisions to ensure national development isn't stalled by litigation.
- ▶ **Section 20 A:** No injunction can be granted in suits involving **infrastructure projects** (Sectors such as Transport, Energy, Water and Sanitation, Communication, Social and commercial infrastructure and its sub-sectors) as specified in the schedule.
- ▶ **Section 20 B:** The state government, in consultation with the Chief Justice of the High Court, can designate one or more civil courts as **special courts to try suits related to contracts concerning an infrastructure project.** (**Establishment of special court**)
- ▶ **Section 20 C: Expeditious disposal of suits-** suits filed must be disposed of by the court within **12 months** from the date of service of the summons to the defendant. The court can extend the period for a maximum of **six months**, provided it records the reasons for the extension in writing.

Section 21: Power to award compensation in addition to specific performance

- ▶ In a suit for specific performance, **the plaintiff can also claim compensation for breach of the contract. If the specific performance is not granted, but the contract has been breached, the courts can award compensation.**
- ▶ If specific performance is granted **but deemed insufficient**, the court can award compensation in **addition to specific performance.**
- ▶ The plaintiff must claim compensation in the plaint, or the court may allow amendment of the plaint to include a compensation claim.

Section 26: Rectification of instruments

- ▶ Section 26 provides a legal recourse for parties to rectify written instruments **when their true intentions have been misrepresented due to fraud or mutual mistake**. By allowing for rectification and subsequent enforcement, the section aims to uphold the integrity and fairness of contractual agreements.

Section 27-30 : Recession of Contracts

- ▶ A Recession means the **withdrawal of the contract**, or in simpler terms, the **cancellation of the contract**.
- ▶ **Recession can be cancelled in certain ways:**
- ▶ a) where the contract **has been terminated or “has been deemed” voidable by the plaintiff**,
- ▶ b) when the contract is **unlawful**

Section 31-33 : Cancellation

- ▶ These sections provide for cancellation of written instruments. It allows individuals to seek the **cancellation of void and voidable instruments that may cause them harm**, and provides the court with the power to order the delivery, cancellation, and restoration of benefits or compensation.

Section 34-35: Declaratory Decree

- ▶ These sections provide a mechanism for individuals to seek a **declaration of their legal character or right to property.**
- ▶ The court has the discretion to make such a declaration, and once made, **it is binding on the parties to the suit and those claiming through them.**
- ▶ However, the declaration does not extend its binding effect beyond the parties and their successors **unless the parties involved are trustees, in which case it also affects the beneficiaries of the trust.**

Section 37- 42: INJUNCTIONS AS A FORM OF PREVENTIVE RELIEF.

- ▶ Grant of Preventive Relief: Preventive relief, in the form of injunctions, **either temporary or perpetual, can be granted at the discretion of the court**
- ▶ **Temporary injunctions** are **granted for a specific period** or until further orders from the court. They can be granted at any stage of a suit and are governed by the Code of Civil Procedure, 1908.
- ▶ **Perpetual injunctions** can only be granted through **a decree made at the final hearing of the suit**. They permanently restrain the defendant from asserting a right or committing an act that would infringe upon the plaintiff's rights.

Section 37- 42: INJUNCTIONS AS A FORM OF PREVENTIVE RELIEF.

- ▶ For e.g. A person contracts to sing at a particular place and also undertakes not to sing elsewhere during the same period. He threatens breach. **The court cannot force him to sing. The positive side of the bargain is not specifically enforceable.**
- ▶ **But the negative undertaking “not to sing elsewhere” can be enforced by restraining him from giving his performance elsewhere.** When he is so prevented from resorting to other openings, it may exert some pressure upon his mind, and he may be persuaded to go ahead with the performance of his contract. This type of remedy is known as preventive relief.
- ▶ When the court directs him not to do a particular act or asks him to perform a particular duty, it is known as a **mandatory injunction**.



THANKYOU FOR YOUR PATIENCE