

## DECLARATORY DECREE (SECTIONS 34-35)

**Section 34** of the Specific Relief Act, 1963 deals with the discretion of the court regarding the declaration of status or right. The section provides the following provisions:

- **Right to Institute Suit:** Any person who is entitled to a legal character or a right to any property can file a lawsuit against any person who denies or has an interest in denying their title to such character or right.
- **Court's Discretion:** The court, in its discretion, may make a declaration in the suit stating that the plaintiff is entitled to the claimed character or right. The plaintiff is not required to seek any further relief in such a suit.
- **Limitation on Court's Power:** However, the court cannot make a declaration if the plaintiff is capable of seeking further relief beyond a mere declaration of title but chooses not to do so.

**Explanation:** The section further explains that a trustee of property is considered a "person interested to deny" a title adverse to the title of someone who is not in existence, and for whom, if they were in existence, the trustee would act as a trustee.

**Section 35** states the effect of a declaration made under this chapter. The declaration is binding only on the parties involved in the suit and persons claiming through them. If any of the parties are trustees, the declaration is also binding on the persons for whom they would act as trustees if those persons were in existence at the time of the declaration.

In summary, 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.