

## **SPECIFIC PERFORMANCE OF CONTRACT**

### **Section 9: Defences Respecting Suits for Relief Based on Contract**

- This section explains that in case a relief is claimed under this chapter in respect to a contract, the person against whom the relief is claimed can use any defense that is available to them under any law relating to contracts.
- It means that if someone is claiming relief in a contract dispute, the other party can defend themselves by using any legal grounds they have.
- For example, if someone wants specific performance of a contract, the other party can use any legal grounds to argue why specific performance should not be enforced.

### **Section 10: Specific Performance in Respect of Contracts**

- 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, section 14, and section 16.
- It means that if someone breaches a contract, the other party can seek specific performance, which is a court order that requires the breaching party to fulfill their contractual obligations.
- However, the specific performance of a contract is subject to certain provisions in the law, as mentioned in the section.

### **Section 11: Cases in Which Specific Performance of Contracts Connected with Trusts Enforceable**

- This section explains that specific performance of a contract shall be enforced when the act agreed to be done is in the performance wholly or partly of a trust, except as otherwise provided in this act.
- It means that if a contract is connected to a trust, the court can enforce specific performance of the contract, subject to the provisions of this act.
- However, if a trustee makes a contract in excess of their powers or in breach of trust, that contract cannot be specifically enforced.

### **Section 12: Specific Performance of Part of Contract**

- This section explains that the court will not direct the specific performance of a part of a contract, except as otherwise provided in this section.

- If a party to a contract is unable to perform the whole of their part of it, but the part that must be left unperformed is only a small proportion of the whole in value and admits of compensation in money, the court may direct the specific performance of so much of the contract as can be performed, and award compensation in money for the deficiency.
- If a party to a contract is unable to perform the whole of their part of it, and the part that must be left unperformed forms a considerable part of the whole, though admitting of compensation in money, or does not admit of compensation in money, they are not entitled to obtain a decree for specific performance.
- However, the court may direct the party in default to perform specifically so much of their part of the contract as they can perform, if the other party pays the agreed consideration for the whole of the contract reduced by the consideration for the part that must be left unperformed and relinquishes all claims to the performance of the remaining part of the contract and all right to compensation, either for the deficiency or for the loss or damage sustained by them through the default of the defendant.
- If a part of a contract can be specifically performed and stands on a separate and independent footing from another part of the same contract that cannot or should not be specifically performed, the court may direct specific performance of the former part.

### **Section 13: Rights of Purchaser or Lessee Against Person with No Title or Imperfect Title**

- This section explains that if a person contracts to sell or let certain immovable property having no title or only an imperfect title, the purchaser or lessee has certain rights.
- These rights include compelling the vendor or lessor to make good the contract out of any interest they subsequently acquire in the property, or to procure the concurrence or conveyance of other persons necessary for validating the title.

### **Section 14 of the Indian Specific Relief Act, 1963 lists the types of contracts that cannot be specifically enforced,**

- which means that a court cannot force the parties to carry out the specific terms of the contract. Here are the explanations of each point:
- If one party has obtained substituted performance of the contract in accordance with

section 20 of the Act, the contract cannot be specifically enforced. Section 20 allows a party to obtain performance of the contract by someone other than the other party, and the cost of such performance is then recovered from the other party. For example, 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 specifically enforced.

- If the performance of the contract involves a continuous duty that the court cannot supervise, then the contract cannot be specifically enforced. 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 example, 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, then the contract cannot be specifically enforced.
- If the contract is so dependent on the personal qualifications of the parties that the court cannot enforce specific performance of its material terms, then the contract cannot be specifically enforced. This means that 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 example, 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.

**Moving on to section 14A, this section deals with the power of the court to engage experts in a specific relief suit. Here's what it means:**

- If the court feels that it requires an expert opinion to assist in a specific relief suit, it may engage one or more experts and direct them to report on the specific issue in question. The expert may be required to attend court and provide evidence, including producing relevant documents.

- The court may also require any person to give relevant information to the expert or to produce, or to provide access to, any relevant documents, goods, or other property for their inspection.
- The opinion or report given by the expert becomes part of the record of the suit. The court, or with the permission of the court any of the parties to the suit, may examine the expert personally in open court on any of the matters referred to them or mentioned in their opinion or report, or as to their opinion or report, or as to the manner in which they have made the inspection.
- The expert is entitled to a fee, cost or expense as fixed by the court. This is payable by the parties in such proportion, and at such time, as directed by the court.
- In summary, section 14 lists the types of contracts that cannot be specifically enforced, while section 14 In summary, the provisions in Sections 9-14 of the Indian Specific Relief Act, 1963, provide a framework for the enforcement and limitations of specific performance as a remedy for contractual disputes. These provisions ensure that parties have the opportunity to defend themselves, while also providing guidance on when specific performance can be granted and the circumstances under which it may not be enforced.