

DISTRICT & SESSIONS COURT DISTRICT- JASHPUR, CHHATTISGARH



DISTRICT & SESSIONS COURT
DISTRICT: JASHPUR, CHHATTISGARH
DIVISIONAL JUDICIAL SEMINAR - 2025

ON

**“DOCTRINE OF SPECIFIC PERFORMANCE OF CONTRACT - LAW AND
PROCEDURE WITH SPECIAL REFERENCE TO RECENT APEX COURT’S
PRONOUNCEMENT AND EXPLAINED BY MEANS OF ILLUSTRATION OF A CIVIL
SUIT. LIMITATION ON THE AVAILABILITY OF SPECIFIC PERFORMANCE”**

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Presented by :- District & Sessions Court, District- Jashpur, Chhattisgarh

ACKNOWLEDGEMENT

We are grateful for the opportunity provided to represent on the topic **"Doctrine of Specific Performance of Contract Law and Procedure with special reference to recent Apex Court's Pronouncement and explained by means of illustration of a Civil Suit. Limitation on the availability of Specific Performance."** We extend our sincere thanks to the Hon'ble High Court of Chhattisgarh and the Chhattisgarh State Judicial Academy for organizing this divisional conference and providing us with this valuable platform for academic discourse.

We are deeply thankful to *Shri Satyendra Kumar Sahu Sir, Principal District and Sessions Judge, District – Jashpur, Chhattisgarh* for his invaluable guidance and unwavering support. We extend our sincere thanks to our senior judges and colleagues, whose insightful discussions significantly contributed to this research. We acknowledge the contributions of the entire research team.

We apologize for any inadvertent printing errors. We hope this work contributes to a better understanding of the law relating to Specific Performance. We welcome and appreciate any comments or suggestions that may further enhance this presentation.

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Specific Performance of Contract Law and Its Procedure

INTRODUCTION

A contract is an agreement upon consideration to do or not to do a particular thing, if the person on whom this contractual obligation rests, fails to discharge it, other party has a right either to insist on the literal and actual performance of the contract or to obtain compensation for the non-performance of it. The former is called specific performance. Specific performance is an equitable remedy in contractual law that requires a party to fulfill their contractual obligations as agreed, rather than merely paying damages for the breach. It is generally granted when monetary compensation is inadequate, especially in cases involving unique property or goods. Governed by the Specific Relief Act, 1963, this remedy ensures fairness and justice between the party. The remedy is discretionary and subject to the principles of fairness, readiness, and willingness of the plaintiff to perform their part. The procedure for seeking specific performance involves filing civil suit in a competent court, supported by pleadings, evidence, and proof of contract and breach as per the rules under the code of civil procedure 1908. The defendant may raise defenses such as impossibility, unfairness, or lack of mutuality. Courts often referred to recent judgement of Hon'ble Apex Court to determine when equitable relief is appropriate. However, specific performance is not available for contracts dependent on personal skills, uncertain terms, or those that are revocable and unenforceable by nature. It is primarily governed by the Specific Relief Act, 1963, as amended by the Specific Relief (Amendment) Act, 2018.



DEFINITION & MEANING

Definition of Specific Performance from different prominent jurists

- ❖ **Sir Edward Fry:** Defined specific performance as the actual execution of a contract according to its terms, in contrast to damages for non-execution.
- ❖ **Pomeroy:** Defined specific performance as the exact fulfillment of a contractual obligation, requiring a party to do or omit the very act they agreed to.
- ❖ **Halsbury:** Defined specific performance as an equitable relief granted by the court in breach of contract cases, ordering the defendant to perform the contract as agreed.
- ❖ **Lord Romilly:** Stated the principle that a court generally cannot specifically perform a contract partially; it must be performed in its entirety.
- ❖ **Professor Steven Shavell:** From an economic perspective, argued that specific performance should be used sparingly, primarily for unique assets like property, suggesting monetary damages are often more efficient.

These perspectives consistently emphasize specific performance as a discretionary equitable remedy used when monetary damages are insufficient, often for unique subject matter, to ensure the fulfillment of the contract's original terms.

Meaning of Specific Performance of Contract

The 'Doctrine of Specific Performance' is a legal principle in contract law that allows when one party fails or refuses to perform their part of a lawful contract, the court may, in certain cases, order them to specifically perform what was promised, rather than simply paying damages for breach of contract. It is an equitable remedy.

The person seeking the remedy must first satisfy the court that a normal remedy of damages is inadequate. There is a presumption that in cases of contracts for transfer of immovable property, damages will not be adequate.

The specific performance until 2018 was a discretionary remedy, a major change was introduced by the Amendment to the Act in 2018 which made specific performance of contracts a mandatory remedy. This doctrine is governed by the **Specific relief act, 1963**, the act provides for Specific Performance of Contracts particularly under Sections 10 to 14 (after 2018 amendment, Sections 10 to 14 and 16 (C) of the Act.

In simple terms, “Specific Performance” means “Do what you promised”.

Provisions Relating to Specific Performance of Contract (in Part II Chapter II) of Specific relief Act, 1963

Section 10 - Specific performance in respect of contracts

- The provision provides that it is mandatory for the courts to enforce Specific Performance of Contracts.
- Section 10 states that the specific performance of a contract shall be enforced by the court subject to the provisions contained in sub-section (2) of section 11, section 14 and section 16.

Section 12 – Specific Performance of Part of Contract

This Section deals with the specific performance of part of a contract. It states that-

(1) Except as otherwise hereinafter provided in this section, the court shall not direct the specific performance of a part of a contract.

(2) Where a party to a contract is unable to perform the whole of his part of it, but the part which must be left unperformed only a small proportion to the whole in value and admits of compensation in money, the court may, at the suit of either party, direct the specific performance of so much of the contract as can be performed, and award compensation in money for the deficiency.

(3) Where a party to a contract is unable to perform the whole of his part of it, and the part which must be left unperformed either—

(a) forms a considerable part of the whole, though admitting of compensation in money; or

(b) does not admit of compensation in money; he is not entitled to obtain a decree for specific performance; but the court may, at the suit of the other party, direct the party in default to perform specifically so much of his part of the contract as he can perform, if the other party –

(i) in a case falling under clause (a), pays or has paid the agreed consideration for the whole of the contract reduced by the consideration for the part which must be left unperformed and, in a case, falling under clause (b) pays or has paid the consideration for the whole of the contract without any abatement; and

(ii) in either case, 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 him through the default of the defendant.

(4) When a part of a contract which, taken by itself, can and ought to be specifically performed, stands on a separate and independent footing from another part of the same contract which cannot or ought not to be specifically performed, the court may direct specific performance of the former part.

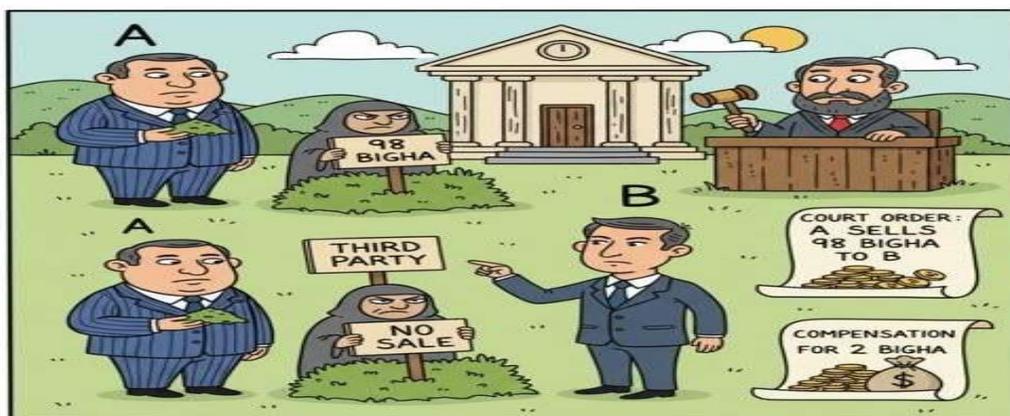
The clause (1) of Section 12 describes a general rule that court shall not grant specific performance of a part of a contract. The clauses (2) to (4) of Section 12, however, are exceptions to the general rule.

In the case of **B. Santoshamma v. D. Sarala (2009)**, Citation (Civil Appeal No 3574 of 2009. Decided on 18/09/2020)

The Supreme Court held that the Court may, under Section 12 of SRA direct the party in default to perform specifically, so much of his part of the contract, as he can perform, provided the other party pays or has paid the consideration for the whole of the contract, reduced by the consideration for the part which must be left unperformed.

Scenario - Land sale: (Illustration for section 12 of SRA, 1963)

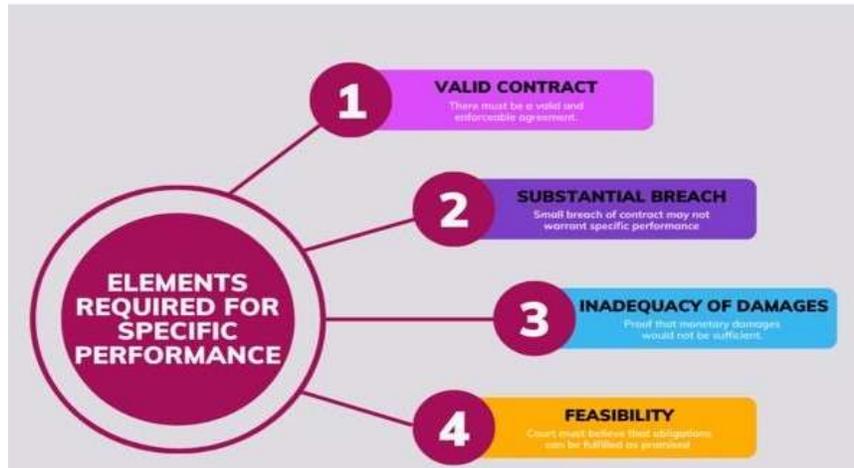
- **The Contract:** A agrees to sell a 100 bigha plot of land to B.
- **The Breach:** It is discovered that A only owns 98 bighas, and the remaining 2 bighas belong to a third party, who refuses to sell them to B.
- **The Remedy under section 12 of the Specific Relief act, 1963:** B can ask the court to order A to sell the 98 bighas he owns.
- **Compensation:** the court can also order A to pay monetary compensation to B for the 2 bighas



that cannot be delivered, as the loss of these 2 bighas can be compensated with money and they are not essential for the use of the other 98 bighas.

Key ingredients for specific performance

- **A valid and enforceable contract:** The agreement must be lawful, clear, and not vague.
- **Inadequate damages:** Money must be an inadequate remedy because the subject matter is unique, such as a specific piece of property, rare item, or stock.



- **Plaintiff's readiness and willingness:** The person suing must have performed or be ready and willing to perform their obligations under the contract. This doesn't necessarily mean they need to have cash on hand at all times, but rather the capacity to pay when the time comes.
- **No legal bar:** The contract must not be one that cannot be legally enforced, such as those involving personal skills or services.
- **No unfairness or hardship:** Courts consider whether enforcing the contract would cause extreme hardship to one of the parties or if it was formed through fraud, misrepresentation, or mistake.
- **Timeliness and justification:** The suit must be filed within the appropriate time, and if it's filed late, the plaintiff must provide a valid reason for the delay.

When Specific performance can be granted?

- **Monetary damages are inadequate:** The court may grant specific performance if compensation in money would not provide adequate relief.
- **There is no standard for damages:** This applies when the act to be performed has no standard for ascertaining the actual damages caused by its non-performance.

- **The contract involves unique goods:** Specific performance is common for contracts involving unique items like immovable property or specific movable goods of a rare or distinctive nature.
- **The act is in performance of a trust:** A contract made to perform a trust, wholly or partly, can be specifically enforced.
- **The plaintiff is ready and willing:** The plaintiff must prove they have been, and continue to be ready and willing to perform their part of the contract.

When Specific Performance Cannot be Granted?

- **The contract is impossible to perform:** If the act to be performed is impossible, specific performance will not be granted.
- **The contract is too vague:** A contract that is too vague, uncertain, or lacks the consensus *ad idem* (a meeting of the minds) cannot be specifically enforced.
- **There is no valid consideration:** A contract made without consideration or one that is void cannot be specifically performed.
- **The plaintiff has not proven readiness and willingness:** A plaintiff who fails to prove they have performed, or are ready and willing to perform, their essential obligations cannot claim specific performance.
- **The plaintiff has acted in a way that bars relief:** This includes violating essential terms, acting in fraud of the contract, or subverting the contract's intended relationship.
- **The contract is personal in nature:** Courts typically will not order specific performance for contracts that require personal skills or services, as it is difficult to monitor and enforce.
- **The contract is too difficult to enforce:** The court may refuse specific performance if it would be overly difficult or impractical for the court to supervise the performance of the contract.

Exceptions to Specific Performance of Contracts

Section 10 of SRA mentions that provisions of **Section 11(2), 14, 16** of the Act must be considered before granting specific performance.

Section 11 - Cases in which specific performance of contracts connected with trusts enforceable

It states that -

- (1) Except as otherwise provided in this Act, the 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.
- (2) A contract made by a trustee over his powers or in breach of trust cannot be enforced.

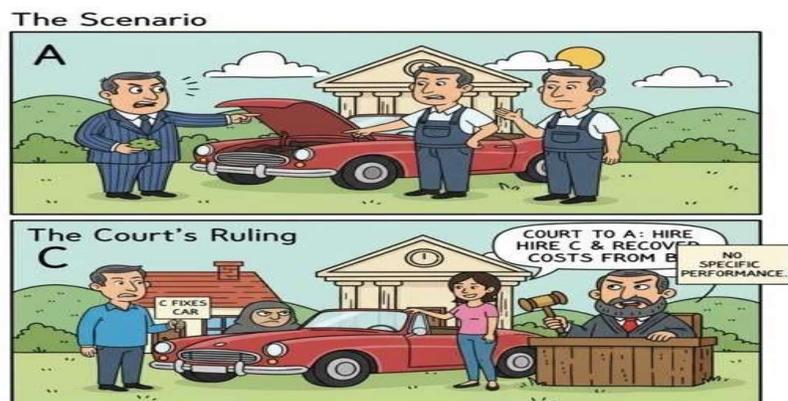
Section 14 - Contracts not specifically enforceable

- The following contracts cannot be specifically enforced, namely:
- where a party to the contract has obtained substituted performance of contract in accordance with the provisions of section 20.
- a contract, the performance of which involves the performance of a continuous duty which the court cannot supervise.
- a contract which is so dependent on the personal qualifications of the parties that the court cannot enforce specific performance of its material terms.
- a contract which is in its nature determinable.

Illustration:

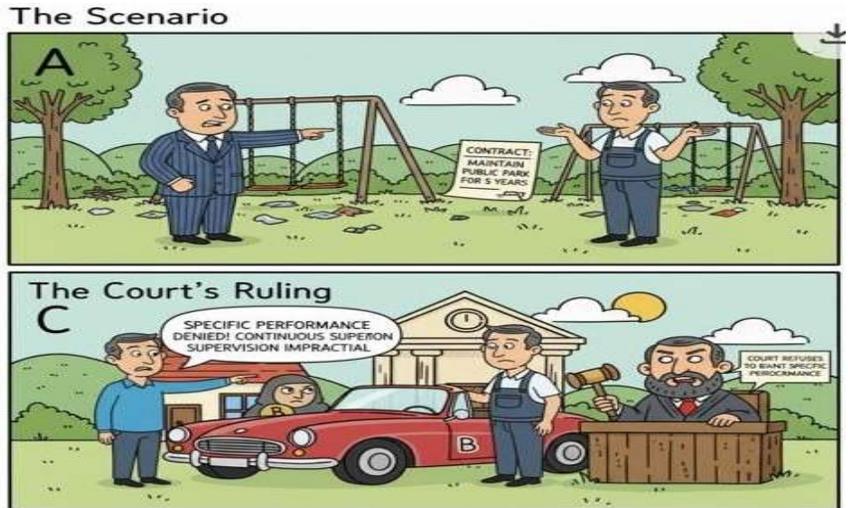
Section 14(a) of the SRA, 1963

If A hires B to fix a car and B fails to do so, A can have C fix the car and recover the costs from B, but A cannot force B to specifically perform the original repair.



Section 14(b) of the SRA, 1963

A court would likely refuse to grant specific performance for a contract requiring a party to maintain a public park for 5 years, as continuous supervision is impractical.

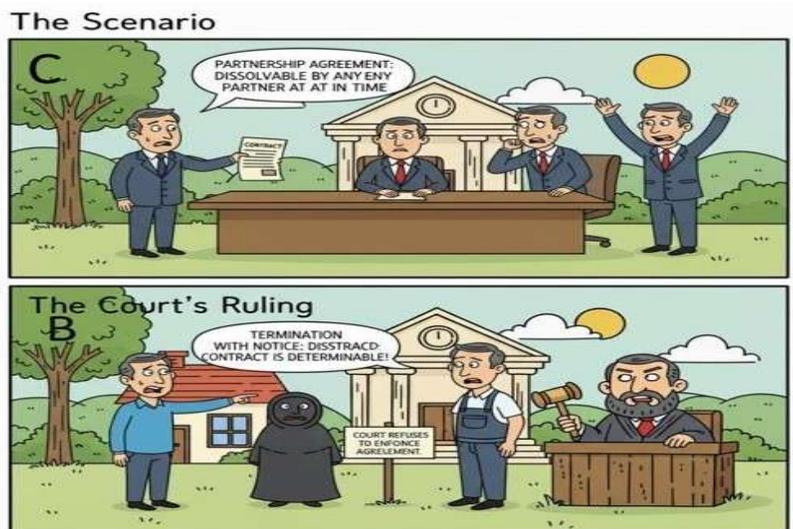


Section 14(c) of SRA, 1963

A contract for an artist to paint a portrait cannot be specifically enforced, the remedy would be damages as the quality depends on the artist’s personal skills. Employment contracts are also generally not subject to specific performance.

Section 14(d) of SRA, 1963

A partnership agreement that can dissolved by any partner at any time cannot specifically enforced.



Section 16 - Personal bars to relief

Specific performance of a contract cannot be enforced in favor of a person:

- who has obtained substituted performance of contract under section 20; or

- who has become incapable of performing, or violates any essential term of, the contract that on his part remains to be performed, or acts in fraud of the contract, or willfully acts at variance with, or in subversion of, the relation intended to be established by the contract; or
- who fails to prove that he has performed or has always been ready and willing to perform the essential terms of the contract which are to be performed by him, other than terms the performance of which has been prevented or waived by the defendant.

Explanation: -

- where a contract involves the payment of money, it is not essential for the plaintiff to actually tender to the defendant or to deposit in court any money except when so directed by the court;
- the plaintiff must prove performance of, or readiness and willingness to perform, the contract according to its true construction.

Readiness: It means translating the will into action, readiness must be backed by willingness

Willingness: It refers to the mental element.

Illustration:

Section 16(a) of SRA, 1963

Scenario: Priya contracts to a specific, unique antique from Rahul. Rahul breaches the contract, so Priya buys a similar antique from another seller to replace it and then sues Rahul for the cost difference.

Outcome: Priya cannot seek specific performance to get

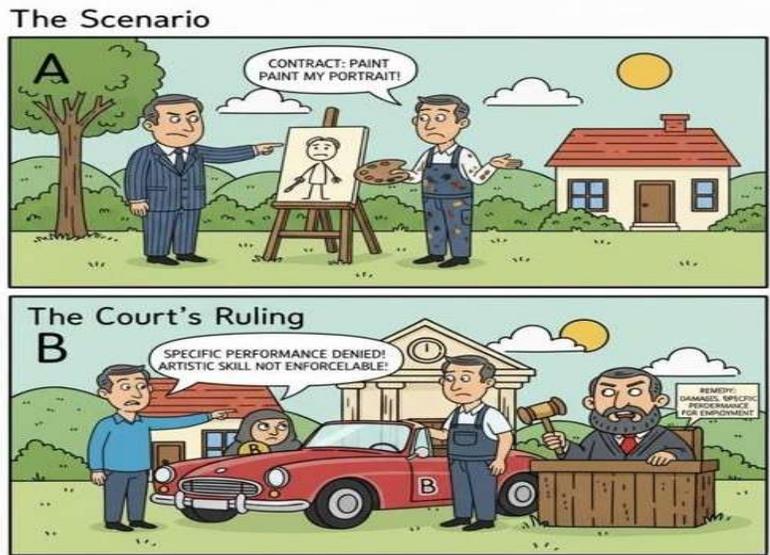
the antique from Rahul because she has already obtained a substituted performance by buying the replacement item. She can, however claim damages for the cost difference.



Section 16(b) of SRA, 1963

Scenario: An artist agrees to paint a portrait for a client, but the artist becomes incapacitated by a hand injury. The client wants the court to force the artist to complete the painting.

Outcome: The court will likely refuse the specific performance because the artist has become incapable of performing the contract. The clients only recourse would be to seek damages for the breach.



Section 16(c) of SRA, 1963

Scenario: A contract for the sale of a house requires the buyer to secure a loan and pay within 60 days. The buyer fails to apply for the loan in time, but later claims their ready to pay.

Outcome: The court will likely refuse specific performance because the buyer has not demonstrated they were “ready and willing” to perform their essential obligations within the timeframe stipulated in the contract.



In the case of **His Holiness Acharya Swami Ganesh Dassji v. Sita Ram Thapar (1996)**, the Supreme Court held that there is a distinction between readiness to perform the contract and willingness to perform the contract. Readiness means the capacity of the plaintiff to perform the

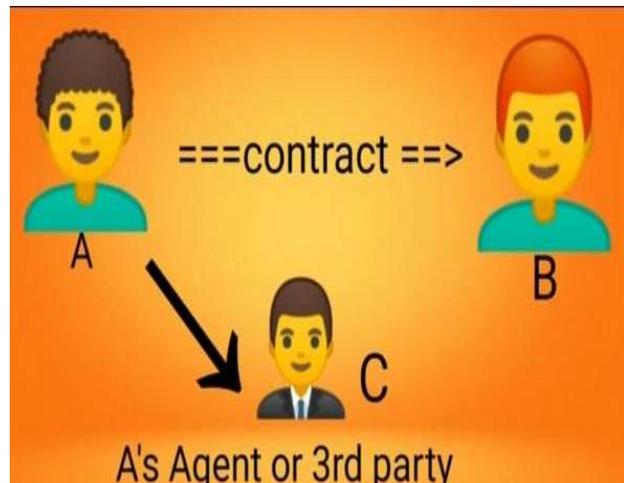
contract which includes his financial position to pay the purchase price. For determining his willingness to perform his part of the contract, the conduct of the person has to be properly scrutinized.

Section 20 - Substituted Performance

Substituted performance of contract means, where a contract is broken, the party who suffers would be entitled to get the contract performed by a third party or by his own agency and to recover expenses and costs, including compensation from the party who failed to perform his part of contract. This would be an alternative remedy at the option of the party who suffers the broken contract.

The Amendment provided substitution of new section for section 20.

- The amendment removed the court's discretion to grant or refuse specific performance.
- Due to the breach, the aggrieved party may now seek substituted performance from a third party or one of its agencies, and it may also recover the cost associated with providing the substituted performance from the party that violated the agreement. Such performance can only be acquired upon serving a notice of minimum 30 days to the defaulting party. However, substituted performance will not be applicable if the Parties have a contract that states otherwise.
- The Amendment inserted Sec 20A, 20B and 20C to the Act.
- Sec 20A has made special provisions for contracts relating to infrastructure projects specified in the Schedule inserted in the Act by the amendment. It prohibits a civil court from granting an injunction in relation to such infrastructure projects where grant of such injunction would cause impediment or delay in progress or completion of such projects.
- Sec 20B provides for designation of Special Courts to try a suit under the Act in respect of contracts relating to infrastructure projects.



- Sec 20C provides for expeditious disposal of suits filed under this Act. It states that the suit shall be disposed of within 12 months from the date of service of summons to the defendant, which may be further extended for a period not exceeding 6 months in aggregate.
- Under sec 41 clause (ha) has been inserted which provides that no injunction can be granted if it impedes or delays the progress or completion of any infrastructure project or interferes with the continued provision of relevant facility.
- Schedule- A schedule related to the category of projects and infrastructure sub-sectors has been inserted after Part III.

BY AND AGAINST WHOM SPECIFIC PERFORMANCE OF CONTRACT CAN BE CLAIMED

Section 15 - Who may obtain specific performance:

Except as otherwise provided by this Chapter, the specific performance of a contract may be obtained by -

- any party thereto;
- the representative in interest or the principal, of any party thereto: Provided that where the learning, skill, solvency or any personal quality of such party is a material ingredient in the contract, or where the contract provides that his interest shall not be assigned, his representative in interest or his principal shall not be entitled to specific performance of the contract, unless such party has already performed his part of the contract, or the performance thereof by his representative in interest, or his principal, has been accepted by the other party;
- where the contract is a settlement on marriage, or a compromise of doubtful rights between members of the same family, any person beneficially entitled thereunder;
- where the contract has been entered into by a tenant for life in due exercise of a power, the remainderman;
- a reversioner in possession, where the agreement is a covenant entered into with his predecessor in title and the reversioner is entitled to the benefit of such covenant;
- a reversioner in remainder, where the agreement is such a covenant, and the reversioner is entitled to the benefit thereof and will sustain material injury by reason of its breach;
- when a company has entered into a contract and subsequently becomes amalgamated with another company, the new company which arises out of the amalgamation;
- when the promoters of a company have, before its incorporation, entered into a contract for the purposes of the company, and such contract is warranted by the terms of the incorporation, the company:

Provided that the company has accepted the contract and has communicated such acceptance to the other party to the contract.

Section 19 - Relief against parties and persons claiming under them by subsequent title:

Except as otherwise provided by this Chapter, specific performance of a contract may be enforced against—

- either party thereto;
- any other person claiming under him by a title arising subsequently to the contract, except a transferee for value who has paid his money in good faith and without notice of the original contract;
- any person claiming under a title which, though prior to the contract and known to the plaintiff, might have been displaced by the defendant;
- when a company has entered into a contract and subsequently becomes amalgamated with another company, the new company which arises out of the amalgamation;
- when the promoters of a company have, before its incorporation, entered into a contract for the purpose of the company and such contract is warranted by the terms of the incorporation, the company:

Provided that the company has accepted the contract and communicated such acceptance to the other party to the contract.

Other Relief in Suit of Specific Performance of Contract

Section 21 - Power to award compensation in certain cases:

- In a suit for specific performance of a contract, the plaintiff may also claim compensation for its breach, either in addition to, or in substitution of, such performance.
- If, in any such suit, the court decides that specific performance ought not to be granted, but that there is a contract between the parties which has been broken by the defendant, and that the plaintiff is entitled to compensation for that breach, it shall award him such compensation accordingly.
- If, in any such suit, the court decides that specific performance ought to be granted, but that it is not sufficient to satisfy the justice of the case, and that some compensation for breach of the contract should also be made to the plaintiff, it shall award him such compensation accordingly.
- In determining the amount of any compensation awarded under this section, the court shall be guided by the principles specified in section 73 of the Indian Contract Act, 1872 (9 of 1872).
- No compensation shall be awarded under this section unless the plaintiff has claimed such compensation in his plaint:

Provided that where the plaintiff has not claimed any such compensation in the plaint, the court shall, at any stage of the proceeding, allow him to amend the plaint on such terms as may be just, for including a claim for such compensation.

Explanation - The circumstance that the contract has become incapable of specific performance does not preclude the court from exercising the jurisdiction conferred by this section.

Section 22 – Power to grant relief for possession, partition, refund of earnest money etc.

- A person suing for specific performance of a contract for immovable property transfer may also ask for possession or partition of the property.
- The plaintiff may request other appropriate relief, including refund of earnest money or deposits, if the specific performance claim is refused.
- The court cannot grant relief for possession or refund of earnest money unless these remedies are specifically claimed in the lawsuit.

- If the plaintiff hasn't claimed such relief in the original plaint, the court has discretion to allow amendment of the plaint at any stage to include these claims.
- The court's power to grant refund of earnest money does not limit its authority to award compensation under section 21.

In the case of **Desh Raj v. Rohtash Singh (2022)(2022 Live law(SC) 1026) decided on 14 Dec 2022**, It was held that: The court has broad discretion to allow the plaintiff to amend their plaint even at later stages to seek refund of earnest money. The essential requirement is that a plaintiff must specifically request refund of earnest money, either in the original filing or through amendment. Courts cannot grant refund of earnest money on their own initiative (Suo motu), regardless of whether Section 22(2) of the SRA Act is interpreted as directory or mandatory.

Section 23 of the Specific Relief Act, 1963, states that a contract can still be specifically enforced even if it includes a pre-agreed sum of money for breach, provided that sum is intended as security for performance and not as an option to pay money in lieu of performance. When a court orders specific performance under this section, it will not also award the stipulated sum for breach.

Scenario:

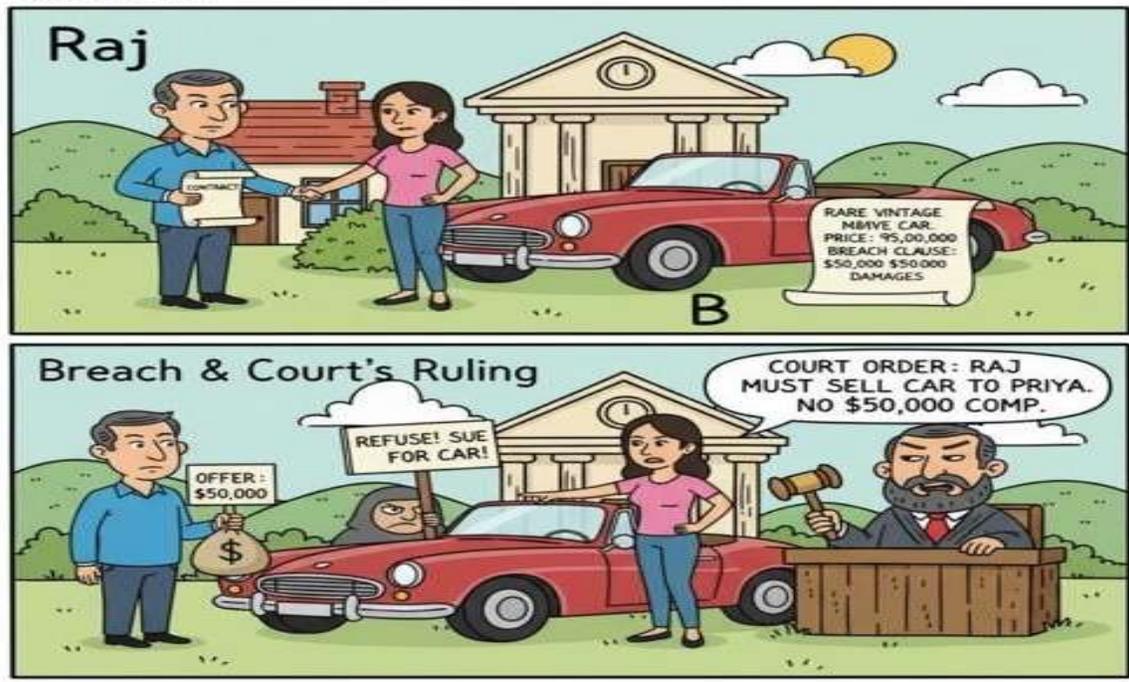
The contract: Raj agrees to sell a rare vintage car to Priya for Rs. 5,00,000/-. The contract includes a clause stating that if raj breaches the contract, he must pay Priya Rs. 50,000/- in damages.

The Breach: Raj decides not to sell the car and instead, offers to pay Priya Rs, 50,000/- penalty.

Priya's Claim: Priya refuses the offer and sues for specific performance because the car is unique and money cannot replace it.

The Court's Ruling: the court agrees that Rs. 50,000/- was intended to ensure raj fulfilled his promise to sell the car, not to give him the option to pay and walk away. Therefore, the court will order raj to sell the car to priya and will not also award Rs. 50,000/- compensation.

Scenario



LIMITATIONS AND DEFENCES ON AVAILABILITY OF SPECIFIC PERFORMANCE

Article 54 of the Limitation Act 1963, sets a three-year limitation period for filing a suit for the specific performance of a contract. This period starts either from the date fixed for performance in the contract or, if no date is fixed, from the date the plaintiff has notice that performance has been refused.

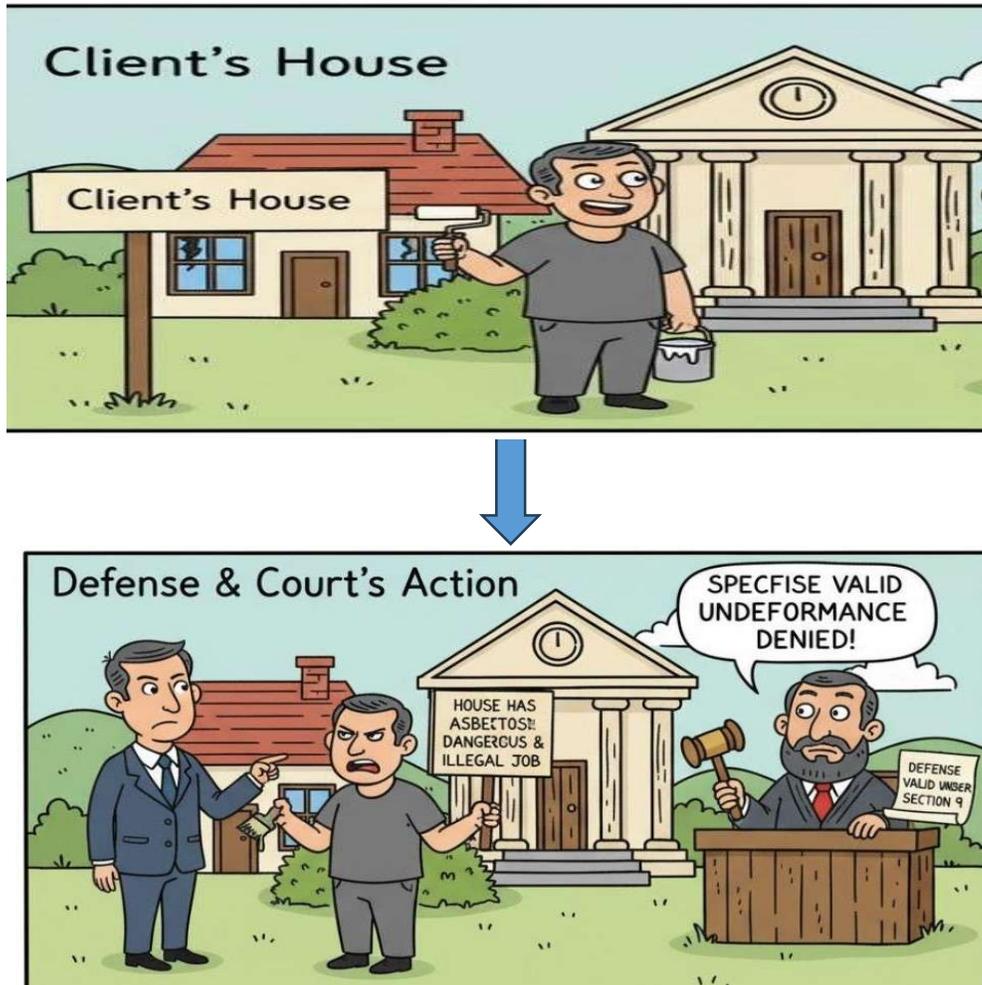
- **Cause of action:** The cause of action arises when the other party fails to perform their obligations, and the plaintiff has notice of this refusal.
- **Importance:** It is crucial for a plaintiff to file a suit for specific performance within this three-year window to ensure the claim is not barred by limitation.

Section 24 of the Specific Relief Act, 1963, establishes that the dismissal of a suit for specific performance bars a plaintiff from filing a new suit for compensation for the same breach. However, the plaintiff's right to seek other forms of relief for that breach is not extinguished by this dismissal.

Section 17 of the Indian Specific Relief Act, 1963, states that a contract to sell or let property cannot be specifically enforced if the seller/lessor does not have a title to the property or cannot provide a title free from reasonable doubt at the time of completion. This section also applies, where applicable, to contracts for the sale or hire of movable property.

Defences Available to Defendants

Section 9 of the Specific Relief Act, 1963, deals with the defenses available when a suit for relief based on a contract is filed. It states that the defendant can use any defense available under contract law to argue against the claim, even if the claim is for specific performance. This section allows the defendant to use any legal ground available under contract law to oppose the relief being sought.



Scenario:

- A painter agrees to paint a house for a client but then refuses to start the job. The client but then refuses to start the job. The client sues for specific performance to force the painter to complete the work.
- **Defense under Section 9 of the Specific Relief Act, 1963:** The painter under Section 9, can raise a defense if the contract is legally invalid. For instance, the painter could argue that they can't paint the house because the client later discovered the house is built with asbestos, making it a dangerous and illegal job to do.
- **Court's Action:** The court would consider the painter's defense. If the court finds the defense valid under the relevant contract law (in this case, the illegality of the work), it would deny the specific performance and not force the painter to do the job. Specific performance is a

- discretionary remedy based on principles of equity and fairness. The court is not bound to grant it merely because it is lawful to do so. Defences include:
- **Plaintiff's failure to perform (or "readiness and willingness"):** The plaintiff must prove they have performed or have always been ready and willing to perform their essential contractual obligations. Failure to do so is a significant personal bar to relief.
- **Undue delay (Laches):** Unreasonable and unexplained delay in filing the suit, especially if it prejudices the defendant, can lead to the refusal of the remedy.
- **Hardship:** If granting specific performance would cause the defendant an undue or an unforeseen hardship that outweighs the hardship to the plaintiff if denied, the court may refuse the relief.
- **Unfair advantage/Unconscionable contract:** Where the terms of the contract or the plaintiff's conduct give them an unfair advantage over the defendant.
- **"Unclean hands" doctrine:** If the plaintiff has been guilty of fraud, misrepresentation, or other inequitable conduct related to the contract, the court may deny relief.
- **Adequate monetary compensation:** Specific performance is typically not granted if monetary damages would provide an adequate remedy. This is a common defense, though in cases involving unique items like real estate, damages are often presumed inadequate.
- **Contracts for personal service or continuous supervision:** The court generally cannot specifically enforce contracts requiring personal skill, volition, or continuous court supervision.
- **Substituted performance availed:** If the plaintiff has already arranged for the contract to be performed by a third party and claimed those expenses, they are generally barred from also claiming specific performance.
- **Lack of title:** The defendant may argue that the plaintiff/vendor has no title or an imperfect title to the property and cannot fulfill their end of the bargain.

Procedure with Special Reference to Recent Apex Court's Pronouncement

I. Vijay Prabhu vs. S.T. Lajapathie & Ors. (Special Leave Petition (C) No.5246/2023) (Decided on 08/01/2025)

The Hon'ble Supreme Court held that under section 12(3) of SRA, 1963 a court has the power to grant a refund of earnest money or damages as an alternative relief, even if specific performance of the whole contract is not decreed. Furthermore, this alternative relief can be sought and granted at any stage of the litigation including the appellate stage, and doesn't require a specific initial pleading if the circumstances warrant it.

II. Annamalai vs. Vasanthi and Others (2025 INSC 1267) (Decided on 29/10/2025)

The Hon'ble Supreme Court reversed the High Court's decision, reinstating the First Appellate Court's decree for specific performance. It was held that: A suit for specific performance is maintainable even without a separate declaration against a termination notice, particularly when the termination is considered "void," such as when the right to terminate was waived and the property was sold to a related party before the notice. The plaintiff's acceptance of a significant portion of the sale price and an additional demanded amount demonstrated readiness and willingness to fulfill the contract.

III. Rajesh Kumar vs. Anand Kumar (Civil Appeal No. 7840/2023; 2024 INSC 444) (Decided on 17/05/2024)

The Hon'ble Supreme Court held that "readiness and willingness" required under the SRA, 1963 must be proven by the plaintiff through their personal testimony, as it relates to their state of mind and conduct. A power of attorney holder cannot testify on behalf of the principal regarding matters within the principal's personal knowledge, such as their readiness and willingness to perform the contract. The court can deny the discretionary relief of specific performance due to prolonged and unexplained delay in taking legal action, even if the suit is filed within the limitation period. The original agreement was

deemed invalid partly because it was not signed by all co-owners and no evidence was provided for a power of attorney.

IV. R. Shama Naik vs. G. Shrinivasiah (2024 INSC 927) (Decided on 03/12/2024)

The Hon'ble Supreme Court held that Section 16(c) of SRA, 1963 is a statutory bar against granting specific performance to a party who fails to demonstrate readiness and willingness. The court clarified the distinction between readiness and willingness. Readiness means plaintiff's capacity to perform the contract, primarily their financial position and ability to arrange funds. Willingness means plaintiff's conduct and intent to honor the agreement. It is not enough to just state readiness and willingness in the plaint, the plaintiff must substantiate this with evidence, including proof of fund availability at relevant time.

V. Gaddipati Divija & Anr. vs. Pathuri Samrajyam & Ors. (2023 Live Law SSC 327) (Decided on 18/04/2023)

The Hon'ble Supreme Court held that a party seeking specific performance of a contract under Section 16(c) of the unamended Specific Relief Act, 1963, must aver and prove that they have always been "ready and willing" to perform their part of the contract. To demonstrate "readiness and willingness," a purchaser is not necessarily required to produce the actual money or provide a finalized scheme for financing the transaction. The evidence must show an unwavering intention to perform the contract. The performance of one party's obligation may be dependent on the fulfillment of the other party's obligation. When a party fails to perform its specific, reciprocal contractual obligations, that party cannot later claim that "time was of the essence" of the contract. Time is usually not of the essence in contracts for the sale of immovable property unless expressly specified otherwise.

VI. Satish Kumar vs. Karan Singh (2016) 4 SCC 352 (Decided on 21/01/2016)

The Hon'ble Supreme Court held that a decree for specific performance of a contract cannot be granted if the underlying agreement is not valid and enforceable in law. The Court outlined key principles regarding the enforcement of contracts, particularly concerning property with transfer restrictions: The power to grant specific performance

requires a valid and enforceable contract. The specific performance is a discretionary equitable remedy under Section 20 of the Specific Relief Act, 1963, which must be exercised judiciously.

VII. Major General Darshan Singh (D) by LRs. & Anr. v. Brij Bhushan Chaudhary (D) by LRs. (2024 INSC 157) (Decided on 02/03/2024)

The Hon'ble Supreme Court held that the plaintiffs were not entitled to the discretionary relief of specific performance of a property sale agreement due to their conduct of making false and/or incorrect material statements in the lawsuit. The court reiterated the principle that a party seeking an equitable remedy like specific performance must come to the court with clean hands and act in good faith.

VIII. A. Valliammai v. K.P. Murali (2023 Live Law SC 777) (Decided on 12/09/2023)

The Hon'ble Supreme Court held that a specific performance suit was time-barred under Article 54 of the Limitation Act, 1963, as the three-year limitation period had expired. The Court clarified that when no specific performance date is set, the limitation period begins when the plaintiff is notified that the defendant refuses to perform the contract.

IX. Usha Devi & Ors. v. Ram Kumar Singh & Ors. (2024 Live Law SC 568) (Decided on 05/08/2024)

The Hon'ble Supreme Court held that the limitation period for filing a suit for specific performance of a contract runs from the date explicitly fixed for performance, not from a general validity clause in the agreement.

X. Katta Sujatha Reddy v. Siddamsetty Infra Projects Pvt. Ltd. (2024 INSC 861) (Decided on 08/11/2024)

The Hon'ble Supreme Court held that the Specific Relief (Amendment) Act, 2018, which made specific performance a general rule rather than a discretionary relief,

applies prospectively (meaning it does not apply to transactions that occurred before October 1, 2018).

XI. Janardan Das & Ors. vs. Durga Prasad Agarwalla & Ors. (2024 SCC Online SC 2937) (Decided on 26/09/2024)

The Hon'ble Supreme Court held that a plaintiff seeking specific performance of an agreement to sell must demonstrate the availability of funds. The onus is on the plaintiff to ensure that all necessary consents and participation are secured to prove readiness and willingness to perform the contract.

XII. Rohit Kochhar vs. Vipul Infrastructure Developers Ltd. & Ors. (2024 SCC Online SC 3584) (Decided on 26/11/2024)

The Hon'ble Supreme Court held that a suit for specific performance of an agreement to sell must be filed in the court that has jurisdiction over the location of the property that is the subject of the agreement. This ruling verifies the procedural requirements for filing of the suit.

XIII. K.S. Manjunath and Others vs. Moorasavirappa @ Muttanna Chennappa Batil (D) by LRs and Others. Civil appeal No. 13507-13508 of 2025. (Decided on 10/11/2025)

The Hon'ble supreme court held that a suit for specific performance can be maintained even without explicitly challenging the unilateral termination of an agreement to sell, particularly if the contract is not inherently determinable.

CONCLUSION

The remedy of specific performance serves as an equitable relief under contract law, compelling a party to fulfill their contractual obligations when monetary compensation is inadequate to do justice. It ensures fairness by enforcing the exact terms agreed upon particularly in contracts involving unique goods, property or situations where damages cannot provide an equivalent remedy ensuring justice and fairness between the parties. The procedure involves filing a civil suit supported by a proof of a valid contract, readiness and willingness to perform after which the court exercises its discretion either to decree specific performance based on equitable principles or otherwise as per the rules under the code of civil procedure 1908. Recent rulings of Hon'ble Apex Court's have re-affirmed that specific performance is not a matter of right but of judicial discretion, to be granted only when the plaintiff has acted fairly and the contract is capable of execution. However, its availability is limited in cases involving personal skills, uncertain or determinable contracts or where enforcement would cause hardships or in equity. Thus, while specific performance strengthens the sanctity of contracts, it remains a discretionary and exceptional remedy applied only when damages cannot provide adequate relief.