Subject Name: SRA
Topic Name: Declaratory Decrees

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Definition, Purpose, and Historical Context

A declaratory decree, as defined, serves to clarify a right that is either in doubt or needs affirmation. It does not establish any new rights but simply confirms what the plaintiff already possesses.

No payment or action is demanded from the defendant; instead, the decree clarifies the plaintiff's entitlements.

For instance, if A lawfully occupies a piece of land and faces a claim from neighbouring villagers asserting a right of way through it, A can seek a declaratory decree affirming that the villagers have no such entitlement.

Similarly, if an employee is wrongfully terminated by their employer, the employee may seek damages rather than reinstatement or a declaration of ongoing employment status.

Historically, in England before the Chancery Procedure Act of 1852, declaratory decrees were not common, typically being employed as a precursor to the administration of relief. However, their use gained legal recognition with Section 50 of the Chancery Procedure Act.

In India, Section 15 of the Civil Procedure Code, 1859, initially allowed for suits seeking merely declaratory decrees without consequential relief.

This provision was later replaced, and the concept of declaratory relief was incorporated into the Specific Relief Act.

One notable difference between Indian and English law lies in authorising courts to issue declaratory decrees concerning future rights, provided those rights are vested. This enables Indian courts to provide clarity and certainty regarding rights that may arise in the future.

Right to Seek Declaration

Section 34 grants individuals the right to seek a declaration from the court regarding their legal status or property rights. The provision allows any person entitled to a legal character or property right to initiate legal action against anyone denying or having an interest in denying their title.

The court, at its discretion, may issue a declaration affirming the individual's entitlement to such character or right. Importantly, the plaintiff in such a suit is not obliged to seek any further relief beyond the declaration of title.

However, the court is restricted from making such a declaration if the plaintiff could have sought additional relief but chose not to do so. This provision ensures that plaintiffs do not unnecessarily burden the court with separate suits for additional remedies when they could have been included in the original action.

The explanation to the section clarifies that a trustee of property is considered a person interested in denying a title adverse to the interest of someone not currently in existence, but for whom the trustee would act as a trustee if they were.

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Securing Title

Section 34 serves the purpose of safeguarding an individual's title against adverse attacks, thereby preventing further litigation by resolving existing controversies. The section outlines specific requirements for instituting a declaratory suit:

1. Entitlement to Legal Character or Property Right: The plaintiff must possess a legal character or a right to property at the time of filing the suit.

2. Existence of a Defendant: There must be a defendant who denies or has an interest in denying the plaintiff's character or right to property. A suit without a defendant, such as one between spouses, is not permissible under this section.

3. Real Threat to Plaintiff's Right: The danger or detriment to the plaintiff's interest must be real, not imaginary.

4. Nature of Declaration: The declaration sought must pertain to the plaintiff's legal character or right to property. Declarations concerning pecuniary liabilities are not covered under this section.

5. Scope of Relief: If the plaintiff can seek further relief beyond a mere declaration, they must do so. Failure to seek additional relief may lead to the court's refusal to grant the declaration.

Additionally, Section 34 does not permit every form of declaration but is limited to declarations regarding legal character or proprietary rights. The court has discretionary power to grant or deny a declaratory decree, considering factors such as the availability of alternative remedies and the interests of justice. Courts should be cautious to avoid converting declaratory suits into sources of unnecessary litigation.

Certain circumstances may warrant the denial of a declaratory decree, such as when granting the declaration would encourage speculative purchases of dubious titles, or when the declaration would not be binding on all interested parties. Factors like long delays, acquiescence, or the nature of the subject matter (e.g., immovable property in a foreign country) may also influence the court's decision regarding the grant of a declaratory decree.



Legal Character

"Legal character" and "any right to any property" are both forms of legal rights. "Legal character" refers to a person's legal status or standing, determined by the attributes the law assigns to them in

their individual and personal capacity. It constitutes the legal personality of an individual, defining their rights, duties, and capacities under the law.

A legal status can also encompass rights arising from attributes unconnected with the nature of a particular act. These rights can be enforced against others who are subject to the legal system. For example, a person's status as a citizen grants them certain rights and obligations under the law, regardless of specific actions they may take.

On the other hand, "any right to any property" refers to the entitlement to ownership, possession, or other interests in tangible or intangible assets. It encompasses various property rights recognized by law, such as ownership, easements, leases, mortgages, and intellectual property rights.

While legal character pertains to a person's status or capacity within the legal framework, rights to property involve ownership or entitlements to specific assets. Both are essential aspects of legal rights, protecting individuals' interests and regulating their interactions within society.

Mandatory Proviso to Section 34

The proviso to Section 34 of the Specific Relief Act emphasises that if a plaintiff is entitled to seek further relief beyond a mere declaration of title, they must include such relief in their suit; otherwise, the court will not grant the declaration sought. This proviso is mandatory in nature and aims to prevent multiple legal proceedings and ensure proper payment of court fees.

The term "further relief" does not encompass every possible form of relief but refers to those remedies directly and necessarily flowing from the declaration sought and inherently connected to the right or title asserted or denied. These further reliefs must be consequential to the cause of action on which the plaintiff's suit is based. For instance, if a plaintiff seeks a declaration of their right to land, the recovery of possession would be considered a consequential relief.

It's essential to note that the plaintiff must be in a position to seek further relief against the defendant, and such relief should be integral to the plaintiff's claim. The proviso does not empower the court to dismiss the suit outright but allows it to refuse the declaration if further relief is not sought. However, the plaintiff may later be permitted to amend their plaint to include the necessary further relief.

Importantly, if the further relief is remote and not connected with the cause of action, the proviso to Section 34 will not apply. Additionally, a general prayer for other reliefs in the plaint does not override the requirement for specifically praying for further relief related to the declaration sought. Thus, the plaintiff must explicitly request the further relief in the plaint for the court to consider it.