

Specific performance – Relief of – Grant of relief of specific performance is a discretionary and equitable relief- Material questions, which are required to be gone into for grant of the relief of specific performance, enunciated – The said questions are part of the statutory requirements (See Sections 16 (c), 20, 21, 22, 23 of the Specific Relief Act, 1963 and the forms 47/48 of Appendix A to C of the Code of Civil Procedure) – These requirements have to be properly pleaded by the parties in their respective pleadings and proved with the aid of evidence in accordance with law – It is only then the Court is entitled to exercise its discretion and accordingly grant or refuse the relief of specific performance depending upon the case made out by the parties on facts – Specific Relief Act, 1963 Sections 16 (c), 20, 21, 22, 23 – [CPC](#), 1908 (V of 1908) – Forms 47/48 of Appendix A to C.

Held,

Material questions, which are required to be gone into for grant of the relief of specific performance:

First, whether there exists a valid and concluded [contract](#) between the parties for sale/purchase of the suit property;

Second, whether the plaintiff has been ready and willing to perform his part of contract and whether he is still ready and willing to perform his part as mentioned in the contract;

Third, whether the plaintiff has, in fact, performed his part of the contract and, if so, how and to what extent and in what manner he has performed and whether such performance was in conformity with the terms of the contract;

Fourth, whether it will be equitable to grant the relief of specific performance to the plaintiff against the defendant in relation to suit property or it will cause any kind of hardship to the defendant and, if so, how and in what manner and the extent if such relief is eventually granted to the plaintiff;

Fifth, whether the plaintiff is entitled for grant of any other alternative relief, namely, refund of earnest money etc. and, if so, on what grounds.

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