

From Discretion to Enforcement: A Critical Appraisal of Specific Performance under the Amended Specific Relief Act, 1963.

Dr. Jai Prakash Kushwah¹, Suraj Pratap Singh Kushwah²

¹Advocate, M.P. High Court, Gwalior,
Ph.D.(Law an Inter-disciplinary Research),
Ph.D.(Geographical Crime a Multidisciplinary Research)
DLIL, LL.B., LL.M.(Medallist),
B.Sc. (Maths), MA (English), MA(Geography)
IGD Bombay, EGD Bombay
Email: jpkushwahadvocate@gmail.com

²Advocate, M.P. High Court, Gwalior
LL.B., LL.M.(Gold Medallist),
B.E. (Electronic Communication). CLAT Meritorious
Email: surajkushwaha4903@gmail.com

Abstract

The remedy of specific performance has historically been rooted in equitable discretion, operating as an exception to the general rule of awarding damages for breach of contract. Under the Specific Relief Act, 1963, courts exercised broad judicial discretion in granting this remedy, guided by principles of fairness, hardship, and readiness and willingness of the plaintiff. However, the enactment of the Specific Relief (Amendment) Act, 2018 marked a decisive shift in the remedial framework by transforming specific performance from a discretionary relief into a more rule-based and enforceable remedy. The amendment substituted Section 10, curtailed the scope of judicial discretion, introduced the concept of substituted performance, and restricted injunctive relief in infrastructure projects to promote commercial certainty and improve India's investment climate.

This paper critically examines the doctrinal and practical implications of this transition from discretion to enforcement. It analyses whether the legislative intent to strengthen contractual sanctity and ensure ease of doing business has been achieved without compromising the equitable foundations of specific performance. The study further evaluates post-amendment judicial trends of the Supreme Court of India and various High Courts, particularly concerning readiness and willingness under Section 16, substituted performance under Section 20, and statutory limitations under Sections 14 and 20A.

Through doctrinal analysis and case-law evaluation, the paper argues that while the amendment enhances predictability and reduces judicial subjectivity, it also raises concerns regarding the dilution of

equity-based safeguards. The research concludes by suggesting a calibrated interpretative approach that harmonizes statutory enforcement with equitable justice in contemporary Indian contract law.

Keywords: Specific Performance; Specific Relief Act, 1963; Specific Relief (Amendment) Act, 2018; Judicial Discretion; Contract Enforcement; Substituted Performance; Readiness and Willingness; Infrastructure Contracts; Equity; Commercial Certainty; Supreme Court of India; Contract Law Reform.

1. Introduction:

The law of specific performance occupies a central position in the remedial structure of contract law in India. Traditionally conceived as an equitable remedy, specific performance compels a party in breach to perform the contractual obligation agreed upon, rather than merely compensating the aggrieved party with damages. Under the Specific Relief Act, 1963, this remedy was historically discretionary, grounded in equitable principles inherited from English Chancery jurisprudence. Courts were guided by considerations such as fairness, hardship, conduct of the parties, and the plaintiff's continuous readiness and willingness to perform the contract. In effect, specific performance was treated as an exception to the general rule that damages are the primary remedy for breach of contract.

For decades, Indian courts exercised wide discretion in granting or refusing specific performance. Section 10 of the unamended Act emphasized that specific performance could be enforced where monetary compensation was inadequate, while Section 20 explicitly recognized judicial discretion in decreeing the remedy. This structure ensured that equitable considerations such as undue hardship, unfair advantage, or inequitable conduct could justify refusal even when a contract was legally valid. The equitable character of the remedy allowed courts to balance strict contractual rights with broader principles of justice.

However, the remedial landscape underwent a significant transformation with the enactment of the Specific Relief (Amendment) Act, 2018. The amendment introduced a paradigm shift by repositioning specific performance from a discretionary relief to a general rule. The substituted Section 10 mandates that specific performance "shall" be enforced subject to limited exceptions, thereby curtailing judicial discretion. Section 20, which earlier dealt with discretionary power, was restructured to introduce the concept of substituted performance, enabling the aggrieved party to have the contract performed by a third party and recover costs from the defaulting promisor. Additionally, new provisions such as Sections 20A to 20C restricted the grant of injunctions in infrastructure projects to prevent delays in public utility and development works.

This legislative shift was driven by broader economic and policy considerations. The amendment aimed to enhance contractual certainty, promote commercial efficiency, and improve India's ranking in the global ease of doing business index. By ensuring enforceability of contracts as a rule rather than an exception, the legislature sought to create a more predictable and investor-friendly legal environment. The reform reflects a conscious movement away from equity-dominated discretion toward statutory enforcement and economic pragmatism.

Yet, this transformation raises significant jurisprudential and practical questions. Specific performance has historically been rooted in equity, emphasizing fairness and moral obligation rather than

rigid enforcement. By narrowing judicial discretion, the amendment arguably reduces the flexibility of courts to address unique factual circumstances and prevent injustice. The earlier framework allowed judges to consider factors such as escalation of property prices, delay in litigation, conduct of parties, and disproportionate hardship. Under the amended regime, the scope for such equitable evaluation appears substantially restricted.

The evolving interpretation of these amendments by the Supreme Court of India and various High Courts further shapes the contours of this new legal regime. While the statutory language suggests mandatory enforcement, courts continue to interpret the provisions in light of established doctrines such as readiness and willingness under Section 16, limitation under Article 54 of the Limitation Act, and the fundamental principles of fairness embedded in contract law. This judicial engagement indicates that although discretion has been curtailed legislatively, it may not have been entirely extinguished in practice.

Moreover, the introduction of substituted performance marks a conceptual shift in the understanding of remedies. It blends compensatory and coercive elements by allowing third-party execution while preserving the right to recover costs. This mechanism reflects modern commercial realities, where timely completion of contracts—particularly in infrastructure and development projects—is often more valuable than prolonged litigation. At the same time, it redefines the traditional equitable character of specific performance by embedding efficiency considerations within the statutory framework.

The present study seeks to critically examine this transition from discretion to enforcement. It explores whether the 2018 amendment represents a progressive modernization of contract law aligned with global commercial standards or whether it undermines the equitable foundations that historically safeguarded fairness in contractual dealings. The inquiry situates the amendment within broader debates concerning contractual sanctity, judicial activism, economic reform, and the evolving role of courts in commercial disputes.

By analyzing statutory changes, legislative intent, and post-amendment judicial trends, this paper evaluates the extent to which the amended regime balances efficiency with equity. It argues that while the shift toward enforceability enhances certainty and reduces subjectivity, it also necessitates a nuanced interpretative approach to prevent mechanical application. The challenge before the judiciary lies in harmonizing the statutory mandate of enforcement with the enduring principles of fairness that underpin the law of specific performance.

In this context, the transformation of specific performance under the amended Act is not merely a technical legislative reform but a deeper reorientation of remedial philosophy in Indian contract law. The debate between discretion and enforcement reflects broader tensions between equity and efficiency, flexibility and predictability, and justice and economic policy. Understanding this shift is essential for appreciating the evolving trajectory of contractual remedies in contemporary India.

2. Statement of the Problem:

The remedy of specific performance under the Specific Relief Act, 1963 has historically been grounded in equitable discretion, allowing courts to balance fairness, hardship, and conduct of the parties before granting relief. However, the enactment of the Specific Relief (Amendment) Act, 2018 introduced a significant shift toward mandatory enforcement, limiting judicial discretion and emphasizing contractual certainty and commercial efficiency. This transformation raises a fundamental legal problem: whether the movement from equity-based discretion to rule-based enforcement has successfully strengthened contractual sanctity without undermining traditional safeguards of fairness and justice. The tension between enforcement and equity, particularly in the context of readiness and willingness, hardship, and infrastructure contracts, creates doctrinal and practical uncertainties that necessitate critical examination.

3. Objectives:

1. To examine the transformation of specific performance from a discretionary equitable remedy to a rule-based statutory enforcement mechanism under the Specific Relief Act, 1963 as amended by the Specific Relief (Amendment) Act, 2018.
2. To critically analyze the impact of the 2018 Amendment on judicial discretion and equitable principles, particularly in relation to readiness and willingness, hardship, substituted performance, and restrictions in infrastructure contracts.
3. To evaluate post-amendment judicial interpretation and its practical implications for contractual certainty and commercial efficiency, with reference to decisions of the Supreme Court of India and various High Courts.

4. Research Questions:

1. Has the 2018 Amendment fundamentally transformed specific performance from a discretionary equitable remedy into a mandatory rule of enforcement, and to what extent does this shift alter the remedial philosophy under the Specific Relief Act, 1963 as amended by the Specific Relief (Amendment) Act, 2018?
2. Does the curtailment of judicial discretion under the amended framework undermine the traditional equitable safeguards such as hardship, unfair advantage, and readiness and willingness, or does it promote greater contractual certainty and commercial predictability?
3. How have the Supreme Court of India and various High Courts interpreted and applied the amended provisions, particularly in relation to substituted performance and infrastructure contracts, and what trends are emerging in contemporary jurisprudence?

5. Research Hypotheses:

Hypothesis 1

Null Hypothesis (H_{01}):

The Specific Relief (Amendment) Act, 2018 has not substantially altered the discretionary nature of specific performance under the Specific Relief Act, 1963.

Alternative Hypothesis (H₁₁):

The 2018 Amendment has fundamentally transformed specific performance from a discretionary equitable remedy into a rule-based and mandatory form of contractual enforcement.

Hypothesis 2**Null Hypothesis (H₀₂):**

The curtailment of judicial discretion under the amended Act does not affect the application of traditional equitable principles such as hardship, fairness, and readiness and willingness.

Alternative Hypothesis (H₁₂):

The restriction of judicial discretion under the amended Act significantly limits the application of traditional equitable safeguards in granting specific performance.

Hypothesis 3**Null Hypothesis (H₀₃):**

Post-amendment judicial interpretation by the Supreme Court of India and High Courts has not enhanced contractual certainty or commercial predictability.

Alternative Hypothesis (H₁₃):

Post-amendment judicial interpretation has strengthened contractual certainty and promoted commercial efficiency by reinforcing enforcement-oriented principles.

6. Review of Literature:

The doctrine of specific performance has generated substantial academic and judicial discourse, particularly in the context of its equitable origins and its statutory codification in India under the Specific Relief Act, 1963. The 2018 amendment to the Act has reignited scholarly debate regarding the balance between discretion and enforcement, equity and efficiency, and judicial flexibility versus commercial certainty. This review surveys foundational doctrinal writings, leading judicial precedents, comparative perspectives, and emerging scholarship on the impact of the Specific Relief (Amendment) Act, 2018.

6.1 Historical and Theoretical Foundations of Specific Performance:

The roots of specific performance lie in English equity jurisprudence. As explained by Snell in *Snell's Equity*¹, the remedy evolved as a corrective to the rigidity of common law courts, which limited relief to damages. Equity intervened where damages were inadequate, particularly in contracts involving land, rare goods, or unique subject matter. This discretionary nature was justified on moral and fairness grounds, recognizing that certain contractual obligations are better enforced than monetarily compensated.

F.W. Maitland, in his lectures on equity, emphasized that specific performance was not a right but a remedy granted upon equitable considerations, subject to the conduct of the parties and the possibility of hardship. This discretionary approach was adopted in Indian law through codification. The Specific

¹ Snell, J., *Snell's Equity*, Sweet & Maxwell.

Relief Act, 1877, and later the 1963 Act, incorporated equitable principles within a statutory framework, maintaining discretion as central to the remedy.

Indian scholars such as Pollock and Mulla, in *The Indian Contract and Specific Relief Acts*², highlighted that specific performance under the 1963 Act preserved equitable discretion despite statutory language. The authors emphasized that courts were not bound to grant specific performance merely because it was lawful to do so; rather, equitable factors such as delay, unfair advantage, or disproportionate hardship justified refusal.

Similarly, G.C. Cheshire and C.H.S. Fifoot³, in *Law of Contract*, articulated that equity compels performance only when justice demands it, reinforcing that the remedy is exceptional. This understanding shaped Indian jurisprudence for decades.

6.2 Judicial Discretion under the Unamended Act:

Under the unamended Section 10 of the Specific Relief Act, 1963, courts were empowered to grant specific performance when compensation in money was inadequate. Section 20 explicitly preserved judicial discretion. The literature reflects significant judicial development on these provisions, especially by the Supreme Court of India.

In *K.S. Vidyadnam v. Vairavan*⁴, the Supreme Court cautioned against mechanical grant of specific performance in cases involving long delays and sharp escalation in property prices. The Court emphasized that equity must balance fairness and economic realities.

Likewise, *N.P. Thirugnanam v. Dr. R. Jagan Mohan Rao*⁵ reinforced the mandatory requirement of continuous readiness and willingness under Section 16(c). The Court held that mere pleading was insufficient; the plaintiff's conduct must demonstrate genuine intention to perform the contract.

Scholarly commentary interpreted these decisions as reinforcing judicial discretion and equitable balancing. Mulla's treatise observed that courts frequently refused specific performance where enforcement would produce inequitable results, even if technical requirements were satisfied.

Academic writing prior to 2018 generally defended this discretionary approach. Scholars argued that flexibility prevented speculative litigation, particularly in real estate disputes, where plaintiffs often sought to capitalize on market fluctuations.

² Pollock & Mulla, *The Indian Contract and Specific Relief Acts*, LexisNexis.

³ Cheshire, G.C., & Fifoot, C.H.S., *Law of Contract*, Butterworths.

⁴ *Vidyadnam v. Vairavan*, (1997) 3 SCC 1.

⁵ *N.P. Thirugnanam v. Dr. R. Jagan Mohan Rao*, (1995) 5 SCC 115.

6.3 Critique of Discretion and the Move Toward Reform:

Despite its equitable pedigree, the discretionary model attracted criticism. Law and economics scholars contended that uncertainty in enforcement discouraged investment and weakened contractual sanctity. *The Law Commission of India, in its 213th Report (2008)*⁶, recommended reforms to promote certainty in contractual enforcement.

Economic reform literature linked effective contract enforcement with foreign direct investment and commercial confidence. Scholars analyzing India's ranking in the World Bank's Ease of Doing Business Index argued that delays and unpredictability in specific performance suits undermined investor trust.

Commercial law scholars increasingly advocated a rule-based enforcement model. They argued that modern commercial transactions require predictability rather than moralistic equity. According to this perspective, excessive judicial discretion fostered subjectivity and inconsistent outcomes.

6.4 The 2018 Amendment: A Paradigm Shift:

The Specific Relief (Amendment) Act, 2018, substantially altered the structure of the 1963 Act. Section 10 was substituted to mandate enforcement of contracts subject to limited exceptions. The earlier Section 20 on discretion was replaced with provisions introducing substituted performance.

Scholars have described this shift as moving from an "equity-dominated regime" to an "enforcement-oriented regime." Commentators note that the amendment aligns Indian law more closely with civil law jurisdictions, where specific performance is often the primary remedy.

Recent journal articles argue that the amendment reflects neoliberal economic policy emphasizing efficiency and contractual sanctity. By limiting injunctions in infrastructure contracts under Sections 20A–20C, the legislature sought to prevent delays in public projects. Scholars have debated whether this represents a pragmatic reform or an erosion of judicial independence.

6.5 Substituted Performance and Commercial Efficiency:

The introduction of substituted performance has attracted significant scholarly attention. Unlike traditional specific performance, substituted performance allows the aggrieved party to get the contract performed by a third party and recover expenses.

Comparative law literature draws parallels with English and American contract law remedies. However, Indian scholars argue that substituted performance represents a hybrid remedy—combining compensatory and coercive elements. It shifts focus from moral obligation to economic efficiency.

Recent commentary suggests that substituted performance may reduce litigation time but raises practical concerns regarding quantification of costs and procedural safeguards.

⁶ Law Commission of India, 213th Report on Specific Relief Act, 1963 (2008).

6.6 Post-Amendment Judicial Trends:

Post-2018 case law indicates an evolving judicial approach. While statutory language mandates enforcement, courts continue to emphasize readiness and willingness under Section 16.

Recent Supreme Court decisions suggest that although discretion is curtailed, courts retain interpretative authority in assessing equitable conduct. Academic commentary observes that the judiciary appears to be harmonizing statutory mandate with traditional fairness principles. Scholars analyzing post-amendment judgments argue that the transformation is not absolute. Instead, courts have recalibrated discretion rather than eliminated it.

6.7 Equity versus Efficiency: Continuing Debate:

Contemporary scholarship frames the amendment within the broader debate between equity and efficiency. Law and economics theorists support strict enforcement, arguing that predictable remedies reduce transaction costs. In contrast, equity-oriented scholars caution that rigid enforcement may produce injustice in cases of hardship or unforeseen circumstances.

Comparative scholars note that English law still treats specific performance as discretionary, even after modernization. This raises questions about whether India's shift is overly rigid.

Some commentators argue that infrastructure exceptions prioritize public interest but may undermine private rights. The tension between public development and individual contractual rights remains an active area of research.

7. Identified Gaps in Literature:

While considerable commentary exists on the doctrinal shift, there remains limited empirical analysis of how trial courts apply the amended provisions. Few studies examine whether litigation timelines have improved or whether enforcement has become more predictable in practice.

Additionally, scholarship has yet to fully explore the constitutional dimensions of restricting injunctions in infrastructure projects. The balance between economic policy and judicial independence warrants deeper inquiry.

8. Discussion of Objective No. 1 in Light of the Hypothesis:

Objective No. 1: To examine the transformation of specific performance from a discretionary equitable remedy to a rule-based statutory enforcement mechanism under the Specific Relief Act, 1963 as amended by the Specific Relief (Amendment) Act, 2018.

Hypothesis 1:

H₀₁: The 2018 Amendment has not substantially altered the discretionary nature of specific performance under the Act.

H₁₁: The 2018 Amendment has fundamentally transformed specific performance from a discretionary equitable remedy into a rule-based and mandatory form of contractual enforcement.

The examination of Objective No. 1 requires an evaluation of whether the 2018 amendment has genuinely transformed the nature of specific performance or whether the discretionary character of the remedy continues in substance. Prior to the amendment, the Specific Relief Act, 1963 clearly preserved judicial discretion. Section 10 used permissive language, indicating that specific performance “may” be enforced when compensation in money was not an adequate remedy. More importantly, the erstwhile Section 20 explicitly declared that the jurisdiction to decree specific performance was discretionary and that the court was not bound to grant such relief merely because it was lawful to do so. The statutory framework therefore reflected the equitable heritage of the remedy.

Judicial interpretation reinforced this discretionary character. The Supreme Court of India repeatedly emphasized that specific performance was not a matter of right. Even when a valid agreement existed, courts could refuse relief if enforcement would cause undue hardship, confer unfair advantage, or if the plaintiff’s conduct was inequitable. The remedy was governed by principles of fairness and conscience rather than rigid statutory compulsion. Thus, under the unamended regime, discretion was both textually embedded and judicially exercised.

The 2018 amendment introduced a structural and linguistic shift. The substituted Section 10 replaced permissive language with mandatory terminology by providing that specific performance “shall” be enforced subject to limited exceptions. The deletion of the earlier discretionary Section 20 removed the explicit statutory recognition of equitable refusal. In its place, a new Section 20 introduced substituted performance, signaling a move toward efficiency-oriented enforcement rather than moral or equitable balancing. These changes demonstrate a clear legislative intent to prioritize performance as the general rule rather than an exception.

The transformation is further supported by the narrowing of grounds under which specific performance may be refused. Instead of broad equitable discretion, refusal is now confined to statutory categories under Section 14. The shift from open-ended discretion to enumerated exceptions indicates that the legislature intended to reduce judicial subjectivity and enhance predictability in contract enforcement. This aligns with the broader policy objective of strengthening commercial certainty and improving the investment climate.

However, the critical inquiry is whether discretion has been entirely eliminated in practice. Even after the amendment, courts continue to examine compliance with Section 16, particularly the requirement of readiness and willingness. Judicial scrutiny of conduct, delay, and contractual obligations remains significant. Although the statutory language mandates enforcement, interpretative discretion persists in determining whether statutory conditions are satisfied. Therefore, the amendment does not abolish discretion absolutely; rather, it restructures and confines it within statutory parameters.

When the hypothesis is tested against statutory changes and judicial developments, it becomes evident that the 2018 amendment has substantially altered the nature of the remedy. The removal of express

discretionary provisions and the introduction of mandatory language mark a decisive doctrinal shift. The earlier regime treated specific performance as an equitable exception; the amended regime treats it as the primary remedy. While courts retain interpretative authority, the scope of refusal based purely on equitable balancing has been significantly curtailed.

Accordingly, the null hypothesis (H_{01}), which suggests that the amendment has not substantially altered the discretionary nature of specific performance, is not supported by doctrinal analysis. The alternative hypothesis (H_{11}) is proved to a substantial extent. The amendment has fundamentally transformed specific performance from a discretionary equitable relief into a rule-based enforcement mechanism, though not to the extent of completely eliminating judicial evaluation. The shift is therefore both textual and conceptual, reflecting a transition from equity-dominated discretion to structured statutory enforcement under the Specific Relief Act, 1963 as amended in 2018.

9. Discussion of Objective No. 2 in the Light of Hypothesis No. 2:

Objective No. 2: To critically analyze the impact of the 2018 Amendment on judicial discretion and equitable principles, particularly in relation to hardship, fairness, and readiness and willingness under the Specific Relief Act, 1963 as amended by the Specific Relief (Amendment) Act, 2018.

Hypothesis No. 2:

H_{02} : The curtailment of judicial discretion under the amended Act does not affect the application of traditional equitable principles such as hardship, fairness, and readiness and willingness.

H_{12} : The restriction of judicial discretion under the amended Act significantly limits the application of traditional equitable safeguards in granting specific performance.

The second objective of this study requires an examination of whether the 2018 amendment has diluted the equitable foundations historically embedded in the remedy of specific performance. Before the amendment, the statutory structure clearly empowered courts to refuse relief even when a contract was valid and enforceable. The earlier Section 20 expressly recognized that the jurisdiction to decree specific performance was discretionary. Courts could deny relief where enforcement would cause undue hardship to the defendant, confer unfair advantage on the plaintiff, or where the plaintiff's conduct was inequitable. Thus, equity functioned as a controlling principle.

Judicial pronouncements of the Supreme Court of India consistently emphasized that specific performance was not to be granted mechanically. The courts considered comparative hardship, escalation of property prices, delay in performance, and overall fairness of the transaction. Equity acted as a safeguard to prevent unjust enrichment or oppressive enforcement. The discretion was wide and allowed courts to respond flexibly to varied factual circumstances.

The 2018 amendment removed the earlier discretionary provision and substituted a framework in which specific performance "shall" be enforced subject to statutory exceptions. The legislative design clearly intended to reduce subjectivity and enhance contractual certainty. By deleting the explicit recognition of judicial discretion, the amendment appears to have narrowed the space for equitable

balancing. Hardship and unfair advantage are no longer independently articulated as broad grounds for refusal. Instead, refusal must fall within defined statutory categories.

This structural change suggests that equitable safeguards have been constrained. The earlier power to deny relief on broad fairness considerations has been replaced by a rule-based model. In this sense, the amendment does impact the application of traditional equitable principles. The transformation indicates that equity no longer operates as an open-ended discretionary doctrine but as a principle embedded within limited statutory parameters.

However, the inquiry does not end with textual analysis. Even after the amendment, Section 16 continues to require proof of readiness and willingness. Courts continue to scrutinize the conduct of the plaintiff. The requirement that the plaintiff must demonstrate continuous readiness and willingness retains a strong equitable character. Judicial interpretation shows that courts have not treated this requirement as a mere procedural formality. Instead, they continue to examine the bona fides of the claimant, financial capacity, and overall conduct.

Similarly, although hardship is not as broadly framed as before, statutory exceptions under Section 14 and interpretative discretion allow courts to consider whether enforcement is legally feasible and justifiable. Thus, while the amendment restricts explicit discretion, it does not completely extinguish equitable reasoning. Courts remain the interpreters of statutory conditions, and equity indirectly influences how those conditions are applied.

The central question under Hypothesis No. 2 is whether the curtailment of discretion has significantly limited traditional equitable safeguards. On balance, doctrinal analysis suggests that the scope of equity has indeed been reduced. The earlier regime allowed courts to deny specific performance even when statutory requirements were met, purely on grounds of comparative hardship or unfairness. That broad equitable power no longer exists in the same explicit form. The legislative shift toward mandatory enforcement inevitably narrows the ambit of individualized fairness.

At the same time, it would be inaccurate to conclude that equity has disappeared altogether. Rather, equity has been recalibrated. It now operates through statutory interpretation rather than through an independent discretionary clause. The judiciary continues to assess readiness and willingness rigorously, and principles of fairness influence interpretation of contractual obligations. Therefore, the equitable character of the remedy has been moderated but not eradicated.

When the hypothesis is tested, the null hypothesis (H_{02}), which states that curtailment of discretion does not affect equitable principles, cannot be fully sustained. The amendment has materially restricted the breadth of equitable refusal that previously existed. Consequently, the alternative hypothesis (H_{12}) is substantially proved. The restriction of judicial discretion under the amended Act significantly limits the independent operation of traditional equitable safeguards, though it does not completely eliminate equitable considerations from judicial reasoning.

In conclusion, Objective No. 2 reveals that the 2018 amendment has reshaped the balance between equity and enforcement. The remedy of specific performance is now guided more by statutory command than by open-ended equitable conscience. While fairness continues to inform judicial interpretation, its scope has been structured and confined. The amendment therefore represents a recalibration rather than a total abandonment of equitable principles within the law of specific performance.

10. Discussion of Objective No. 3 in the Light of Hypothesis No. 3;

Objective No. 3: To evaluate post-amendment judicial interpretation and its practical implications for contractual certainty and commercial efficiency, particularly in decisions of the Supreme Court of India and various High Courts under the Specific Relief Act, 1963 as amended by the Specific Relief (Amendment) Act, 2018.

Hypothesis No. 3:

H₀₃: Post-amendment judicial interpretation has not enhanced contractual certainty or commercial predictability.

H₁₃: Post-amendment judicial interpretation has strengthened contractual certainty and promoted commercial efficiency by reinforcing enforcement-oriented principles.

The third objective focuses on the practical dimension of the 2018 amendment. While Objectives 1 and 2 dealt with doctrinal transformation and curtailment of discretion, Objective 3 examines whether the amended framework has achieved its intended policy outcomes. The amendment was introduced in a broader economic context aimed at improving contract enforcement and strengthening business confidence. Therefore, the effectiveness of the reform must be assessed in light of judicial application.

Following the amendment, courts have increasingly recognized that specific performance is no longer an exceptional remedy. Judicial reasoning reflects awareness of the mandatory language introduced in Section 10. Decisions of the Supreme Court of India indicate that the legislature intended to prioritize enforcement over discretion. Courts have therefore adopted a more structured approach, focusing on statutory compliance rather than broad equitable balancing.

One significant area of judicial interpretation concerns readiness and willingness under Section 16. Post-amendment judgments demonstrate that courts continue to insist upon strict compliance with this requirement. However, the scrutiny is now more closely tied to statutory conditions rather than to open-ended equitable discretion. By clarifying that performance is the rule, courts reduce uncertainty regarding the likely outcome of litigation when contractual obligations are clearly established. This predictability enhances contractual certainty.

Another important development relates to substituted performance under Section 20. Judicial recognition of this mechanism has practical implications for commercial efficiency. Instead of engaging in prolonged litigation to compel performance, parties are encouraged to mitigate losses by completing the contract through alternative means and recovering costs. This reduces delays and aligns legal remedies

with commercial realities. The judiciary's acknowledgment of substituted performance as a viable remedy reflects a shift toward functional enforcement.

Further, the restrictions imposed on injunctions in infrastructure projects under Sections 20A to 20C have influenced judicial reasoning. Courts have shown caution in granting orders that might delay public projects. This approach supports economic development and prevents disruption of large-scale commercial activities. By limiting injunctive interference, judicial interpretation supports the legislative objective of minimizing economic stagnation caused by contractual disputes.

The cumulative effect of these judicial trends suggests an orientation toward enforcement, clarity, and efficiency. Litigants now operate within a more predictable framework. When statutory requirements are fulfilled, the likelihood of obtaining specific performance has increased. This predictability strengthens contractual sanctity and encourages commercial reliance on legal remedies.

However, it is also important to consider whether the judiciary has merely adopted a formalistic approach without achieving substantive improvement in certainty. Some commentators argue that judicial interpretation still varies in its assessment of readiness and willingness. Moreover, procedural delays in trial courts continue to affect overall efficiency. While the amendment may enhance doctrinal predictability, systemic delays in adjudication remain a challenge.

Nevertheless, when the hypothesis is examined in doctrinal and practical terms, evidence indicates that post-amendment judicial interpretation has reinforced the enforcement-oriented philosophy of the statute. Courts increasingly emphasize statutory compliance and contractual sanctity rather than broad discretionary fairness. This shift reduces unpredictability associated with earlier equitable refusal.

Accordingly, the null hypothesis (H_{03}), which states that post-amendment judicial interpretation has not enhanced contractual certainty, is not supported. The alternative hypothesis (H_{13}) is substantially proved. Judicial interpretation after the 2018 amendment has strengthened contractual certainty and promoted commercial efficiency by aligning judicial practice with the enforcement mandate of the amended Act.

In conclusion, Objective No. 3 demonstrates that the effectiveness of the amendment lies not only in its textual changes but also in judicial implementation. The Supreme Court of India and various High Courts have played a crucial role in shaping a more predictable and enforcement-oriented regime. While practical challenges such as litigation delays persist, the doctrinal trend clearly reflects a movement toward greater certainty and commercial reliability in the law of specific performance.

11. Conclusion

The transformation of specific performance under the Specific Relief Act, 1963, as amended by the Specific Relief (Amendment) Act, 2018, represents a significant shift in the remedial philosophy of Indian contract law. Historically rooted in equitable discretion, specific performance was granted cautiously, guided by considerations of fairness, hardship, and the conduct of the parties. The 2018 amendment reoriented this framework by introducing mandatory language, removing express

discretionary provisions, and incorporating mechanisms such as substituted performance, thereby prioritizing enforcement and contractual certainty.

The doctrinal analysis undertaken in this study demonstrates that the amendment has substantially altered the nature of the remedy. Specific performance is no longer treated as an exceptional relief dependent primarily upon judicial conscience; rather, it has become the general rule, subject to defined statutory limitations. This legislative shift aligns with broader economic objectives aimed at strengthening contract enforcement, improving investor confidence, and promoting commercial efficiency. The judiciary, particularly the Supreme Court of India, has played a crucial role in interpreting the amended provisions in a manner that reinforces enforcement-oriented principles while retaining structured scrutiny of statutory requirements such as readiness and willingness.

At the same time, the study reveals that the equitable foundations of specific performance have not been entirely extinguished. Although broad discretionary refusal has been curtailed, equity continues to influence judicial reasoning through interpretation of statutory conditions. Courts still assess conduct, compliance, and bona fides, ensuring that enforcement does not become mechanical or unjust. Thus, the transformation is better understood as a recalibration of equity within a statutory framework rather than its complete displacement.

The findings indicate that the amendment has strengthened contractual sanctity and enhanced predictability in principle, though practical challenges such as procedural delays remain. The balance between enforcement and fairness continues to evolve through judicial interpretation. Ultimately, the amended regime reflects a conscious legislative choice to prioritize certainty and performance, while relying on courts to preserve justice within defined statutory boundaries. The future trajectory of specific performance in India will depend upon how effectively this balance between statutory mandate and equitable reasoning is maintained in practice.

12. Suggestions:

In light of the doctrinal analysis and evaluation of the amended framework under the Specific Relief Act, 1963 as modified by the Specific Relief (Amendment) Act, 2018, the following suggestions are proposed to strengthen the balance between enforcement and equity:

Firstly, judicial interpretation should adopt a purposive and balanced approach while applying the mandatory language of Section 10. Although enforcement is now the rule, courts should ensure that statutory compliance under Section 16, particularly readiness and willingness, is examined rigorously to prevent speculative or opportunistic litigation. Structured discretion through interpretation can preserve fairness without contradicting legislative intent.

Secondly, clearer judicial guidelines may be developed regarding substituted performance under Section 20. While the provision enhances commercial efficiency, procedural clarity is required concerning notice requirements, quantification of costs, mitigation principles, and evidentiary standards. Authoritative precedents from the Supreme Court of India could provide uniform standards and reduce inconsistent application across jurisdictions.

Thirdly, trial courts should receive specialized training in commercial and contract adjudication to ensure uniform understanding of the amended regime. Since specific performance suits frequently involve complex property and commercial transactions, consistent judicial practice will enhance predictability and investor confidence.

Fourthly, procedural reforms should complement substantive reform. Fast-track mechanisms for specific performance suits, particularly in commercial and infrastructure matters, would better realize the objective of efficiency envisioned by the 2018 amendment. Without reduction in procedural delays, the enforcement-oriented philosophy may not achieve its full potential.

Fifthly, a limited legislative clarification may be considered to expressly recognize that equitable considerations, though structured, remain relevant in exceptional cases of manifest injustice. Such clarification would prevent overly mechanical enforcement and ensure that the statute operates harmoniously with constitutional principles of fairness and justice.

Lastly, empirical research should be encouraged to assess whether the amendment has effectively improved contract enforcement timelines and commercial certainty in practice. Policy evaluation based on data will help determine whether further refinement of the law is necessary.

In conclusion, the amended framework represents a progressive shift toward certainty and enforcement. However, its long-term success depends upon harmonizing statutory mandate with equitable reasoning, strengthening procedural efficiency, and ensuring consistent judicial interpretation.

13. Further Scope of Study:

The present study has primarily undertaken a doctrinal and analytical examination of the transformation of specific performance under the Specific Relief Act, 1963 as amended by the Specific Relief (Amendment) Act, 2018. While it evaluates legislative intent and judicial interpretation, several important dimensions remain open for deeper academic exploration.

Firstly, there is significant scope for empirical research assessing the practical impact of the 2018 amendment on disposal rates, duration of litigation, and enforcement success in trial courts and commercial courts. A data-driven study comparing pre-amendment and post-amendment outcomes would provide measurable evidence of whether the shift toward mandatory enforcement has improved contractual certainty and efficiency in practice.

Secondly, comparative research may be undertaken to analyze how specific performance operates in other common law jurisdictions such as the United Kingdom, as well as in civil law systems where performance is generally the primary remedy. Such comparative evaluation would help determine whether India's enforcement-oriented model aligns with global standards or represents a distinct hybrid approach.

Thirdly, further study is required on the constitutional and public law dimensions of the amendment, particularly concerning restrictions on injunctions in infrastructure projects. The interaction

between contractual enforcement and broader public interest considerations may raise questions relating to access to justice and judicial independence.

Fourthly, interdisciplinary research combining law and economics could examine whether stronger enforcement of contracts under the amended regime has contributed to improved commercial confidence, foreign investment, and ease of doing business metrics. Such studies would evaluate whether the legislative objective has translated into tangible economic outcomes.

Fifthly, there is scope for detailed examination of substituted performance under Section 20, including its procedural safeguards, cost recovery mechanisms, and potential for misuse. The practical functioning of this provision remains an evolving area that warrants focused analysis.

Finally, future research may explore the evolving judicial philosophy of the Supreme Court of India and High Courts in harmonizing equity with statutory enforcement. As case law continues to develop, the contours of discretion within a rule-based regime will become clearer, offering rich material for advanced doctrinal and theoretical inquiry.

Thus, the subject of specific performance post-2018 remains dynamic and fertile for further scholarly investigation, particularly at doctoral and policy-reform levels.

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