LAHORE
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Assignment:
Declaration

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Course: Equity and Specific Relief Act

Topic: Declaration

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SUIT FOR DECLARATION

1. Introduction

A declaration is an authoritative pronouncement issued by a court regarding a person’s legal status or their right to a specific property. Under the Specific Relief Act, this relief is a particular type of relief where there is no specific performance and no award of compensation, but merely a declaration of the rights of the parties involved.

2. Relevant Provisions

The primary legal provisions governing declaratory suits are found in **Section 42 and 43** of the Specific Relief Act.

3. Discretion of Court

Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying or interested to deny his title to such character or right. The court may, in its discretion, make a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief.

Proviso: However, the court shall not make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

4. Objects and Scope

- **Object:** The object of a declaratory decree is that where a person's status or legal character has been denied, he may have a remedy.
- **Protection of Interest:** The court grants declarations of rights in order to ensure and protect the interests of the people at large.
- **Maintainability:** A suit is not maintainable where the right of the plaintiff's own legal character or property is not involved.

5. Parties to the Suit

Category	Description
Who May Sue	Persons having any legal character or any right to any property.
Against Whom	Any person who is denying a right or is interested to deny the title of such character or right.

6. Essentials for a Declaratory Suit

Following are the essentials for a declaratory suit:

- **Legal Character:** The plaintiff must be entitled to a legal character at the time of the suit.
- **Right to Property:** The plaintiff must be entitled to a right to property.
- **Denial by Defendant:** The defendant should have denied or be interested to deny the legal character or right to property of the plaintiff.
- **No Omission of Consequential Relief:** The plaintiff should not have omitted other consequential relief if they were able to seek it.

7. Refusal of Relief

Declaratory relief is an equitable remedy and cannot be claimed as a matter of right. The court may refuse it in the following cases:

- **Vexatious Litigation:** Declaration is not given in cases of vexatious litigation.
- **Evasion of Court Fee:** It is refused if it is used to evade court fees.
- **Multiplicity of Suits:** It is refused to prevent multiplicity of legal actions.
- **Questions of Law:** The courts cannot grant a declaration on a pure question of law.

8. Legal Precedent & Effect

> ***2004 MLD 227:*** *It was held that any person entitled to any right to any property can file such suit against any person denying or interested to deny such title or right.*

Effect of Declaration (Section 43): A declaration is binding only on the parties to the suit and persons claiming through them respectively.

9. Conclusion

To conclude, the court grants declaration of rights in order to ensure and protect the interests of people at large. While any person entitled to a legal character or property right may file a suit, the court cannot grant a declaration on a question of law, and the suit is not maintainable if the plaintiff's own legal status or property is not directly involved.