ASSIGNMENT ON DECLARATION (Specific Relief and Equity)

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Introduction

Declaration is an important relief under the Specific Relief Act, 1877. It allows a person to seek a formal statement from the court regarding his legal status or right. The purpose of declaratory relief is to remove uncertainty and to protect legal rights without necessarily seeking further relief.

Definition of Declaration

According to Section 42 of the Specific Relief Act, a declaratory decree is a decree whereby the court declares the rights of the parties without granting any consequential relief. The plaintiff must be entitled to a legal character or right as to property.

Essentials of Declaration

The essential elements of declaration include: 1. The plaintiff must be entitled to a legal character or right. 2. The defendant must deny or be interested in denying such right. 3. The court must have discretion to grant declaration. 4. No further relief is sought where it is possible to claim.

Case Law

Case Law: In the case of PLD 1965 SC 377, it was held that declaratory relief is discretionary and cannot be granted where the plaintiff fails to seek consequential relief. In another case, 2002 SCMR 1089, the court emphasized that declaration cannot be granted in vacuum.

Discretion and Conclusion

The court has wide discretion in granting declaratory relief. It must consider equity, justice, and good conscience. The plaintiff must come with clean hands and prove his entitlement clearly.

Conclusion: Declaratory relief plays a vital role in the administration of justice. It helps in resolving disputes without unnecessary litigation. Courts ensure that such relief is granted only where appropriate and justified.