SRA-C04 - 1 PROVISIONS

Rectification of Instruments

Specific Relief Act, 1963

Full local statutory text

Finin2min implementation edition

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Finin2min Summary - Chapter in 2 Minutes

Purpose

This unit converts rectification of instruments into statutory, transaction, evidence and remedy decisions.

Who is covered

Businesses, contracting parties, partners, buyers, sellers, principals, agents and litigants affected by this chapter.

Main obligations

Read the transaction documents and actual conduct against every statutory limb, exception and connected law.

Key timelines

Record event, breach, refusal, notice, acknowledgment and filing dates; apply the correct Limitation Act article.

Forms and evidence

Use the chapter evidence checklist and State/UT forms where registration or public notice applies.

Top risk

Wrong classification, missing authority, weak evidence, ineffective notice, unverified State process or wrong remedy.

Remedy

Preserve rights, mitigate loss, quantify exposure and confirm forum, arbitration, limitation and interim relief.

Finin2min takeaway

Classify - map law - verify authority - prove performance - quantify consequence - select remedy and forum.

Section-by-section provision map

Provision	Title	Status	Decision theme
s.26	When instrument may be rectified. RESCISSION OF CONTRACTS	operative	corrective and declaratory relief

Legal status, amendments and source protocol

Act: Specific Relief Act, 1963; Act 47 of 1963; commencement 1 March 1964.

Source protocol: Complete central provision text is reproduced locally. Retained official India Code PDF extract. Official India Code and Gazette instruments prevail if any discrepancy is identified.

Full statutory text and Finin2min decode

Section 26 - When instrument may be rectified. RESCISSION OF CONTRACTS

Local statutory-text source control: Retained official India Code PDF extract. [Official India Code source] prevails.

Current statutory text

26. When instrument may be rectified.—(1) When, through fraud or a mutual mistake of the parties, a contract or other instrument in writing [not being the articles of association of a company to which the Companies Act, 1956 (1 of 1956), applies] does not express their real intention, then—
(a) either party or his representative in interest may institute a suit to have the instrument rectified; or
(b) the plaintiff may, in any suit in which any right arising under the instrument is in issue, claim in his pleading that the instrument be rectified; or
(c) a defendant in any such suit as is referred to in clause (b), may, in addition to any other defence open to him, ask for rectification of the instrument.
(2) If, in any suit in which a contract or other instrument is sought to be rectified under sub-section (1), the court finds that the instrument, through fraud or mistake, does not express the real intention of the parties, the court may, in its discretion, direct rectification of the instrument so as to express that intention, so far as this can be done without prejudice to rights acquired by third persons in good faith and for value.
(3) A contract in writing may first be rectified, and then if the party claiming rectification has so prayed in his pleading and the court thinks fit, may be specifically enforced.

1. Subs. by Act 52 of 1964, s. 3 and the Second Schedule, for “made to” (w.e.f. 29-12-1964).
2. Subs. by Act 18 of 2018, s. 12, for “the Arbitration Act, 1940 (10 of 1940)” (w.e.f. 1-10-2018).

(4) No relief for the rectification of an instrument shall be granted to any party under this section unless it has been specifically claimed:
Provided that where a party has not claimed any such relief in his pleading, the court shall, at any stage of the proceeding, allow him to amend the pleading on such terms as may be just for including such claim.
CHAPTER IV
RESCISSION OF CONTRACTS

Finin2min clause-by-clause decode

Clause	Statutory requirement	Finin2min meaning	Evidence/control
Main rule	26. When instrument may be rectified.—	Test this main limb within the corrective and declaratory relief framework. Operational focus: 26. when instrument may be rectified.—.	Contract/deed, authority, chronology, notices, performance and payment records tied to this limb.
(1)			

	When, through fraud or a mutual mistake of the parties, a contract or other instrument in writing [not being the articles of association of a company to which the Companies Act, 1956 (1 of 1956), applies] does not express their real intention, then—	Test this (1) within the corrective and declaratory relief framework. Operational focus: when, through fraud or a mutual mistake of the parties, a contract or other instrument in writing [not.	Contract/deed, authority, chronology, notices, performance and payment records tied to this limb.
(a)	either party or his representative in interest may institute a suit to have the instrument rectified; or	Test this (a) within the corrective and declaratory relief framework. Operational focus: either party or his representative in interest may institute a suit to have the instrument rectified; or.	Contract/deed, authority, chronology, notices, performance and payment records tied to this limb.
(b)	the plaintiff may, in any suit in which any right arising under the instrument is in issue, claim in his pleading that the instrument be rectified; or	Test this (b) within the corrective and declaratory relief framework. Operational focus: the plaintiff may, in any suit in which any right arising under the instrument is in issue, claim.	Contract/deed, authority, chronology, notices, performance and payment records tied to this limb.
(c)	a defendant in any such suit as is referred to in clause	Test this (c) within the corrective and declaratory relief framework. Operational focus: a defendant in any such suit as is referred to in clause.	Contract/deed, authority, chronology, notices, performance and payment records tied to this limb.
(b)	, may, in addition to any other defence open to him, ask for rectification of the instrument.	Test this (b) within the corrective and declaratory relief framework. Operational focus: , may, in addition to any other defence open to him, ask for rectification of the instrument.	Contract/deed, authority, chronology, notices, performance and payment records tied to this limb.
(2)		Test this (2) within the corrective and declaratory	Contract/deed, authority,

	If, in any suit in which a contract or other instrument is sought to be rectified under sub- section	relief framework. Operational focus: if, in any suit in which a contract or other instrument is sought to be rectified under sub-.	chronology, notices, performance and payment records tied to this limb.
(1)	, the court finds that the instrument, through fraud or mistake, does not express the real intention of the parties, the court may, in its discretion, direct rectification of the instrument so as to express that intention, so far as this can be done without prejudice to rights acquired by third persons in good faith and for value.	Test this (1) within the corrective and declaratory relief framework. Operational focus: , the court finds that the instrument, through fraud or mistake, does not express the real intention of.	Contract/deed, authority, chronology, notices, performance and payment records tied to this limb.
(3)	A contract in writing may first be rectified, and then if the party claiming rectification has so prayed in his pleading and the court thinks fit, may be specifically enforced. 1. Subs. by Act 52 of 1964, s. 3 and the Second Schedule, for "made to" (w.e.f. 29-12-1964). 2. Subs. by Act 18 of 2018, s. 12, for "the Arbitration Act, 1940 (10 of 1940)" (w.e.f. 1-10-2018).	Test this (3) within the corrective and declaratory relief framework. Operational focus: a contract in writing may first be rectified, and then if the party claiming rectification has so prayed.	Contract/deed, authority, chronology, notices, performance and payment records tied to this limb.
(4)	No relief for the rectification of an instrument shall be granted to any party under this section unless it has been specifically claimed:	Test this (4) within the corrective and declaratory relief framework. Operational focus: no relief for the rectification of an instrument shall be granted to any party under this section unless.	Contract/deed, authority, chronology, notices, performance and payment records tied to this limb.
Provided that	where a party has not claimed any such relief in his pleading, the court shall, at any stage of the proceeding, allow him to amend the pleading on such terms as may be just for including such claim. CHAPTER IV RESCISSION OF CONTRACTS	Test this provided that within the corrective and declaratory relief framework. Operational focus: where a party has not claimed any such	Contract/deed, authority, chronology, notices, performance and payment records tied to this limb.

		relief in his pleading, the court shall, at any stage.	

Finin2min implementation explanation

Section 26 is a corrective and declaratory relief provision dealing with when instrument may be rectified. rescission of contracts. Identify the actor, trigger, cumulative or alternative conditions, provisos, exceptions and legal consequence before reaching a conclusion.

Implementation control: Identify the instrument or right requiring correction, statutory prerequisites, third-party interests, readiness, equitable conduct, limitation and exact order requested.

Section-level practical application

Transaction test

Apply this provision to the event-date facts and record every satisfied, disputed or inapplicable limb.

Consequence and remedy

Identify how it changes validity, title, authority, liability, payment, rejection, recovery, registration, evidence or relief.

Practical examples and calculations

Chapter scenario

A live transaction raises issues concerning rectification of instruments. Freeze the event date, map each statutory condition, preserve authority and performance evidence, quantify exposure and choose remedy only after limitation and forum review.

Calculation	Method	Evidence
Price / consideration	Reconcile base amount, GST/tax, credits, retention, deductions and payment terms.	Contract, invoice, ledger, tax documents and bank proof.
Loss / compensation	Separate direct loss, consequential loss, avoided cost, mitigation, restitution, interest and stipulated sum.	Loss model, market evidence and mitigation log.
Partner settlement	Reconcile capital, current accounts, loans, drawings, profit share, assets, liabilities and goodwill.	Deed, ledgers, bank records and valuation.
Limitation	Record accrual, breach/refusal, notice, acknowledgment, exclusion and filing date.	Chronology and limitation memorandum.

Practical transaction application

1. Identify the transaction, relationship, parties and event date.
2. Map every provision to the contract/deed and actual conduct.
3. Record conditions satisfied, disputed, waived, excused or prevented.
4. Reconcile authority, delivery/performance, acceptance, payment and notices.
5. Quantify exposure and choose cure, termination, recovery, settlement or litigation strategy.

Authority, consent and execution controls

Authority

- Correct legal entities and counterparties.
- Board, partner, power-of-attorney or delegated authority.
- Ordinary-course and implied-authority limits.
- Third-party knowledge of restrictions.

Consent

- Offer, acceptance and agreed version.
- Capacity, free consent and disclosures.
- Conditions precedent and approvals.
- No unauthorised post-execution alteration.

Execution

- Complete schedules and annexures.
- Witnessing, attestation and e-sign audit trail.
- Counterparts, date and place.
- Original and certified-copy custody.

Stamp duty and registration alerts

Stamp duty is State/UT-specific. Classify the true instrument, place of execution or receipt, consideration and property. Registration is a separate enquiry. Insufficient stamping may require impounding; non-registration may affect property and third-party enforceability.

Instrument	Alert
Commercial agreement	Do not default to a generic article if the substance is indemnity, guarantee, security, transfer, lease or another specifically charged instrument.
Partnership deed/ reconstitution	Check capital contribution, immovable property, retirement/dissolution and Registrar filing separately.
Sale of movable goods	Coordinate contract, invoice, GST/e-invoice, transport and sectoral records.
Property-related relief	Check compulsory registration, title, court fee and decree-registration effects.

Evidence and document-retention checklist

Core file

- Executed contract or instrument
- Title and chain documents
- Readiness and funding evidence
- Performance and tender record
- Notice and cure correspondence
- Expert and valuation material
- Possession and third-party search
- Limitation and relief matrix

Electronic evidence

- Native email/message and metadata.
- Version history and e-sign certificate.
- System logs and acknowledgements.
- Legal hold and defensible export.

Retention

- Executed originals and amendments.
- Authority and entity records.
- Tax, payment and accounting records.
- Claims and litigation records through final disposal.

Forms, registers and operational records

Record/form	Control
No universal Central form	Relief is claimed through pleadings and procedural forms under the CPC, court rules and local filing systems.
Readiness and willingness file	Maintain funds, approvals, tender and performance evidence.
Injunction evidence pack	Preserve threatened act, urgency, balance of convenience and irreparable-harm material.

Performance, delivery and payment controls

Stage	Control	Proof
Obligation matrix	List each reciprocal obligation, owner, due date, dependency and consequence.	Signed matrix tied to contract sections.
Delivery/ performance	Record dispatch, carrier, title/risk point, milestones, inspection and acceptance/rejection.	Delivery documents, certificates and correspondence.
Payment	Reconcile invoice, tax, credit, retention, set-off, due date and bank receipt.	Invoice, e-invoice, ledger and bank proof.
Change/cure	Use authorised variation and cure procedures; avoid informal waiver.	Change order, approval and cure closure.

Breach, loss, mitigation and remedy framework

1. Identify the exact obligation and legally material breach.
2. Confirm causation, remoteness, foreseeability and proof of loss.
3. Record mitigation, avoided cost and substitute performance.
4. Test damages, price, restitution, lien, stoppage, accounts, dissolution, specific performance, injunction, rescission, rectification, cancellation or declaration.
5. Check remedy election, double recovery, caps/exclusions and public policy.

Limitation and forum controls

Control	Analysis
Accrual	Classify cause of action and record breach, refusal, knowledge, demand and continuing-obligation dates.
Limitation	Apply the correct article; test acknowledgment, part-payment, exclusion and disability.
Jurisdiction	Check territorial/pecuniary rules, Commercial Courts threshold, exclusive forum and special court.
Interim relief	Assess preservation, injunction, receiver, security and evidence protection.
Appeal/ enforcement	Map decree/award challenge, execution, interest and cross-border enforcement.

Arbitration and mediation interface

- Validate agreement, signatories, scope, seat, rules and appointment mechanism.
- Separate substantive rights from forum selection and identify non-arbitrable issues.
- Check interim measures, consolidation, joinder and multi-contract issues.
- Preserve limitation during negotiation or mediation.
- Record settlement authority, confidentiality, tax, stamp and enforceability.

Company, partnership, GST and tax overlays

Overlay	Questions
Companies Act	Authority, objects, approvals, related-party, loan/guarantee/security and disclosure requirements.
Partnership/LLP	Deed/LLP authority, current constitution and public records.
GST	Supply, time/place/value, invoice/e-invoice, ITC, credit note, advance, damages and settlement treatment.
Income tax/TDS	Withholding, partner remuneration/interest, capital/revenue, bad debt, settlement and transfer consequences.
IBC/FEMA/ consumer	Moratorium and avoidance, cross-border payment/governing law, consumer and e-commerce protection.

Binding and foundational judicial principles

Authority	Principle	Verification
K. Narendra v. Riviera Apartments	Specific performance requires equitable and statutory assessment of the contract, conduct and circumstances.	Verify official judgment and later treatment.
N.P. Thirugnanam v. Dr. R. Jagan Mohan Rao	Readiness and willingness must be proved continuously where the statute requires it.	Verify official judgment and later treatment.
Man Kaur v. Hartar Singh Sangha	Personal knowledge, pleading and proof of readiness and willingness cannot be replaced mechanically by an attorney.	Verify official judgment and later treatment.
Dalpat Kumar v. Prahlad Singh	Temporary injunction analysis generally examines prima facie case, balance of convenience and irreparable injury.	Verify official judgment and later treatment.

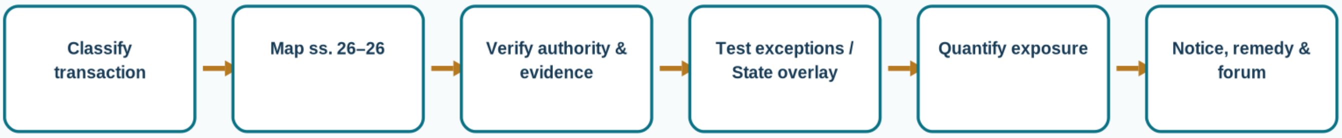
Central and State/UT variation alerts

> Court fees, pecuniary jurisdiction, special-court notifications, local civil rules and infrastructure designations require location-specific verification.

Use the State/UT variation register in the data folder for the live source checklist.

Chapter-specific decision flowchart

SRA-C04 · Finin2min decision path



Fraud, mutual mistake, true intention, pleading and third-party protection. Verify the current official source before professional reliance.

Finin2min Q&A

What decision does SRA-C04 help a business make?

It determines how rectification of instruments should be classified, documented, performed and enforced under sections 26-26 of the Specific Relief Act, 1963.

Which provision should be read first in SRA-C04?

Begin with section 26 (When instrument may be rectified. RESCISSION OF CONTRACTS) and then read the connected definitions, exceptions and remedy provisions in sequence.

What is the principal implementation risk in SRA-C04?

Applying a commercial label without proving the statutory conditions for rectification of instruments, or acting without authority, notice, performance and payment evidence.

Which execution checks are specific to SRA-C04?

Confirm the correct entities, signatory authority, consent, complete annexures, stamp and registration treatment, digital audit trail and approvals relevant to rectification of instruments.

How should evidence be indexed for SRA-C04?

Link every section in the chapter with the contract or deed, authority, chronology, notices, performance, delivery, payment, loss and remedy evidence supporting it.

What calculation should be retained for SRA-C04?

Retain the relevant price, tax, interest, partner-account, loss, mitigation, restitution or relief working with sources and assumptions, not only the final number.

How does limitation affect SRA-C04?

Classify the precise cause of action associated with rectification of instruments, record accrual, refusal, notice, acknowledgment and exclusion dates, and apply the correct Limitation Act article.

Can arbitration resolve every dispute arising under SRA-C04?

Arbitration may govern the forum, but it does not validate illegality, remove mandatory rules or make a non-arbitrable subject arbitrable. Check scope, seat and interim relief.

Which tax and entity overlays should be checked for SRA-C04?

Check Companies Act authority and related-party controls, partnership constitution, GST supply and invoice consequences, withholding, accounting and insolvency effects.

What is the final professional sign-off for SRA-C04?

Confirm the current statutory source, section conclusions, State variation, authority, calculation, limitation, remedy, forum and complete evidence trail.

Why is section 26 important to SRA-C04?

Section 26 (When instrument may be rectified. RESCISSION OF CONTRACTS) completes the chapter control and must be tested independently.

Official sources and verification status

- Specific Relief Act, 1963 - India Code
- Official Gazette and applicable State/UT Gazette, Registrar and court portals.
- Review date: 2026-07-18.