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DEAL CERTAINTY REVISITED: MAC CLAUSES AND THE SPECIFIC RELIEF (AMENDMENT) ACT, 2018 IN INDIAN M&A

Harsh Raj[1] & Sonia Arora[2]

I. ABSTRACT

Indian scholarship on merger and acquisition practice has generally treated Material Adverse Change clauses and the Specific Relief (Amendment) Act, 2018 as separate conversations: the former a matter of transactional drafting and the latter a matter of general contract remedies. This paper argues that the two are connected in a way the existing literature has not mapped and develops that connection through doctrinal analysis of Indian and, by way of comparison, Delaware authority. Reported Indian jurisprudence directly interpreting Material Adverse Change clauses in private acquisition agreements remains limited. The closest available body of Indian authority arises instead from the Securities and Exchange Board of India's open-offer jurisprudence, which has consistently read materiality thresholds narrowly, close to a standard of genuine impossibility of performance. Separately, the Specific Relief (Amendment) Act, 2018 restructured the remedial landscape governing breach of contract by substituting Section 10 of the Specific Relief Act, 1963 and repealing the general judicial discretion previously found in Section 20, while preserving specific statutory conditions under Sections 11(2), 14 and 16. This paper contends that these two developments, read together, have meaningfully strengthened the practical significance of specific performance as a response to a buyer's attempt to invoke a weak Material Adverse Change clause, without rendering that remedy automatic. The paper is deliberately precise about the limits of this claim, noting that the Supreme Court's treatment of retrospectivity has moved beyond the earlier uncertainty in Sughar Singh *and* Haridasan*: a three-judge Bench in*

[1] B.A. LL.B. (Hons.), Final Year, Gitarattan International Business School, Guru Gobind Singh Indraprastha University (GGSIPU), New Delhi (India).Email: legal.harshraj@gmail.com
[2] B.A. LL.B. (Hons.), Final Year, Gitarattan International Business School, Guru Gobind Singh Indraprastha University (GGSIPU), New Delhi (India).Email: Sonia.arora8181@gmail.com

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Katta Sujatha Reddy *held the 2018 amendment prospective from 1 October 2018, but that judgment was later recalled in review, leaving the doctrinal position more procedurally complex than a simple 'resolved' or 'unresolved' formulation permits. The paper concludes with concrete recommendations for drafting practice and identifies the interaction between these two bodies of law as an area meriting further doctrinal attention.*

II. KEYWORDS

Material Adverse Change Clauses; Specific Relief Act 1963; Specific Performance; Indian Mergers and Acquisitions; SEBI Takeover Regulations.

III. INTRODUCTION AND RESEARCH PROBLEM

A signed share purchase agreement rarely marks the end of a transaction. Between signing and closing, weeks or months typically pass while conditions precedent are satisfied and regulatory approvals are obtained, and during that interval the target's business continues to operate, and to Encounter risk. A Material Adverse Change clause, often drafted as a Material Adverse Effect clause and referred to in this paper interchangeably by either term, is the mechanism by which the parties allocate that interim risk. It gives the buyer a contractual basis to walk away if the target's business deteriorates sufficiently before closing, and its precise wording determines how much protection the buyer receives and how much residual risk the seller retains.

Indian transactional practice has borrowed the Material Adverse Change clause from Anglo-American drafting conventions without the benefit of a comparably developed body of domestic case law interpreting it.[3] Reported Indian decisions construing a Material Adverse Change clause in an ordinary private acquisition agreement remain scarce. Disputes of this kind are commercially sensitive, tend to settle before trial, and rarely produce a judgment a court considers worth reporting.

[3]Umakanth Varottil, 'The Nature of the Market for Corporate Control in India' in Umakanth Varottil and Wai Yee Wan (eds), *Comparative Takeover Regulation: Global and Asian Perspectives* (Cambridge University Press 2017) 313–343.

Existing commentary on Material Adverse Change clauses in the Indian context, most of it produced by law firms rather than academic authors, tends to proceed along one of two tracks. The first surveys drafting conventions and offers guidance on structuring a Material Adverse Change definition. The second surveys the handful of Securities and Exchange Board of India decisions touching on withdrawal of open offers, treating them as the closest available Indian authority on materiality. Neither track engages with a separate but closely connected development: the Specific Relief (Amendment) Act, 2018, which altered the remedial consequences of breaching an acquisition agreement in a way that bears directly on how much a Material Adverse Change clause is actually worth to the party invoking it. This paper treats that omission as the research problem it addresses.

A. Research Objectives

1. To examine how Indian courts and the Securities and Exchange Board of India have interpreted materiality and impossibility thresholds analogous to Material Adverse Change clauses in the open-offer context.
2. To analyse the structural effect of the Specific Relief (Amendment) Act, 2018 on the availability of specific performance for breaches of share purchase agreements.
3. To assess the Supreme Court's treatment of the retrospective application of the 2018 amendment, including the earlier open position in *Sughar Singh* and *Haridasan*, the prospective-only ruling in *Katta Sujatha Reddy*, and the effect of its subsequent recall in review.
4. To identify the interaction between these two bodies of law and its consequences for Material Adverse Change clause drafting in Indian acquisition agreements.
5. To situate the Indian position briefly against comparative Delaware jurisprudence on Material Adverse Effect clauses.

B. Research Questions

1. How have Indian courts and the Securities and Exchange Board of India interpreted materiality thresholds analogous to Material Adverse Change clauses, and how far can this jurisprudence properly be extended to private share purchase agreements?
2. What is the precise legal effect of the Specific Relief (Amendment) Act, 2018 on the availability of specific performance for breach of a share purchase agreement?
3. How should the retrospective application of the 2018 amendment be understood after *Sughar Singh*, *Haridasan*, the prospective-only ruling in *Katta Sujatha Reddy*, and the subsequent review decision recalling that judgment?
4. How should these developments, read together, inform Material Adverse Change clause drafting practice in Indian share purchase agreements?

C. Research Hypotheses

As this paper adopts a doctrinal rather than empirical method, the following hypotheses are framed as propositions to be examined against reported authority and statutory text, rather than as statistically testable claims.

1. The Specific Relief (Amendment) Act, 2018 has strengthened, without rendering automatic, the availability of specific performance as a remedy for breach of a share purchase agreement.
2. The Securities and Exchange Board of India's open-offer jurisprudence on materiality is relevant to private Material Adverse Change clause interpretation by analogy but does not constitute binding or directly applicable authority in that context.
3. The retrospective application of the Specific Relief (Amendment) Act, 2018 to pre-2018 contracts has passed through a more complex judicial trajectory: initially left open in *Sughar Singh* and *Haridasan*, answered prospectively by a three-judge Bench in *Katta Sujatha Reddy*, and then rendered procedurally

unsettled again after that judgment was recalled in review without an express reconsideration of the retrospectivity holding.

D. Research Methodology

This paper adopts a doctrinal, black-letter method of legal research. It relies primarily on reported Indian judgments, the text of the Specific Relief Act, 1963 as amended, and the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, supplemented by secondary commentary drawn principally from Indian corporate law practice publications. A small number of Delaware authorities are used strictly for comparative context, on the basis that Indian drafting practice has itself borrowed the Material Adverse Change clause from that jurisdiction and are not treated as a source of Indian law.

The paper does not employ empirical or quantitative methods and does not claim to have surveyed the universe of unreported settlements or unlitigated disputes involving Material Adverse Change clauses in Indian practice, a limitation inherent in doctrinal research on a subject where most disputes never reach a reported judgment. Where the authority for a proposition is contested, uncertain, or drawn from a different legal context than the one under discussion, this is stated explicitly rather than left to be inferred.

E. Literature Review

Academic literature specifically addressing Material Adverse Change clauses in Indian private acquisitions is sparse, and the existing body of commentary is dominated by law firm publications rather than peer-reviewed scholarship. The Cyril Amarchand Mangaldas Corporate Law blog has published a multi-part series on determinable contracts under the Specific Relief Act, 1963, tracing the judicial treatment of termination clauses from the pre-2018 decision in *Indian Oil Corp Ltd v Amritsar Gas Service*[4] through subsequent High Court authority, though this series addresses determinable contracts generally rather than Material Adverse Change Clauses specifically. Obhan & Associates

[4] Indian Oil Corp Ltd v Amritsar Gas Service (1991) 1 SCC 533.

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has similarly published a four-part practitioner series examining each of the four exceptions to specific performance preserved under the amended Section 14, offering a useful doctrinal map of that provision without connecting it to Material Adverse Change drafting.[5]

On the comparative and regulatory dimension, Varottil's work situates Indian takeover regulation within a broader comparative frame, explaining that Indian takeover regulation, although influenced by common-law regulatory models, has developed in response to India's distinctive ownership structures, promoter control, and regulatory environment.[6] This literature supports the proposition, developed further in Section 7 of this paper, that Indian regulatory treatment of materiality and withdrawal cannot simply be assumed to track either UK or Delaware practice.

None of the literature surveyed connects the Specific Relief (Amendment) Act, 2018 to Material Adverse Change clause drafting directly. This paper's contribution is to make that connection explicit, while being careful, in a way the practitioner commentary surveyed above generally is not, to mark the doctrinal limits of the connection rather than assert it more broadly than the authority supports.

IV. RESEARCH AND ANALYSIS

A. The Function of a Material Adverse Change Clause

A Material Adverse Change clause performs a specific and limited function. It does not protect a buyer against every deterioration in the target's business; it protects the buyer only against deterioration that the parties have agreed, in the contract itself, is serious enough to justify termination. Drafters typically achieve this by defining a broad general

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[5]Cyril Amarchand Mangaldas, 'Determinable Contracts under the Specific Relief Act, 1963 – Part I' (Corporate Law Blog, 4 June 2020) https://corporate.cyrilamarchandblogs.com/2020/06/determinable-contracts-under-the-specific-relief-act-1963-part-i/ and 'Part II' (same blog, June 2020); Ashima Obhan and Akanksha Dua, 'Section 14: Contracts Not Specifically Enforceable – Part 1' (Obhan & Associates, 2018), together with Parts 2 and 3 of the same series and 'Series on Specific Relief Amendment Bill, 2018 – Part 4' (Obhan & Associates, 2018), all cited as illustrative practitioner commentary rather than primary authority.
[6]Umakanth Varottil, 'The Nature of the Market for Corporate Control in India' (n 1).

standard and then carving specific categories of risk back out of that definition, commonly excluding general economic conditions, industry-wide developments, and changes in law of general application, on the theory that a buyer acquiring a business in a given sector has implicitly accepted the ordinary risks of that sector.

This structure means the practical value of a Material Adverse Change clause depends almost entirely on drafting quality. A definition drafted too narrowly leaves the buyer exposed to risks the parties may not have anticipated at signing. A definition drafted too broadly, using vague, catch-all language, invites a court to read it narrowly against the party invoking it, since an unconstrained materiality threshold looks less like a genuine risk allocation than an attempt to reserve an unqualified right to walk away.

B. Distinguishing MAC Clauses from Statutory Frustration

A Material Adverse Change clause is frequently discussed alongside the doctrine of frustration under Section 56 of the Indian Contract Act, 1872,[7] and the two are related in the sense that both address supervening events disrupting a bargain. They are not the same thing. Section 56 excuses performance only where an unforeseen event has rendered performance impossible or unlawful, operates by force of law, and applies an exacting standard under which mere hardship or commercial disappointment does not amount to frustration. A Material Adverse Change clause, by contrast, is a term the parties themselves negotiate and insert into the contract, and in principle it can be triggered by an event considerably less severe than one satisfying the frustration doctrine, provided the parties have defined the clause to capture that event.

The distinction matters because, as the next subsection shows, Indian courts and the Securities and Exchange Board of India have in practice read Material Adverse Change type thresholds in a manner that borrows heavily from the frustration standard, even though the two are conceptually distinct. A drafter who assumes a Material Adverse Change clause will be read according to its own commercial language, independent of

[7]Indian Contract Act 1872, s 56.

the stricter frustration standard, is likely to be disappointed if the clause is ever actually litigated.

C. SEBI's Open-Offer Jurisprudence on Materiality and Withdrawal

Reported Indian authority interpreting a Material Adverse Change clause in an ordinary private acquisition agreement is limited. The most developed body of Indian jurisprudence bearing on the underlying question, namely how demanding a materiality threshold should be before a party may withdraw from a bargain, arises instead from attempts by acquirers to withdraw open offers made under the Securities and Exchange Board of India's takeover regulations.

In *Nirma Industries Ltd v Securities and Exchange Board of India*[8], the acquirer discovered that the target's promoters had engaged in financial misrepresentation and fraud, and sought to withdraw its open offer on that basis.[9] The Supreme Court held that withdrawal was permissible only where performance had become objectively impossible, aligning the standard with the doctrine of frustration, and held that fraud and misrepresentation did not on their own satisfy that standard. The Court applied the same reasoning in *Securities and Exchange Board of India v Akshya Infrastructure Pvt Ltd*[10], refusing withdrawal of a voluntary open offer that had become economically unattractive, and the Securities Appellate Tribunal applied it again in *Pramod Jain v Securities and Exchange Board of India*[11], refusing withdrawal despite a lengthy delay in obtaining regulatory approval. In a 2016 order concerning Jyoti Limited,[12] the Securities and Exchange Board of India refused withdrawal even where the target was undergoing proceedings before the erstwhile

[8]Nirma Industries Ltd v Securities and Exchange Board of India (2013) 8 SCC 20 (also reported as AIR 2013 SC 2360).
[9]Ibid.
[10]Securities and Exchange Board of India v Akshya Infrastructure Pvt Ltd (2014) 11 SCC 112.
[11]Pramod Jain v Securities and Exchange Board of India AIR 2016 SC (Supp) 184.
[12]Securities and Exchange Board of India, order in the matter of Jyoti Limited (WTM/SR/CFD/39/08/2016).

Board for Industrial and Financial Reconstruction, holding that this did not render performance impossible.[13]

Taken together, these decisions establish a consistent regulatory posture: withdrawal from an open offer requires something close to genuine impossibility of performance, and neither fraud, nor economic unattractiveness, nor delay, nor insolvency proceedings has been treated as sufficient on its own. It would nonetheless overstate the position to treat this line of cases as a general Indian contract-law rule governing all Material Adverse Change clauses. Each decision concerns the specific statutory question of open-offer withdrawal under a framework designed, among other things, to protect public shareholders who have already had the offer extended to them. A privately negotiated acquisition agreement is a different instrument, and no reported Indian judgment identified during this research has applied the open-offer standard directly to a private Material Adverse Change clause. What these cases offer is guidance by analogy as to how an Indian court is likely to approach the interpretive task, not a settled rule already laid down for that context.

The analogy is also useful because Regulation 23(1) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 itself uses a tightly controlled withdrawal structure. An open offer, once made, may be withdrawn only in limited circumstances, including final refusal of statutory approvals, death of a natural-person acquirer, non-fulfilment of a disclosed acquisition-agreement condition for reasons outside the acquirer's reasonable control, or other circumstances which, in SEBI's opinion, merit withdrawal. That statutory design explains why the Supreme Court in *Nirma*, *Akshya* and *Pramod Jain* resisted attempts to convert regulatory delay, commercial disappointment, or post-announcement unattractiveness into a withdrawal right. The public-offer cases therefore do not merely show judicial hostility to broad exit rights; they reflect the investor-protection logic of the takeover regime, under which public shareholders

[13]SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 2011, reg 23(1); the equivalent provision under the predecessor regulations was reg 27 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 1997.

acquire a valuable exit opportunity once an offer is announced. For private acquisition agreements, this distinction is important. A court interpreting a negotiated Material Adverse Change clause is not applying Regulation 23 directly, but the open-offer jurisprudence remains persuasive because it shows the degree of seriousness Indian adjudicatory bodies have required before permitting a party to escape an announced acquisition commitment.

D. A Comparative Note: The Delaware Approach

Indian practice borrows the Material Adverse Change clause from a drafting tradition most developed in Delaware, and a brief comparative note helps place the Indian position in context. For seventeen years after the Delaware Court of Chancery's decision in *In re IBP, Inc Shareholders Litigation*[14], no Delaware court found that a buyer had successfully invoked a Material Adverse Effect clause to escape a merger agreement. That decision held that a qualifying change must threaten the target's earnings potential in a durationally significant manner, measured over years rather than months, and that a buyer acquiring a company in a cyclical industry is presumed to have priced in the ordinary cyclicality of that industry, a principle later applied in *Hexion Specialty Chemicals, Inc v Huntsman Corp*[15].

That streak ended only in 2018, when the Court of Chancery held in *Akorn, Inc v Fresenius Kabi AG*[16] that a target's undisclosed and pervasive regulatory compliance failures, combined with a sustained and unusually steep decline in financial performance, together satisfied the standard, a finding the Delaware Supreme Court affirmed on appeal.[17] Even this decision turned on facts considerably more extreme than an ordinary earnings shortfall. Delaware's twenty-five-year record of a single successful buyer-side invocation suggests a judicial culture that treats the clause as a genuinely narrow, exceptional remedy, broadly consistent with the impossibility-oriented standard the

[14]In re IBP, Inc Shareholders Litigation 789 A.2d 14 (Del Ch 2001).
[15]Hexion Specialty Chemicals, Inc v Huntsman Corp 965 A.2d 715 (Del Ch 2008).
[16]Akorn, Inc v Fresenius Kabi AG 2018 WL 4719347 (Del Ch 2018).
[17]Akorn, Inc v Fresenius Kabi AG, No. 535, 2018 (Del 2018) (affirming the Court of Chancery).

Indian open-offer cases apply, notwithstanding that the two jurisdictions reach a similar practical result through different doctrinal routes.

E. The Specific Relief (Amendment) Act, 2018

Before 2018, an aggrieved party seeking specific performance faced a court exercising genuine discretion over whether to grant that remedy at all.[18] Section 10 of the unamended Act made specific performance available in the court's discretion, typically where damages would not afford adequate relief, and Section 20 elaborated the circumstances in which that discretion might be exercised or withheld, giving courts considerable latitude to decline the remedy on broadly equitable grounds.

The Specific Relief (Amendment) Act, 2018 altered this position structurally. It substituted Section 10 so that specific performance shall be enforced, subject only to the exceptions in Sections 11(2), 14 and 16, and repealed Section 20 in its entirety.[19] A court can no longer decline specific performance simply because it considers damages adequate; the inquiry is confined to whether the claim falls within a statutory exception.[20] In *B Santoshamma v D Sarala*[21], decided in September 2020, the Supreme Court engaged directly with the amended framework, illustrating that the substituted Section 10 changes the starting point for analysis without dispensing with the surviving statutory conditions.

The point emerges more clearly still from *C Haridasan v Anappath Parakkattu Vasudeva Kurup*[22], decided in January 2023.

The Bench delivered a split verdict, with Shah J for the majority and Nagarathna J dissenting, disagreeing specifically on whether the plaintiff had shown readiness and

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[18]Specific Relief Act 1963, s 10 (as it stood before the 2018 amendment) and s 20 (repealed).
[19]Specific Relief (Amendment) Act 2018, s 3, substituting s 10 of the Specific Relief Act 1963.
[20]Specific Relief Act 1963, ss 11(2), 14, 16, as amended.
[21]B Santoshamma v D Sarala (2020) 19 SCC 80, Civil Appeal Nos 3574–3577 of 2009, decided 18 September 2020.
[22]C Haridasan v Anappath Parakkattu Vasudeva Kurup 2023 SCC OnLine SC 36, Civil Appeal No 4072 of 2022, decided 13 January 2023 (Shah J for the majority, Nagarathna J dissenting).

willingness under Section 16.[23] A split verdict on this precise question, some five years after the amendment, is difficult to reconcile with the suggestion that specific performance has become an unconditional entitlement. The position on retrospectivity requires a fuller account. In *Sughar Singh v Hari Singh (Dead) through LRs*, the Supreme Court observed that the 2018 amendment, though not necessarily applicable retrospectively, could guide the exercise of discretion, while expressly keeping the question of retrospective application open.

C Haridasan v Anappath Parakkattu Vasudeva Kurup similarly did not finally settle the temporal reach of the amended regime. The issue was then squarely addressed by a three-judge Bench in *Katta Sujatha Reddy v Siddamsetty Infra Projects Pvt Ltd*, which held that the 2018 amendment was substantive, prospective in operation, and applicable only from 1 October 2018, so that it could not govern transactions that had taken place before its commencement. That answer, however, did not end the matter.

In *Siddamsetty Infra Projects Pvt Ltd v Katta Sujatha Reddy*, the Supreme Court recalled the 25 August 2022 judgment on review, holding that errors apparent on the face of the record went to the root of the reasoning on limitation and specific performance, and restored the High Court's decree. The review decision did not expressly revisit the prospective-retrospective holding itself. The result is therefore not accurately described as a question merely left open by two earlier cases; it is better understood as a question answered prospectively by a three-judge Bench and then complicated by the recall of that very judgment[24]

The Remedial Position Before and After the Specific Relief (Amendment) Act, 2018

Aspect	**Pre-2018 Position**	**Post-2018 Position**

[23]Specific Relief Act 1963, s 16(c), requiring the plaintiff to aver and prove readiness and willingness to perform their own obligations under the contract.
[24]C Haridasan (n 17) [36].

Governing provision	Section 10 (discretionary) read with Section 20	Substituted Section 10 ('shall be enforced'); Section 20 repealed
Nature of the remedy	Discretionary; damages presumptively adequate	Presumptive entitlement, subject to ss 11(2), 14, 16
Surviving conditions	Broad judicial discretion under s 20	Ss 11(2), 14(a)–(d), 16 (readiness and willingness)
Effect on MAC-clause bargaining	Buyer's downside from a weak invocation was largely limited to damages	Buyer faces a more credible threat of compelled completion
Retrospective reach	Not applicable	Left open by the Supreme Court in Sughar Singh and HaridasanGiven the complicated procedural history of the 2018 amendment's temporal application, parties negotiating agreements that reference, restate, or amend contracts predating 1 October 2018 should expressly address the intended remedial regime in the drafting itself. Although *Katta Sujatha Reddy* held the amendment prospective, the subsequent recall of that judgment in review makes it prudent for

		parties to avoid leaving the governing remedial framework to later litigation.

F. Reassessing MAC Drafting After 2018

Bringing the preceding subsections together produces this paper's central claim. A buyer contemplating whether to invoke a weak Material Adverse Change clause once faced a seller whose principal realistic remedy was damages, calculable and often modest relative to deal value. That calculation no longer holds in the same way. A court today has no open discretion to refuse specific performance on broad equitable grounds, so a seller resisting a weak invocation can advance a considerably more credible threat of compelled completion, provided the statutory conditions are satisfied. This does not guarantee the seller success. It does mean the buyer can no longer treat a shaky invocation of the clause as carrying only a bounded, calculable financial downside.

This strengthened position is not uniform across every obligation an acquisition agreement typically contains.[25] The core share-transfer obligation does not naturally fall within any of the four exclusions under Section 14 and is generally regarded as specifically enforceable in principle. Ancillary obligations sit less comfortably: a promoter's continued employment or consultancy undertaking resembles a contract dependent on personal qualifications; extended transitional-services arrangements risk resembling the continuous-duty exclusion; and arrangements terminable at a party's discretion risk being characterised as determinable. A drafter who assumes the entire agreement carries the same strengthened backing as the core transfer obligation is likely to be mistaken about a meaningful part of what the agreement contains, which is why escrow arrangements, indemnity holdbacks, liquidated damages provisions, and reverse break fees remain commercially necessary even after 2018.

V. SUGGESTIONS AND RECOMMENDATIONS

[25] Specific Relief Act 1963, s 14(a)–(d), as substituted by the Specific Relief (Amendment) Act 2018, s 6.

1. Material Adverse Change definitions in Indian share purchase agreements should be drafted with specific, objectively verifiable triggers rather than broad, catch-all materiality language, given the consistent narrowness with which Indian regulatory authority and comparable Delaware jurisprudence have read such thresholds.

2. Buyers' counsel should treat the post-2018 specific-performance landscape as a genuine constraint on reliance on an ambiguous Material Adverse Change clause, and should not assume the clause will be read on its own commercial terms independently of the stricter, frustration-adjacent standard Indian authority has applied by analogy.

3. Sellers' counsel should not treat the strengthened remedy of specific performance as a substitute for negotiating robust ancillary protections, particularly for obligations that Section 14 may place outside the reach of specific performance, such as continued founder involvement or extended transitional arrangements.

4. Given the unresolved status of the 2018 amendment's retrospective application, parties negotiating agreements that reference or amend contracts predating 2018 should expressly address, in the drafting itself, which remedial regime the parties intend to govern the agreement, rather than leaving the question to be resolved by litigation.

5. Given the genuine doctrinal uncertainty this paper has identified, the Law Commission of India or the Ministry of Law and Justice would be well placed to examine, in a future consultation paper, whether the impossibility-oriented standard developed in the SEBI open-offer context should apply, expressly and by name, to privately negotiated Material Adverse Change clauses — rather than leaving the question to be resolved piecemeal through litigation between private parties.

VI. CONCLUSION

This paper has argued that Material Adverse Change clauses and the Specific Relief (Amendment) Act, 2018 belong in the same conversation, and that Indian commentary has largely failed to place them there. The argument has been deliberately qualified throughout: Indian jurisprudence directly interpreting private Material Adverse Change clauses remains limited, the closest available authority from the open-offer decisions is useful chiefly by analogy, the 2018 amendment strengthens specific performance without making it automatic, and the Supreme Court’s treatment of retrospectivity is more complex than a simple open-question formulation: *Sughar Singh* and *Haridasan* left the issue open, *Katta Sujatha Reddy* answered it by holding the amendment prospective from 1 October 2018, and the later review decision recalled that judgment without expressly revisiting the prospective-retrospective holding

Read with those qualifications in place, the two developments still show something genuinely useful to a practising transactional lawyer. Getting a Material Adverse Change clause right, in an Indian acquisition agreement drafted after 2018, carries higher stakes than it did a decade earlier, because the party invoking the clause can no longer assume the other side's only realistic recourse is a bounded damages claim. Indian drafting practice does not yet appear to have fully absorbed that shift, and closing the gap between doctrine and drafting practice is where this paper's contribution, and the contribution of further work on this question, is most likely to be found.

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