

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1172 of 2014 (O&M)

Date of Decision.21.09.2015

Bachan Kaur

.....Appellant

Versus

Surinder Singh @ Chhinder Singh and another

.....Respondents

Present: Mr. Mohd. Yousaf, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The defendant who is the mother of the plaintiff is the appellant before this Court. The mother filed a suit and obtained decree treating her son to be civilly dead, having not been known to be alive within a period of 7 years prior to the institution of the suit. It would appear that after the decree was passed, the son has surfaced and has claimed a right in the property and sought for declaration that the decree obtained is not valid and the mutation and sales effected by her will also not bind him. The issue of civil death is a matter of presumption and if a person appears again and claims his right as son of the defendant, unless the plaintiff's identity is itself questioned, the presumption must give way to reality. There was simply no scope for dismissal of the plaintiff's suit in a case where the identity was established and he was entitled to the relief he has sought for. I do not think that there is any error in the judgment passed by the Court below.

2. The appellant is aggrieved that the Court has stated that action for perjury under Section 340 Cr.P.C will be initiated against her. It will be open for the defendant-appellant if notice is issued to her to explain the circumstances under which she had filed the suit and the presumption that may be possible for her for initiating such action. The case will be considered in the light of the objections taken by the mother and there is no reason for interfering with any observations made by the Courts below. The second appeal is dismissed but with the above observations.

(K. KANNAN)
JUDGE

September 21, 2015
Pankaj*