

HRSO020019462018



Presented on : 29-09-2018
 Registered on : 29-09-2018
 Decided on : 22-07-2026
 Duration : 7 years, 9 months, 23 days

IN THE COURT OF
Civil Judge (Junior Division), Sonipat AT Sonipat, Sonipat
Presided Over by Ms. Arshbir Kaur Sandhu

CS/1464/2018

1. Kamlesh Widow, age 49 years
2. Deepika, age 8 years
3. Arti, daughters, age 20 years
4. Manish, age 21 years
5. Naveen sons of Sh. Karambir, residents of Village Kailashpur, Sector-15, Sonipat.

...Plaintiffs

Versus

General Public

...Defendant

SUIT FOR DECLARATION

Present: Sh. Sachin Tyagi, Advocate for the plaintiff.
 Defendant exparte vide order dated 09.01.2019.

JUDGMENT:

The present suit has been filed by the plaintiff seeking decree for declaration to the effect that civil death of Karambir may be declared.

2. Brief facts of the present case are that the plaintiff No. 1 is wife and plaintiffs No. 2 to 5 are the children of Karambir, who has been missing

since 09.06.2011 from Haridwar and as such, he is not seen or hear to anyone including plaintiff, co-villagers and relatives etc. The whereabouts of said Karambir is not known to the plaintiff and any other person. So, it is presumed that the husband of the plaintiff namely Karambir has died. Further stated that, now a period of about 7 years 2 months have been elapsed since the time of missing of said Karambir and as such, under the Section 108 of Evidence Act, when a person is not hear since 7 years, then it is presumed to be dead one. The plaintiffs and their relatives and all the neighbours have tried their level best to search out Karambir but whereabouts of Karambir could not known to anyone and since more than 7 years have been lapsed it is not known to anyone either he is alive or he has expired. That the civil death of Karambir is not declared then the plaintiff shall have to face numerous difficulties and disturbance in the future life. Hence the present suit.

3. None on behalf of defendant appeared during trial in this Court, despite issuing publication in newspaper. Hence, the defendant General Public was proceeded exparte vide order dated 09.01.2019.

4. In order to prove their case, plaintiffs have not examined any witness.

5. Thereafter, evidence on behalf of plaintiffs was closed by court order on 12.08.2025.

6. I have heard learned counsel for the plaintiff and perused the record carefully.

7. The plaintiffs, being the person who have approached the Court seeking relief, was required to establish the facts constituting the basis of the claim by leading appropriate evidence. The mere fact that the defendant has been proceeded against *ex parte* does not, by itself, entitle the plaintiff to a decree.

8. This Court imposes reliance *Three-Judge Bench Judgment passed by Hon'ble Supreme Court in Manager Reserve Bank of India, Bangalore Vs. S. Mani, (2005) 5 SCC 100* wherein it was held mere pleadings of a party cannot be treated as substitute for proof.

Non Examination as witness of the party pleadings-effect:-

9. *This court imposes reliance upon the verdict passed by Hon'ble Supreme Court in Adivokka Vs. Hanamavva Kom Venkatesh, AIR 2007 SC 2025* wherein held that “where a party to the suit does not appear in the witness box and sates his own case on oath and does not offer himself to be cross-examined by the other side, a presumption u/s. 114 (g) of the Evidence Act would arise that the case set up by him is not correct”.

Withholding material evidence & effect thereof:-

10. *This court imposes reliance upon the verdict passed by Hon'ble Supreme Court in M/s Sri Ram Industrial Enterprizes Ltd. Vs. Mahak Singh, AIR 2007 SC 1370* wherein it was held that if a party withholds from court the best evidence or some material evidence (document) or witness, adverse presumption against such party can be drawn u/s. 114 (g) of the Evidence Act.

11. An exparte proceedings does not dispense with the requirement of proof. The plaintiff is still required to prove the case in accordance with law. In the present case, plaintiffs have failed to lead any evidence whatsoever in support of the averments made in the plaint.

12. In the absence of any evidence on record, the material averments of the plaint remain unsubstantiated and the plaintiffs have failed to establish their entitlement to the relief claimed.

13. In view of above discussion, suit of plaintiffs stands **dismissed** without costs. Reader is directed to prepare the decree-sheet accordingly. File be consigned to the record room after due compliance.

Pronounced in open court:
Dated: 22.07.2026

(Arshbir Kaur Sandhu)
Civil Judge, (Jr. Divn.),
Sonepat (UID No.HR00612)

Note: All pages of this judgment have been checked and signed by me.

(Arshbir Kaur Sandhu),
Civil Judge (Jr Divn.),
Sonepat, 23.02.2026
UID No.HR00612

(Direct Dictation)

Sakshi