

IN THE SUPREME COURT OF INDIA

APPELLATE JURISDICTION / LANDMARK PRECEDENT

S.P.S. Balasubramanyam v. Suruttayan

Registry Status : REPORTED PRECEDENT -- OFFICIAL RECORD

1. EXECUTIVE SUMMARY & KEY HIGHLIGHTS

A landmark judgment delivered by Justices Kuldeep Singh and S. Mohan that established the cardinal legal doctrine regarding the presumption of marriage arising from prolonged, continuous cohabitation. The Supreme Court held that under Section 114 of the Indian Evidence Act, 1872 (now Section 119 of the Bharatiya Sakshya Adhiniyam, 2023), where a man and a woman are proved to have lived together as husband and wife for a long period under the same roof and have been treated as such by relatives, neighbors, and society, the law draws a powerful presumption that they lived together as lawful husband and wife and not in a state of concubinage. The Court held that children born of such continuous cohabitation are presumed legitimate and are fully entitled to inherit ancestral and parental properties. The heavy burden of rebutting this presumption lies entirely on the party asserting illegitimacy or concubinage.

- * **Presumption of Marriage under Section 114 Evidence Act:** Long continuous cohabitation as man and wife raises a strong presumption of legal marriage, leaning away from bastardizing children.
- * **Heavy Rebuttal Burden on Collaterals:** The legal presumption is rebuttable only by clear, cogent, and unimpeachable evidence; mere absence of direct eyewitnesses to marriage rites cannot rebut it.
- * **Legitimacy and Succession Rights of Children:** Children born out of long-term cohabitation are treated as legitimate offspring entitled to inherit property.
- * **Primacy of Social Recognition:** General repute, treatment by family elders, common residence, and joint public conduct constitute decisive evidentiary factors under Section 50 Evidence Act.
- * **Reversal of High Court's Hyper-Technical Second Appeal:** The Supreme Court restored the trial court's partition decree, holding that the High Court erred in overturning findings of fact on cohabitation.

2. FACTUAL MATRIX & IMPUGNED PROCEEDINGS

The dispute arose out of a suit for partition and separate possession of joint family properties instituted in Tamil Nadu.

One Chinnasamy had lived with Pavayee as husband and wife under the same roof for several decades, and three sons were born to them (the plaintiffs/appellants).

Following the death of Chinnasamy and Pavayee, the sons filed a suit for partition claiming their rightful share in the joint family properties.

The suit was contested by collateral coparceners (defendants/respondents) who contended that Pavayee was merely a concubine of Chinnasamy, that Chinnasamy was already married to another woman named Ramayee, that no ceremonies of marriage were ever performed between Chinnasamy and Pavayee, and that the plaintiffs were illegitimate children disentitled to any share in coparcenary properties.

The trial court found on facts that Chinnasamy and Pavayee had lived together as husband and wife continuously for many years, were treated as married by the village community, and decreed the partition suit.

The High Court of Madras in second appeal reversed the trial court, holding that the plaintiffs had failed to prove the solemnization of a valid customary marriage between Chinnasamy and Pavayee, and therefore could not be recognized as legitimate sons. The sons appealed to the Supreme Court.

3. RATIO DECIDENDI (VERBATIM COURTROOM HOLDING)

1. **Powerful Legal Presumption of Marriage from Continuous Cohabitation:**If a man and woman who live together as husband and wife for a sufficiently long time are treated as such by the society and by their relations, there is a strong presumption in favor of wedlock under Section 114 of the Indian Evidence Act. The law leans heavily in favor of legitimacy and against concubinage and bastardy.
2. **Heavy Burden of Rebuttal:**The burden of proving that the cohabitation was illicit or that the relationship was merely that of concubinage lies heavily upon the party who challenges the validity of the marriage and seeks to bastardize the children.
3. **Dispensation with Direct Proof of Ceremonies:**Where continuous cohabitation under the same roof for decades is established, the mere fact that direct documentary evidence or eyewitness testimony of the solemnization ceremony is unavailable after the death of the parties cannot be used to displace the statutory presumption of marriage.
4. **Entitlement of Children to Inherit:**The evidence on record established beyond doubt that Chinnasamy and Pavayee lived together for decades as husband and wife and were accepted as such by their relatives and the village community. The defendants failed to discharge the heavy burden of rebuttal. The plaintiffs are legitimate sons and are entitled to their shares in the partition of the suit properties.
5. **High Court Erred in Second Appeal:**The High Court erred in interfering with the well-considered findings of fact arrived at by the trial court in second appeal under Section 100 CPC. The judgment of the High Court is set aside and the decree of the trial court is restored.

4. OBITER DICTA & JUDICIAL OBSERVATIONS

Social Reality in Rural India:The Court noted that in rural India, where ceremonies are performed informally and written registrations were rare, the presumption of marriage based on long cohabitation is an indispensable shield to protect families and children from disenfranchisement by avaricious collaterals.

Relevance of Conduct and Social Repute:The Court reiterated that Section 50 of the Evidence Act permits opinion on relationship expressed by conduct of family members to be a relevant and potent evidentiary factor.

5. POINTS OF LAW FRAMED & ANSWERED

Legal Issue Framed	Supreme Court's Holding
What is the legal presumption that arises when a man and woman live together continuously for decades as husband and wife?	A strong legal presumption arises under Section 114 Evidence Act (Section 119 BSA) that they were lawfully married and not in concubinage.
How can the presumption of marriage from long cohabitation be rebutted by contesting parties?	Only by clear, cogent, and unimpeachable evidence conclusively showing that no valid marriage was legally possible (e.g. an undissolved prior marriage or incestuous bar).
Are children born from long-term continuous cohabitation entitled to inherit ancestral property?	Yes; they are presumed legitimate children and are entitled to inherit and claim partition in their father's property.
Can the absence of eyewitnesses to marriage rituals defeat a claim of marriage where long cohabitation is proved?	No; the doctrine of presumption of marriage specifically exists to dispense with strict direct proof of ancient ceremonies.

6. STATUTORY FRAMEWORK & MODERN LEGISLATIVE ALIGNMENT

Precedent Reference / Former Statute	Modern Act (BNSS / BNS / BSA / CPA)	Doctrinal & Procedural Analysis
Indian Evidence Act, 1872 Sec 114	Bharatiya Sakshya Adhiniyam, 2023 (BSA) Sec 119	Presumption of marriage from continuous cohabitation and common repute is fully preserved under Section 119 BSA.
Indian Evidence Act, 1872 Sec 50	Bharatiya Sakshya Adhiniyam, 2023 (BSA) Sec 46	Relevance of opinion on relationship expressed by conduct of persons having special means of knowledge (family members and neighbors).

Hindu Marriage Act, 1955 Sec 16	Hindu Succession Act, 1956 Sec 6 & 8	Expanded by Supreme Court in Revanasiddappa (2023) holding children born of void/voidable marriages have rights in parents' ancestral and self-acquired property.
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7. SUBSEQUENT JUDICIAL TREATMENT & LINEAGE

- * *Tulsa v. Radhiki* (2008) 4 SCC 520:Applied S.P.S. Balasubramanyam; reiterated that presumption of marriage requires continuous, unbroken cohabitation and is not available for fleeting relationships.
- * *Dhannulal v. Ganeshram* (2015) 12 SCC 301:Followed S.P.S. Balasubramanyam; confirmed that cohabitation for over 20 years raises an almost irrebuttable presumption of marriage.
- * *Kattukandi Edathil Krishnan v. Kattukandi Edathil Valsan* (2022 SCC OnLine SC 737):Supreme Court extensively cited S.P.S. Balasubramanyam to declare that long cohabitation between a man and woman creates an irresistible presumption of marriage in partition suits.
- * *Revanasiddappa v. Mallikarjun* (2023) 10 SCC 1:3-Judge Bench held that children of void and voidable marriages are legitimate for inheritance in ancestral property, harmonizing with Balasubramanyam's pro-legitimacy philosophy.

8. PRACTICAL LITIGATION PLAYBOOK & STRATEGIC CHECKLIST

- * **Plead Unbroken Long Cohabitation:**Plead continuous, unbroken cohabitation of parents under the same roof for an extended duration with precise dates and residences.
- * **Produce Public Contemporary Records:**Produce contemporaneous documentary records: voter lists, ration cards, census entries, property tax receipts, school admission registers showing parents' names.
- * **Examine Village Elders on Social Repute:**Examine elderly relatives, neighbors, and village community elders under Section 46 BSA (Section 50 IEA) to prove social recognition and treatment as husband and wife.
- * **Invoke Mandatory Statutory Presumption:**Rely on S.P.S. Balasubramanyam and *Kattukandi Edathil* to invoke the mandatory presumption of marriage under Section 119 BSA.
- * **Highlight Failure of Rebuttal:**Argue that collaterals have failed to discharge the heavy burden of rebuttal with conclusive evidence.
- * **Prove Existing Undissolved Prior Marriage:**Rebut the presumption by proving that during the relevant period of cohabitation, either partner had a living, undissolved lawful spouse, rendering marriage impossible.
- * **Demonstrate Fleeting Non-Matrimonial Liaison:**Prove that the cohabitation was intermittent, fleeting, or characterized by 'walk-in, walk-out' arrangement without matrimonial commitment.
- * **Produce Contradictory Official Records:**Produce official records (e.g. prior marriage certificates, voter cards listing different spouses or independent residences) contradicting common repute.
- * **Highlight Admissions of Illicit Status:**Highlight documentary admissions by the parties themselves referring to each other as concubine, mistress, or employee.
- * **Demonstrate Substantial Separation Breaks:**Challenge the continuity of cohabitation by demonstrating substantial breaks, separate living arrangements, and lack of integration into family rituals.