

In case a party to a suit does not enter into the witness box, an adverse influence has to be drawn against him/her.

*17. Where a party to the suit does not appear into the witness box and states his own case on oath and does not offer himself to be cross examined by the other side, a presumption would arise that the case set up by him is not correct as has been held in a series of decisions passed by various High Courts and the Privy Council beginning from the decision in Sardar Gurbaksha Singh v. Gurdial Singh, AIR 1927 Privy Council 230. This was followed by the Lahore High Court in Kirpa Singh v. Ajaipal Singh, AIR 1930 Lahore 1 and the Bombay High Court in Martand Pandharinath Chaudhari v. Radhabai Krishnarao Deshmukh, AIR 1931 Bombay 97. The Madhya Pradesh High Court in Gulla Kharagjit Carpenter v. Narsingh Nandkishore Rawat, AIR 1970 Madhya Pradesh 225, also followed the Privy Council decision in Sardar Gurbakhsh Singh's case (supra). The Allahabad High Court in Arjun Singh v. Virender Nath, AIR 1971 Allahabad 29 held that if a party abstains from entering the witness box, it would give rise to an inference adverse against him. Similarly, a Division Bench of the Punjab and Haryana High Court in Bhagwan Dass v. Bhishan Chand, AIR 1974 Punjab and Haryana 7, drew a presumption under Section 114 of the Evidence Act against a party who did not enter into the witness box.*

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