

Meena

IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION (MAIN) NO.2 OF 2024

KARYN VALZITA SILVEIRA THR POAPETITIONER
MARISA AGVEEN VAZ

VS

STEDRAN LUIS COUTINHO
.....RESPONDENT

Mr. Ivan Santimano, Advocate for the Petitioner.

CORAM: BHARAT P. DESHPANDE, J

DATED: 18th April, 2024

P.C.:

1. Heard Mr. I. Santimano, learned Counsel for the petitioner. The Respondent is present in person through video conferencing.
2. The respondent has forwarded copy of his passport through mail which is marked 'X' for identification. This passport was called for in order to identify the respondent who is appearing in person.
3. The application is filed for confirmation of decree of divorce passed by the Foreign Court. The respondent who appears in person admit that such decree is passed by the Family Court at London dated 03/04/2023. By this order the marriage stands dissolved.
4. In view of the Article 1101 of the Family Court entitles this Court to consider qua the decree passed by the Foreign Court. The Articles 1101 and 1102 reads thus:

Article 1101 - Jurisdiction - Review and Confirmation shall lie before the High Court having jurisdiction at the place at which the person against whom the judgment is sought to be enforced is domiciled or resides.

If such a person has no domicile or residence in Portugal, the High Court within whose jurisdiction, the Petitioner is domiciled or residing shall have jurisdiction, except where the judgment is of patrimonial nature and it is to be enforced against the person who has assets in Portuguese territory, because in such case Revision can be asked in any of the High Courts where the assets are situated.

When none of the requirements foreseen in the previous paragraphs are satisfied, any of the High Courts will have jurisdiction to entertain the matter.

Article 1102: Requisites necessary for confirmation

— In order that the judgment be confirmed it is necessary: -

i) that there are no doubts about the authenticity of the document on which the judgment is recorded nor about the intelligibility of the decisions;

ii) that it has become res-judicata according to the law of the country in which it was pronounced;

iii) that it arises from a court having jurisdiction according to the Portuguese Law rules relating to the conflict of jurisdiction;

iv) that the defence of litispence or res-judicata based on a case subject to a Portuguese Court is not available, unless it was the foreign court which prevented the jurisdiction;

v) that the defendant has been duly summoned: except in a matter which under Portuguese Law would not require initial notice; and if the decree was passed against the defendant immediately, due to non-filing of Written Statement in the suit, in such event the summons should have been served on him personally;

vi) that it does not contain decisions contrary to the principles of Portuguese Public Order;

vii) that having been pronounced against a Portuguese National it does not violate the provisions of Portuguese Private Law when it had to be decided by the latter, according to the Portuguese Law rules of Conflict of Laws.

§ Sole Paragraph — The provisions of this article are applicable to an arbitral award so far as may be.”

5. On perusal of the certified copy decree passed by the Family Court at Bury St. Edmunds, it is clear that proceedings filed before the said Court by the petitioner and the respondent was considered and accordingly the marriage between the petitioner and the respondent has been dissolved by the said decree.

6. Accordingly the application filed before this Court in view of prayer clauses (a) and (b) stands allowed.

7. The application stands disposed of in the above terms.
8. Parties shall act on an authenticated copy of this order.

BHARAT P. DESHPANDE, J

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VISHAL
BHOIR

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