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IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION (MAIN) NO. 10 OF 2023

JOSEPH F. BARRETTO, REP.
THR. HIS ATTORNEY HOLDER
BLANDINA RAJESH ... APPLICANT
VS
NORA W. BARRETTO AND ANR. ... RESPONDENTS

Mr. Anthony D'Silva with Ms. Kimberley Gracias, Advocates for the Applicant.

Mr. Shubham Priolkar, Additional Government Advocate for Respondent No. 2.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 4th JANUARY 2024

ORAL ORDER:

1. Heard Mr. Anthony D'Silva for the Applicant.

2. This Court vide order dated 31.10.2023 had issued notice to Respondent No. 1 at the address mentioned in the cause title i.e. at U.S.A. On 12.12.2023, a copy of email dated 28.11.2023 was placed on record to show that notice was served on Respondent No. 1. Accordingly, the factum of service of the notice through email on Respondent No.1 has been taken on record and marked 'X' for identification. Respondent No. 1 is duly served.

3. The Applicant and Respondent No. 1 are of Goan origin. The Applicant is holding an Indian passport whereas Respondent No. 1 is holding an American passport. The marriage of the Applicant and Respondent No. 1 was registered in the office of Civil Registrar cum Sub-Registrar of Mormugao under No. 586/2005 on 29.09.2005. Differences arose between the couple whereafter they started living separately.

4. As there was no possibility of reconciliation, Respondent No. 1 moved an application for divorce under No. 2011-CV-09749-DV before the Court of Common Pleas of Dauphin County, Pennsylvania ('Foreign Court', for short).

5. The Foreign Court ordered and decreed that the Applicant and Respondent No. 1 are divorced from the bonds of matrimony. The Foreign Court granted Decree of Divorce on 31.12.2012.

6. In terms of Article 1101 of the Portuguese Code of Civil Procedure, the Decree in Divorce dated 31.12.2012 being foreign judgment, requires to be confirmed by this Court.

7. Article 1101 of the Portuguese Code of Civil Procedure 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."

8. From the averments made in the Application, I am satisfied that as per law applicable in U.S.A., divorce sought by the Applicant and Respondent No. 1 are on grounds permissible under the statute. The Applicant is, therefore, entitled to an order of confirmation of this Court confirming the Decree in Divorce dated 31.12.2012 passed by the Foreign Court. The Decree in Divorce of the Foreign Court is declared as final and conclusive. The dissolution of marriage between the Applicant and Respondent No. 1 stands confirmed.

9. Accordingly, the Application is allowed in terms of prayer clause (a) and (b) which read thus:-

“a) that the absolute decree/divorce judgment dated 31st December, 2012 passed by the Court of Common Pleas of Dauphin County, Pennsylvania be declared final, conclusive and confirmed.

b) that an order be passed directing the respondent no.2 viz. Civil Registrar cum Sub-Registrar of Vasco at Vasco to cancel the entry No. 586/2005 from the Register of Marriages and make necessary endorsements therein.”

10. The Applicant to seek cancellation of entry No. 586/2005 in the record of the Register of Marriages, Vasco, Goa.

11. The Application is disposed of.

BHARAT P. DESHPANDE, J.