



shakuntala

IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION (MAIN) NO. 6 OF 2024.

TERRANCE MARQUES ... APPLICANT
Versus
DEZZY MICHELL PINTO AND ANR. ... RESPONDENTS

Ms. Vidhati Shetye, Advocate for the Applicant.

CORAM:- BHARAT P. DESHPANDE, J.
DATED :- 12th November, 2024

ORAL ORDER.

1. Heard learned counsel for the Applicant.
2. This is an application for confirmation of Decree of Divorce passed by a Foreign Court.
3. Notice to Respondent No. 1 was served and an affidavit of service along with tracking report is placed on record.
4. Marriage between the Applicant and the Respondent was solemnised on 23/05/2014 and was registered with the Civil Registrar at Salcete Margao vide entry No. 1096/2014.
5. The Applicant and the Respondent thereafter filed proceedings for dissolution of marriage somewhere in October 2022 in the Family Court, HM Courts and Tribunal Service, PO Box 13226 Harlow CM20 9UG, UK. The said proceedings were considered in view of a joint application for divorce and the

conditional order was passed on 04/04/2023 which was then confirmed on 18/05/2024.

6. Though the Respondent is duly served, he failed to appear and contest the present proceedings.

7. Certificate of Civil Registration issued by the Civil Registrar Salcete Margao Goa is placed on record.

8. The Decree of Divorce and the final order dated 18/05/2024 would clearly go to show that the concerned Court has allowed the application for divorce. Accordingly, marriage between the Applicant and Respondent stand dissolved as per provisions of Article 1101 and 1102 of the Portuguese Code of Civil Procedure

9. This Court is entitled to consider and confirm the Foreign Decree. Such Articles 1101 and 1102 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 who 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:

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- 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 litispendence 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.

10. In view of the above provisions and the fact that the family Court of UK has dissolved the marriage, the application could be allowed as per prayer clause which would read thus:-

“It is therefore humbly prayed that this Hon’ble Court be pleased to direct the Civil Registrar of Salcete, Goa, to cancel the registration of the Applicant’s marriage with the Respondent as entered against Entry No. 1096/2014 of the Marriage (6) Registration Book for the year 2014, of the Office of Civil Registrar of Salcete at Margao.

11. Accordingly, the present proceedings stands allowed in view of prayer clause.

12. Proceedings stands closed.

BHARAT P. DESHPANDE, J.