

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 249 OF 2009

SHRI MOHAN EKNATH GARUDI ALIAS
DESSAI

... Appellant

Versus

SMT. MEENAL MOHAN GARUDI ALIAS
BABY MORTO PORAB

... Respondent

Ms. Suzette Pereira, Advocate for the Appellant.
Shri Kishan Padgaonkar, Advocate for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 8th April, 2015

P.C:

Heard the learned Counsel for the parties.

2. The parties are husband and wife. The appellant had filed Matrimonial Petition No. 25/2006/A against the respondent for dissolution of marriage under Article 4(1),(4) and (5) of the Law of Divorce. The learned Civil Judge Senior Division, Mapusa by judgement and order dated 30.09.2009 has dismissed the petition. Feeling aggrieved by the same, the appellant has filed this appeal.

3. In the present case, the valuation is Rs.10,000/-. It is submitted by the learned Counsel for the appellant that this appeal would lie before the District Court on the basis of valuation. The learned Counsel for the appellant has placed reliance on an unreported judgment of this Court in Second Appeal No. 86/2000, in the case of

Shri Octaviano Teogono Vs. Smt. Rosa Milagrina A., dated 30.09.2004/01.10.2004, in which the substantial question of law was, whether the District Court lacked jurisdiction to pass the impugned judgment, in view of Article 317 of the Portuguese Civil Procedure Code. That was a case wherein the wife had filed a suit for dissolution of marriage under Article 4(4) of the Law of Divorce, which was dismissed. This Court inter alia held that the matter of valuation is now dealt with by the Suits Valuation Act, 1965 and the aspect of jurisdiction is dealt with by the Civil Courts Act, 1965 and Article 317 of the Portuguese Civil Code being a corresponding provision would stand repealed. In such circumstances, it was held that the District Court was competent to entertain such appeal.

4. The learned Counsel for the respondent has no objection for sending the appeal to the District Court.

5. In this view, the office to take appropriate steps for transferring the appeal to the competent District Court for disposal, in accordance with law.

6. The parties to remain present before the District Court on 30.04.2015.

C. V. BHADANG, J.

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