

IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION (MAIN) NO.793 OF 2015

Shri Rohan Madhuker Agni,
Major Citizen of United State of America,
R/O 4132 Oaksbury Lane,
Rolling Meadows, IL, 6008, USA,
Panjim address for service C/O Madhujker Agni,
C14-191, Gokul, First Floor,
Opposite Dhempe College,
Tonca, P.O Caranzalem,
Goa 403002.

..... Applicant

V e r s u s

M/s. Lara Rodrigues,
Major, R/o, 1184, South Parkside
Drive Palatine IL-60067 USA
and address in Goa C/O Lia Rodrigues
Aqusail sailing Centre, Block No.4,
The Grand Hyatt,
P. O. Goa University,
Bambolim-Goa 403206.

..... Respondent.

Mrs. A. Agni, Senior Advocate with Ms. K. Govekar, Advocate for the
Applicant.

Respondent absent.

CORAM: S. B. SHUKRE, J.
DATE: 19TH JANUARY, 2016.

ORDER:

This is an application filed under Article 1102 of Chapter 13 of the
Portuguese Civil Code praying for confirming of the judgment passed on
9/8/2011 by the learned Judge of the of the Sixteenth Judicial District, Kane
County, Illinois in the case of marriage of Lara Rodrigues-Agni and Rohan

Madhuker Agni bearing No.2011 D 482.

2. The applicant and the respondent's marriage was solemnized on 30/11/1999 and it was registered vide Registration no.665/1999 dated 30/11/1999 in the Register of Marriage maintained by the Civil Registrar, Panaji. It appears that after solemnization of the marriage, both the parties went to United States and cohabited there for some time. Over a period of time, as differences arose between them, they started living separately. The differences between the couple culminated in filing of a proceeding for dissolution of marriage by the respondent against the petitioner.

3. During the pendency of these proceedings which were registered as Case No. 2011 D 482 there was a settlement reached between the spouses and the settlement sought judgment of dissolution of marriage. It appears that the settlement was placed before the Circuit Court of Illinois, which considered the same in accordance with the law of divorce prevalent in that State. A perusal of the judgment delivered by the Circuit Court, a certified copy of which is forming part of the paper book of the this application, discloses that the Circuit Court considered the marriage settlement in exercise of the power and authority vested in it, and dissolved the marriage between the respondent and the petitioner in terms of the marital settlement agreement. The judgment was delivered on 9/8/2011 and it can be seen from

the copy of the judgment that it has been delivered by a competent Court having jurisdiction over the subject matter of this application. The judgment has been produced in the nature of its certified copy and therefore, there cannot be any doubt about its authenticity.

4. Since the marriage was solemnized at Panaji, dissolution of the marriage would have to take place in accordance with the relevant Articles of the Portuguese Civil Code. Article 1100 lays down that no judgment concerning private rights pronounced by a foreign court or by arbitrators in foreign countries, shall be effective in Portugal to wit, the State of Goa, unless it is reviewed and confirmed. Under Article 1101 the jurisdiction for review and confirmation is vested in the High Court. Article 1102 provides for requirements for confirmation. The requirements are :

(1) authenticity of the judgment as well as the correctness of the reasoning
(2) the judgment of the Foreign Court having become *res judicata* according to the law of the Country; (3) the judgment being delivered by the Court of competent jurisdiction (4) the dispute between the parties being not subject to defences of '*lis pendens*' or '*res-judicata*' (5) the defendant having been duly summoned (6) the judgment not going contrary to the Portuguese public order; (7) the judgment having been delivered not in violation of any of the provisions of Portuguese Private Law. All these conditions as seen from the judgment of the Circuit Court of Kane County, are fulfilled in this case.

5. The respondent, though duly served, has not appeared before this Court. It is submitted by the learned counsel for the applicant that since the dissolution of marriage has taken place from out of mutual settlement between the parties, now it is unlikely that the respondent would even appear before this Court. In any case, an opportunity has been given to the respondent which she has not availed so as to oppose grant of this application.

6. In the circumstances, I have no hesitation in allowing this application. Accordingly, the application is allowed in terms of prayer clauses “a” and “b”. The Judgment of the Circuit Court of Kane County, Illinois, dated 9/8/2011 passed in marriage of Lara Rodrigues-Agni and Rohan Madhuker Agni bearing No.2011 D 482 is hereby ratified and confirmed and the marriage between the applicant and the respondent stands dissolved in terms of the judgment of Circuit Court of the Sixteenth Judicial District Kane County, Illinois. The registration of marriage under Entry no.665 of 1999 be cancelled.

7. The application is disposed in the above terms. No costs.

S. B. SHUKRE, J.

Ap/-