

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION (MAIN) NO. 645 OF 2016

MARIA ANTONETA FERNANDES. ... Appellant
Versus
MR. VALERIAN SEBASTIAN RODRIGUES. ... Respondent

Mr. Balkrishna Sardessai, Advocate for the applicant.

Coram:- C. V. BHADANG, J.

Date:- 8th June, 2017

P.C.

This is an application filed under Article 1102 of Portuguese Civil Code seeking confirmation of the judgment and decree dated 15/04/2013 passed by the EDMONTON County Court, London, N18 2TN. The marriage between the parties has been dissolved on the ground of the marriage having broken down irretrievably and the parties having lived apart for a continuous period of at least 5 years immediately preceding presentation of the petition. A perusal of the record shows that the said petition for divorce was filed by the petitioner, in which the respondent husband remained absent and did not contest the same and eventually, the decree of dissolution of marriage was passed.

2. The learned Counsel for the applicant has placed reliance on the decision of this Court in MCAM No.793/2015 (ROHAN AGNI VS.LARA RODRIGUES) dated 19/01/2016, in order to

submit that the requirements for confirmation of decree of divorce under Article 1101 have been complied with. In the judgment of this Court in ROHAN AGNI (supra), this Court has noted the following requirements for such confirmation :

- "(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."

3. The learned Counsel for the petitioner has pointed out clause 5 of Article 4 of Law of Divorce which shows that complete abandonment of conjugal domicile for a period of not less than three years, is one of such grounds available. Thus, considering the overall circumstances, the requirements, as have been noted by this Court in the case of ROHAN AGNI (supra), have been

satisfied in this case.

4. In the result, the application is allowed in terms of prayer clauses (a) and (b).

C. V. BHADANG, J.

SMA