

IN THE HIGH COURT OF BOMBAY AT GOA**MISC.CIVIL APPLICATION (MAIN) NO. 607 OF 2017**

Joaquim Cardozo,
Resident of City of Calgary,
Alberta Province, Canada,
Represented through his,
Duly Constituted Attorney,
Shri Carlos Gomes,
Resident of Dando, Telaulim,
P.O. Navelim, Salette, Goa.

... Appellant.

V e r s u s

Fanny Margaret Mascarenhas E. Cardozo,
Former wife of Joaquim Cardozo,
Resident of City of Calgary,
Alberta, Canada.

.... Respondent

Mr. Preetam Talaulikar, Advocate for the Appellant.

Coram:- C. V. BHADANG, J.

Date:- 26th July 2018.

Oral Order:

This is an application under Article 1102 of the Portuguese Civil Code seeking confirmation of a decree of dissolution of marriage between the parties passed by the Court of Queen's Bench of Alberta, Calgary, Canada by Decree dated 11/9/2015. A perusal of the Certificate of Divorce issued by the competent court shows that the marriage of the appellant and the respondent

which was solemnized on 5/12/1999 was dissolved by a decree that become effective on 24/6/2013. It appears that the marriage has been dissolved by consent of parties, as is evident from the Separation Agreement dated 30/5/2013.

2. In the present case, the respondent has chosen not to appear though served.

3. The learned counsel for the appellant has placed reliance on the decision of this Court in **Misc. Civil Application (Main) No.793/2015 (Rohan Agni Vs. Lara Rodrigues) dated 19/1/2016**, in order to submit that the requirements for confirmation of decree of divorce under Article 1101 have been complied with. It is further submitted that dissolution of marriage by consent of parties is a ground available as per law as prevailing in the State.

4. In the judgment of this Court in the case of **Rohan Agni (supra)** this Court has noted the following requirements for such confirmation:

- “(i) Authenticity of the judgment as well as the correctness of the reasoning;
- (ii) The judgment of the Foreign Court having become res judicata according to the law of the Country;

- (iii) The judgment being delivered by the Court of competent jurisdiction;
- (iv) The dispute between the parties being not subject to defences of 'lis pendens' or 'res-judicata'.
- (v) The defendant having been duly summoned;
- (vi) The judgment not going contrary to the Portuguese public order;
- (vii) The judgment having been delivered not in violation of any of the provisions of Portuguese Private Law.”

4. The requirements as above in the case of **Rohan Agni (supra)** are satisfied in this case. In the result the application is allowed in terms of prayer clauses “a” and “b”.

C. V. BHADANG, J.

Ap/-