

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA
MISCELLANEOUS CIVIL APPLICATION (MAIN) NO. 5 OF
2023

Villanova Alvin Jose Leitao
s/o Anthony George Jesus Leitao
44 years of age, service, Resident of
H.No.244, Laxette, Varca, Salcete
Goa, Through his constituted
attorney Mrs. Christina Antoneta
Leitao, w/o Anthony G. J. Leitao, 69
years of age, Indian National, r/o. H.
No.244, Laxette, Varca, Salcete-Goa.

... Applicant

Versus

Sitora Madaminova
d/o Madaminov Begmurod, 42 years
of age, service, Resident of Chirchik
City, G. Gulyamov Str. 24, Tashkent
Region, Uzbekistan.

...Respondent

Mr Tarshish Leo Pereira, Advocate with Ms Agnetha C. Lobo, Advocate for the Applicant.

CORAM: M. S. KARNIK, J
DATED: 27th JULY 2023

ORAL ORDER:

1. Heard learned counsel for the applicant.
2. This is an application under Article 1101 of the Portuguese Civil Procedure Code read with Section 13 of the Code of Civil Procedure, 1908, for ratification of the Divorce Decree dated 20.05.2022 passed by the Family Court, sitting at Courts and Tribunals Service Centre, Harlow, United Kingdom ('Foreign Court' for short). The petitioner-

husband and respondent-wife were married in the office of the Civil Registrar-cum-Sub-Registrar of Salcete on 21.03.2016 and the marriage is registered under Entry No.689/2016 at page 89 of the Marriage Registration Book of the year 2016. The petitioner-husband and the respondent-wife started residing in the United Kingdom. The petitioner-husband approached Her Majesty's Courts and Tribunal Service with an application of Divorce at Harlow, United Kingdom dated 20.01.2022 on the ground that the marriage had broken down irretrievably and that the petitioner and the respondent were living separately since 21.04.2016. The provisional divorce (Decree Nisi) was granted on 31.03.2022. The foreign Court granted the final decree of divorce (Decree Absolute) vide order dated 20.05.2022 thereby finalising the separation between the petitioner-husband and the respondent-wife. The petitioner-husband in view of the Decree Absolute dated 20.05.2022, to give effect to the Decree of the foreign Court, prayed that directions be issued to the Civil-cum-Sub Registrar of Salcete at Margao to cancel the marriage entry between the petitioner and the respondent.

3. Article 1101 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 whose 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.'

4. Vide order dated 20.07.2023 passed by this Court, the applicant was permitted to serve the respondent on the registered email id and file affidavit of service to that effect before the returnable date. Accordingly, the affidavit of service dated 25.07.2023 is tendered by the applicant which is taken on record and marked as Exhibit 'X' for identification. Annexed along with the affidavit of service is a copy of the email dated 24.07.2023 addressed by the applicant to the respondent informing the next date and the order passed by this Court on 20.07.2023. Also placed on record is the reply (email) dated 24.07.2023 from the respondent-wife to the applicant informing him that she has no objections.

5. When petitioner had instituted proceedings for divorce before the foreign Court, as per the affidavit filed by the applicant, the respondent-wife gave her no objection for divorce decree to be made absolute by the foreign Court. From the averments made in the application, I am satisfied that as per law applicable in the United Kingdom, divorce sought by the petitioner and the respondent are on grounds permissible under the statute. The petitioner is, therefore, entitled to an order of confirmation of this Court confirming the decree absolute/judgment of divorce dated 20.05.2022 passed by the foreign Court. The decree of the foreign Court is declared as final and conclusive. The dissolution of marriage between the petitioner and the respondent stands confirmed.

6. The application is, therefore, allowed in terms of prayer clause (a) and (b) which reads thus:

`a) The order dated 20/5/2022 granting the divorce between the Petitioner and the Respondent (Decree Absolute), passed by HM Courts & Tribunal Service, sitting at Harlow, United Kingdom, be ratified and confirmed.

b) The Civil-cum-Sub Registrar of Salcete at

Margao be directed to cancel the marriage entry of the Petitioner and the Respondent registered under Entry No.689/2016 at page 89 of the Marriage Registration Book of the year 2016.'

7. The application is disposed of. No costs.

M. S. KARNIK, J