

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION (MAIN) NO. 01 OF 2023

Chrisando Bernardo Fernandes	... Applicant
<i>Versus</i>	
Kaycha Idalina De Araujo & anr.	... Respondents

Mr. I Agha, Advocate with Ms. V. Fernandes, Advocate for the Applicant.

Ms. Melissa Dias, Advocate for the Respondent No.1.

Ms. Susan Linhares, Additional Government Advocate for the Respondent No.2.

CORAM: M. S. KARNIK, J
DATED: 29th MARCH 2023

ORAL ORDER

1. Heard learned Counsel for the parties.
2. This application is filed by the Applicant-husband for declaration as final, conclusive and confirmed the Decree of Divorce passed by the Family Court at South West Divorce Unit, UK (*Foreign Court*, for short) by Judgment dated 14.05.2020. A Further direction is prayed that the Civil Registrar be directed to cancel the Entry No.507/17 from the Register of Marriages and make necessary endorsements therein.
3. The Applicant-husband and Respondent No.1-wife are both of Goan origin. The Applicant is presently residing in Goa. The

Applicant and Respondent No.1 are Portuguese nationals. The marriage was solemnized on 17.05.2017 between the Applicant and the Respondent No.1 at Goa. Differences arose between the Applicant and the Respondent No.1 and they have been living separately since 31.03.2019. The Applicant filed for Dissolution of Marriage before the Family Court, South West Divorce Unit, UK, on the ground of adultery, which is a ground available under Article 4(1) of the Law of Divorce prevailing in the State of Goa.

4. The Respondent no.1 appeared before the Foreign Court. The Foreign Court by Decree dated 14.05.2020, dissolved the marriage between the Applicant and the Respondent No.1 and, consequently, issued certificate of Divorce.

5. In terms of Article 1101 read with Section 13 of the Portuguese Code of Civil Procedure 1939, (for short *PCCP*) the Divorce Judgment dated 14.05.2020 being a Foreign Judgment, requires to be reviewed and confirmed by this Court.

6. Learned Counsel pointed out that by a decision of this Court, in the case of **Saturnino Epfanio Ralph Barros vs. Tina Noronha Barros**¹, this Court held that Article 1102 of PCCP stood repealed with the coming into force of Section 13 of the Code of Civil

¹ 1997(2) Goa L.T. 343

Procedure, 1908. Article 1100 continues to have a force of law and therefore the present application for review and confirmation of the Judgment of the Foreign Court. Article 1100 reads thus :

“
CHAPTER XIII

**REVIEW AND CONFIRMATION OF
FOREIGN JUDGMENTS**
**Article 1100 – Foreign Judgments subject
to review and confirmation** - *Without
prejudice to what is provided in treaties and
special law, no judgment on private rights,
passed by a Foreign Court or Foreign Arbitrators,
shall have effect in Portugal, regardless the
nationality of the parties, without the foreign
judgment having being reviewed and confirmed.*

*Review will not be required when the decision is
relied upon in any pending proceedings in
Portuguese Courts, as matter of evidence and is
subject to appreciation by the Court deciding
the matter.”*

7. Heard.

8. I have gone through the Decree of Divorce dated 14.05.2020 of the Foreign Court which is enclosed with the application. Learned Additional Government Advocate Ms. Linhares, appears for Respondent No.2. Learned Counsel for the Respondent No.1 submitted that Respondent No.1 has no objection for review and confirmation of the Judgment of the Foreign Court.

9. Upon hearing the learned Counsel for the parties, I am satisfied that, in the interest of justice, the present application deserves to be allowed. The Decree of Divorce is not opposed to public policy. It is further not disputed that the Foreign Court was competent to pronounce the Decree and the same has been made after hearing the parties. There is nothing on record to suggest that Decree has been obtained by fraud or that it is contrary to the laws in India.

10. In this view of the matter, the application is allowed in terms of prayer clauses (a) and (b), which reads thus :

“ (a) That the Decree of Divorce judgment dated 14/05/2020 passed by the Family Court at South West Divorce Unit, U.K. Be declared final, conclusive and confirmed.

(b) That an order be passed directing the Civil Registrar cum Sub-Registrar of Tiswadi, at Panaji, Goa to cancel the entry no. 507/17 from the Register of marriages and make necessary endorsements therein.”

11. The Civil Registrar is requested to make the necessary endorsement expeditiously after a formal application along with certified copy of the Order is placed before him.

12. Application is disposed of.

M. S. KARNIK, J

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