



IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION (MAIN) NO.1 OF 2024

JENIFER DCOSTA REP THR.PETITIONER
ATTORNEY JESSI DCOSTA
VS
TRAVON COSTA AND ANRRESPONDENTS

Ms. Gracias Kimberley, Advocate for the Applicant.

CORAM: BHARAT P. DESHPANDE,J

DATED : 4th July, 2024

ORAL ORDER:

1. Heard learned Counsel for the Applicant. Respondent no.1 though duly served remained absent.
2. This is an application for confirmation of Decree of Divorce passed by Foreign Court.
3. The learned Counsel for the Applicant submits that the Applicant is a Goan holding Portuguese passport whereas the Respondent is also a Goan holding Portuguese passport. Their marriage was solemnized in Goa at Vasco on 04/05/2018 and registered with the Civil Registrar at Mormugao.

4. It is further contention of the Applicant that some difference arose between them and accordingly, the petition was filed in the Family Court at Bury St. Edmunds and by decree dated 22/02/2022 the marriage between the parties stand dissolved.

5. The Applicant has produced on record the Registration Certificate showing that marriage was registered at Vasco under Entry No.332/2018. Accordingly, the Applicant is praying for cancellation of such registration by confirming the Foreign Decree.

6. Provision of Articles 1101 and 1102 reads thus:

Articles 1101 and 1102 of the Portuguese Code of Civil Procedure read 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 who 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.

Article 1102 – Requisites necessary for confirmation – In order that the judgment be confirmed it is necessary: -

i) that there are no doubts about the authenticity of the document on which the judgment is recorded nor about the intelligibility of the decisions;

ii) that it has become res-judicata according to the law of the country in which it was pronounced;

iii) that it arises from a court having jurisdiction according to the Portuguese Law rules relating to the conflict of jurisdiction;

iv) that the defence of litispendence or res-judicata based on a case subject to a Portuguese Court is not available, unless it was the foreign court which prevented the jurisdiction;

v) that the defendant has been duly summoned: except in a matter which under Portuguese Law would not require initial notice; and if the decree was passed against the defendant immediately, due to non-filing of Written Statement in the suit, in such event the summons should have been served on him personally;

vi) that it does not contain decisions contrary to the principles of Portuguese Public Order;

vii) that having been pronounced against a Portuguese National it does not violate the provisions of Portuguese Private Law when it had to be decided by the latter, according to the Portuguese Law rules of Conflict of

Laws.

§ Sole Paragraph—The provisions of this article are applicable to an arbitral award so far as may be.”

7. Admittedly, the decree of divorce dated 22/02/2022 is passed by the foreign court which is clear from the certified copy placed on record. Though the Respondent is duly served remained absent and there is no contest. Accordingly, the application could be allowed in favour of prayer 8. Clauses (a) and (b) reads thus:

“(a) that the absolute decree/Divorce judgment dated 22nd February, 2022 passed by the Family Court at Bury St. Edmunds be declared final, conclusive and confirmed.

(b) that an order be passed directing the respondent no.2 viz. Civil Registrar cum Sub-Registrar of Mormugao, at Vasco to cancel the entry No.332/2018 from the Register of Marriages and make necessary endorsements therein;”

8. The application stands disposed of in the above terms.

BHARAT P. DESHPANDE, J.