

Shiv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1025 OF 2022**

Joel Juliand D'Souza ...Petitioner
Versus
Collector of Stamps, Mumbai & Ors ...Respondents

Mr Pranav Desai, i/b Shirish G Shigwan for the Petitioner.
Mr Kedar Dighe, AGP for the State/Respondent.

HEMANT
CHANDERSEN
SHIV

**CORAM G.S. Patel &
Madhav J. Jamdar, JJ.**
DATED: 31st March 2022

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HEMANT
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PC:-

1. Rule.
2. Mr Dighe waives services for the Respondent.
3. By consent Rule is made returnable forthwith and the Petition is taken up for hearing and final disposal.
4. The Petition assails an order at page 36 of 4th December 2021 declining to refund Court fees to the Petitioner and an Advocate of this Court, saying that the application is barred by limitation.

5. The order is not sustainable. Two factors come in the way. First, that although Mr D'Souza, Advocate, paid the Court fees, no suit was actually ever filed. This is therefore an uncommon situation where there is a court fee paid but no suit (unlike the more common situation where there a suit but no court fee).

6. The second aspect is that the Court fee was paid on 3rd January 2020. Very shortly thereafter came the Covid-19 lockdown and pandemic and, with it, the suspension of period of limitation and extensions ordered by the Supreme Court universally. There is no reason to believe that exclusion from limitation will not apply to the present case as well. Limitation was suspended by the Supreme Court from 26th March 2020 and continued periodically until February 2022.

7. Therefore, the impugned order is required to be quashed and set aside. The Application for refund is restored to file and is hereby allowed. We grant the Collector of Stamps, Mumbai, Respondent No 1 and the Additional Collector of Stamps, Mumbai, Respondent No 2, two weeks' time to process the refund in full to the Petitioner. The authorities will act on production of a digitally signed or authenticated copy of this order.

8. The Writ Petition is disposed of in these terms with no order as to costs.

(Madhav J. Jamdar, J)

(G. S. Patel, J)