

Dd 30 02.09.2025

**MAT/1156/2025
SHIV SHAKTI CONSTRUCTION
VS
THE STATE OF WEST BENGAL AND ORS.
IA NO: CAN/1/2025, CAN/2/2025,
CAN/3/2025**

Mr. S. N. Mukherjee,
Mr. Soupal Chatterjee,
Mr. Anupam Das,
Ms. Mekhala Kar, Advocates
... .. For the Appellant

1. Appeal was dismissed for default on July 31, 2025. Thereafter, two applications were filed, one for recalling the order dated July 31, 2025 and the other for condonation of delay in preferring the appeal.
2. For the ends of justice, the causes shown in the two applications being CAN/1/2025 and CAN/2/2025 are accepted as sufficient. The order of dismissal for default dated July 31, 2025 is recalled. Delay in filing the appeal is condoned. CAN/1/2025 and CAN/2/2025 are disposed of.
3. In course of hearing of the appeal, we pointed out to the learned advocate for the appellant that, the appellant was found to participate with fake documents in a tender process.
4. Learned advocate appearing for the appellant submits that, the earnest money of the appellant was forfeited and apology tendered was accepted. Therefore, he submits that, no further steps be taken as against the appellant. He points out that, the appellant should be allowed to withdraw the appeal.

5. Appeal is directed against an order passed in a writ petition.
6. Learned Single Judge noted in the impugned order that, the appellant submitted fake documents while participating in a tender process. Appellant thereafter, apologized to the authorities for submitting fake documents. Earnest money deposited by the appellant was forfeited. Learned Single Judge found nothing wrong in such action of the State authorities in forfeiting the earnest money deposit of the appellant.
7. As noted above, appellant seeks withdrawal of the present appeal. Although, provisions of the Code of Civil Procedure, 1908 does not apply in its strict sense of a proceeding under Article 226 of the Constitution of India or in respect of a Letters Patent appeal directed against an order passed by the learned Single Judge exercising jurisdiction under Article 226 of the Constitution of India, none the less, the principles thereof apply.
8. In a regular civil suit, the request of withdrawal is governed by the provisions of Order 23 Rule 1 of the Code of Civil Procedure, 1908.
9. Principles akin to Order 23 Rule 1 of the Civil Procedure Code, 1908, if sought to be applied in respect of an appeal directed against an order passed in writ jurisdiction, then, the Court needs to appreciate whether, there is a written application for withdrawal and that the withdrawal is sought for on the ground of formal defects or there is sufficient ground for allowing a fresh filing.
10. In the facts of the present case, it cannot be said that there is any formal defects in the appeal. The prayer for withdrawal is not accompanied by any

written application. No ground stands made out for withdrawal.

11. Be that as it may, the facts are startling. Appellant participated in a tender process and submitted fake documents. That by itself, is an offence which results in criminal liabilities.
12. In such circumstances, the respondent no. 3 herein will proceed to lodge a complaint with the police as against the appellant for submission of fake documents in a tender process.
13. The impugned order is modified to such extent.
14. MAT/1156/2025 along with all connected applications are **disposed of** accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)