

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6110 OF 2025

Momin Zulfikar Kasam ... Petitioner
Vs.
State of Maharashtra and others ... Respondents

Mr. Pradeep J. Thorat a/w. Ms. Aditi S. Naikare for Petitioner.
Ms. S. R. Crasto, AGP for Respondent Nos.1 to 3 - State.

CORAM : MANISH PITALE, J.
DATE : JUNE 10, 2025

P.C. :

. This writ petition challenges an order dated 27.01.2025 passed by respondent No.2 - Additional Controller of Stamps, whereby appeal filed by the petitioner has been dismissed on the ground that an earlier appeal by the very same petitioner had been withdrawn. There are no observations made on the merits of the matter in the impugned order, thereby showing that the grounds raised in the appeal were not considered at all.

2. The learned counsel for the petitioner invites attention of this Court to an application moved in the earlier appeal seeking to withdraw the earlier appeal specifically for better presentation of the same as certain relevant documents were not filed with the said appeal. In fact, it was highlighted that the petitioner in the said application specifically sought liberty to file a fresh appeal if the prayer for withdrawing the said appeal was to be granted. It is the contention of the petitioner that in view of the above, the impugned order deserves to be set aside and the matter may be remanded to the respondent No.2 for consideration of the appeal on merits.

3. Ms. Crasto, learned AGP appearing on behalf of respondent Nos.1 to 3 could not dispute the factual description given in the present petition about the chronology of events and the specific statements made on behalf of the petitioner in the application seeking withdrawal of the earlier appeal.

4. It is in this backdrop that this Court has considered the impugned order. The order appears to be erroneous in the light of the fact that the earlier order dated 15.03.2024 passed by the respondent No.2 specifically recorded that the appeal was being permitted to be withdrawn as per the prayer made on behalf of the petitioner. The said prayer was reflected in the application dated 30.08.2023 filed in the earlier appeal, wherein the petitioner, in paragraph 2, specifically stated that he desired to withdraw the appeal with liberty to file a fresh appeal along with further relevant documents and averments and for better presentation of the appeal. Since the petitioner was permitted to withdraw the earlier appeal in terms of the said application and the prayer made therein, the subsequent appeal filed by the petitioner ought to have been entertained on merits by the respondent No.2. By failing to do so, the respondent No.2 has committed an obvious error and hence the impugned order deserves to be set aside.

5. In view of the above, the writ petition is allowed. The impugned order dated 27.01.2025 is quashed and set aside.

6. The matter is remanded to the respondent No.2 with a direction to decide the subsequent appeal filed by the petitioners on merits, as expeditiously as possible, as also in accordance with law.

(MANISH PITALE, J.)