

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 9772 OF 2016 IN FAST/17549/2016**

THE EXECUTIVE ENGINEER, IRRIGATION PROJECT MAJBUTIKARN  
DIVISION, OMERGA AND OTHERS  
VERSUS  
DATTU BIRU CHENDKE

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Advocate for Applicant-1 : Mr. S. G. Karlekar.  
AGP for Applicants No.2,3 - State/SLAO : Mr. S. R. Yadav-Lonikar.  
Advocate for Respondents : Mr. A. B. Kale.

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**WITH CA/9828/2016 IN FAST/6736/2016  
WITH CA/9830/2016 IN FAST/6858/2016  
WITH CA/9832/2016 IN FAST/6861/2016  
WITH CA/9835/2016 IN FAST/6864/2016  
WITH CA/9838/2016 IN FAST/6855/2016**

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**CORAM : K.K. SONAWANE, J.**

**DATED : 21<sup>ST</sup> NOVEMBER, 2017.**

**Order :-**

1. Mr. Kale, learned counsel for respondents-original claimants vehemently submits that this Court under Order dated 19-08-2016 / 27-02-2017, granted stay to the execution, implementation and operation of the impugned Judgment and Award, subject to condition that applicant- Acquiring Body shall deposit decretal amount within a period of ten/twelve weeks, failing which the order granting stay shall stand vacated automatically without further reference to the Court. But, the applicant- Acquiring Body did not comply the Order nor any decretal amount came to be deposited. Therefore, he prayed to pass explicit order that the stay to impugned Judgment and Award passed by this Court, is not in existence.

2. Mr. Karlekar, learned counsel for applicant- Acquiring Body submits that the process of depositing amount is in progress. The proposal for budgetary allocation has already been forwarded to the concerned Government authority and shortly after receipt of budgetary allocation said amount will be deposited.

3. Admittedly, in view of conditional order, the appellant-Acquiring Body has to obey the order passed by this Court. But, unfortunately the order could not be complied with by depositing decretal amount in this Court due to lack of budgetary allocation. Therefore, as the condition imposed on the applicant- Acquiring Body for execution and implementation of the Award is not complied with, automatically the stay granted by this Court lost its force and died out without further reference to this Court.

4. Therefore, it is made clear that at this juncture there is no stay to the execution of impugned Judgment and Award passed by Reference Court and the respondents (original claimants) are liberty to execute the Award within ambit of Law before the Executing Court.

**[ K. K. SONAWANE ]**  
**JUDGE**

rrd.