

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

WRIT PETITION NO. 4804 OF 2016

Rajshekhhar Tamannappa Utge
Age: 53 years, Occu.: Agri.,
R/o Azad Chowk, Latur,
Tq. & Dist. Latur.

..PETITIONER

VERSUS

1. State of Maharashtra
Through Collector, Latur,
Tq. & Dist. Latur.
2. The Executive Engineer,
Minor Irrigation Department,
Latur, Dist. Latur.

..RESPONDENTS

....

Mr. V.D. Gunale, Advocate for petitioner.
Mr. S.K. Tambe, A.G.P. for Respondent No.1.
Mr. S.G. Sangle, Advocate for Respondent No.2.

....

**CORAM : S.B. SHUKRE, J.
DATED : 20th MARCH, 2017**

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally by consent of both parties.
2. By the impugned order passed on 21st September, 2015, the decree was not stayed by the Appellate Court. Even today, there is no

stay granted by the Appellate Court for execution of decree. Therefore, there was no reason for the Executing Court to call upon the petitioner to furnish the bank guaranty while allowing the petition to withdraw the compensation amount. The impugned order, in these circumstances, cannot be sustained in law.

3. Writ petition is allowed. The impugned order is hereby set aside. The decree holder is permitted to withdraw the compensation amount on furnishing an undertaking that in case any adverse order is passed by the Appellate Court, the petitioner shall abide by the same and if required, shall also refund the amount of compensation, so withdrawn by him, together with interest as directed by the Appellate Court. The undertaking shall be furnished within four weeks from the date of the order. If no such undertaking is furnished, this order shall loose its force. Rule made absolute in these terms.

(S.B. SHUKRE, J.)

SSD