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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.7271/2016
IN
FIRST APPEAL NO.3297/2017

The Executive Engineer,
Minor Irrigation Division, Latur.
...Applicant..

Versus

Madhav Bhimrao Menkudale & others.
...Respondents...

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CIVIL APPLICATION NO.7276/2016
IN
FIRST APPEAL NO.3299/2017

The Executive Engineer,
Minor Irrigation Division, Latur.
...Applicant..

Versus

Kalyan Bhimrao Menkundale & others.
...Respondents...

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CIVIL APPLICATION NO.7278/2016
IN
FIRST APPEAL NO.3298/2017

The Executive Engineer,
Minor Irrigation Division, Latur.
...Applicant..

Versus

Ramrao Tukaram Sarole & others.
...Respondents...

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CIVIL APPLICATION NO.7280/2016
IN
FIRST APPEAL NO.3293/2017

The Executive Engineer,
Minor Irrigation Division, Latur.
...Applicant..

Versus

Nasroddin Ajimsab Shaikh & others.
...Respondents...

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CIVIL APPLICATION NO.7282/2016
IN
FIRST APPEAL NO.3296/2017

The Executive Engineer,
Minor Irrigation Division, Latur.
...Applicant..

Versus

Shaikh Abdulla Shaikh Alishab & others.
...Respondents...

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CIVIL APPLICATION NO.7284/2016
IN
FIRST APPEAL NO.3294/2017

The Executive Engineer,
Minor Irrigation Division, Latur.
...Applicant..

Versus

Mir Javedali Mir Akbarali & others.
...Respondents...

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CIVIL APPLICATION NO.7286/2016
IN
FIRST APPEAL NO.3295/2017

The Executive Engineer,
Minor Irrigation Division, Latur.
...Applicant..

Versus

Bapu Mahadu Bhinge,
died, through L.Rs. Tukaram
Bapurao Bhinge & others.
...Respondents...

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CIVIL APPLICATION NO.7288/2016
IN
FIRST APPEAL NO.3314/2017

The Executive Engineer,
Minor Irrigation Division, Latur.
...Applicant..

Versus

Bhausahab Piraji @ Bapurao Shelke
& others.
...Respondents...

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CIVIL APPLICATION NO.7290/2016
IN
FIRST APPEAL NO.3313/2017

The Executive Engineer,
Minor Irrigation Division, Latur.
...Applicant..

Versus

Vishwanath Bapurao Menkudale & others.
...Respondents...

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CIVIL APPLICATION NO.7292/2016
IN
FIRST APPEAL NO.3317/2017

The Executive Engineer,
Minor Irrigation Division, Latur.
...Applicant..

Versus

Shaikh Afsar Shaikh Yysufoddin
& others.
...Respondents...

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CIVIL APPLICATION NO.7294/2016
IN
FIRST APPEAL NO.3312/2017

The Executive Engineer,
Minor Irrigation Division, Latur.
...Applicant..

Versus

Anil Santram Bodke & others.
...Respondents...

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CIVIL APPLICATION NO.7296/2016
IN
FIRST APPEAL NO.3311/2017

The Executive Engineer,
Minor Irrigation Division, Latur.
...Applicant..

Versus

Sayyad Ghudan Shafiyoddin & others.
...Respondents...

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**CIVIL APPLICATION NO.7298/2016
IN
FIRST APPEAL NO.3316/2017**

The Executive Engineer,
Minor Irrigation Division, Latur.
...Applicant..

Versus

Trambak Bapurao Menkudale & others.
...Respondents...

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**CIVIL APPLICATION NO.7300/2016
IN
FIRST APPEAL NO.3315/2017**

The Executive Engineer,
Minor Irrigation Division, Latur.
...Applicant..

Versus

Ashok Santram Bodke & others.
...Respondents...

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Shri S.V. Kurundkar, Advocate for applicant.
Shri L.C. Patil, Advocate for respondent no.1.
Smt.M.A. Deshpande, AGP for the State.

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**CORAM: R.D. DHANUKA &
SUNIL K. KOTWAL, JJ.**

DATE: 27.09.2017

ORDER :

1] By these civil applications, the applicant seeks
stay of the operation of the impugned judgment and order

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dated 31.12.2014 passed by the learned Civil Judge, Senior Division, Ahmedpur.

2] It is submitted by the learned counsel for the applicant that the Reference Court has enhanced the compensation amount exorbitantly and contrary to the evidence on record. He submits that in another Land Acquisition Reference bearing No.882/2008, the Reference Court had awarded lesser amount in respect of the identical plots. It is lastly submitted that the matter was partly heard by the earlier Bench and hence the present matters may be heard finally by this Court at this stage.

3] It is further submitted by the learned counsel for the applicant that if the applicant is directed to deposit the entire amount under the award with interest in this Court as a condition for grant of stay, it will cause serious prejudice to the interest of the applicant.

4] Learned counsel for the claimants on the other hand submits that the Reference Court has passed the order after considering the oral and documentary evidence produced by the claimants and also by the acquiring body. The order passed by the Reference Court being in the

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nature of a money decree, stay can be granted by this Court upon the applicant depositing the entire amount under the award with interest.

5] Insofar as the submission of the learned counsel for the applicant that the Reference Court has granted exorbitant amount of compensation in favour of the claimants contrary to evidence is concerned, the submission of the claimants is that the entire amount awarded by the Reference Court is after considering the documentary and oral evidence led by the parties before the Reference Court.

6] The rival contentions of both the parties can be considered by this Court at the stage of final hearing or can be considered *prima facie* as and when an application for withdrawal is made by the claimants upon the applicant depositing the amount as may be directed by this Court.

7] The civil applications are allowed and made absolute in terms of prayer clause (B) on the condition that the applicant deposits the entire awarded sum with interest in this Court within twelve weeks from today without fail and shall intimate the claimants' Advocate

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simultaneously upon such deposit. The claimants would be at liberty to apply for withdrawal by filing appropriate application/s upon such deposit being made by the applicant. It is made clear that if the amount is not deposited by the applicant within the time prescribed, the aforesaid interim relief granted by this Court shall stand vacated without further reference to the Court. If any application is made by the claimants for withdrawal upon such deposit being made by the applicant, such application for withdrawal shall be considered by this Court on its own merits.

8] The civil applications are disposed of on aforesaid terms. No order as to costs.

(SUNIL K. KOTWAL, J.)

(R.D. DHANUKA, J.)