

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

**CIVIL APPLICATION NO. 10246 OF 2017
IN
FIRST APPEAL ST. NO. 6726 OF 2017**

The Executive Engineer,
Sina Kolegaon Project Division, Paranda,
Dist. Osmanabad, & Ors. ... Applicants

VERSUS

Sallauddin Shahabuddin Mujawar ... Respondent

**WITH
CIVIL APPLICATION NO. 10254 OF 2017
IN
FIRST APPEAL ST. NO. 6752 OF 2017**

The Executive Engineer,
Sina Kolegaon Project Division, Paranda,
Dist. Osmanabad, & Ors. ... Applicants

VERSUS

Kanifnath Vithal Chopade ... Respondent

**WITH
CIVIL APPLICATION NO. 10252 OF 2017
IN
FIRST APPEAL ST. NO. 6746 OF 2017**

The Executive Engineer,
Sina Kolegaon Project Division, Paranda,
Dist. Osmanabad, & Ors. ... Applicants

VERSUS

Nazir Babu Shaikh ... Respondent

**WITH
CIVIL APPLICATION NO. 10250 OF 2017
IN**

FIRST APPEAL ST. NO. 6743 OF 2017

The Executive Engineer,
Sina Kolegaon Project Division, Paranda,
Dist. Osmanabad, & Ors.

... Applicants

VERSUS

Navnath Pandurang Suryawanshi (Kasab)

... Respondent

WITH
CIVIL APPLICATION NO. 10248 OF 2017
IN
FIRST APPEAL ST. NO. 6749 OF 2017

The Executive Engineer,
Sina Kolegaon Project Division, Paranda,
Dist. Osmanabad, & Ors.

... Applicants

VERSUS

Baba Maheebub Mujawar

... Respondent

.....

In all matters:

Mr Ruturaj C. Patil, Advocate for the applicants

Mr A. S. More, Advocate for respondent

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CORAM : A. M. DHAVAL, J.

DATE : 24TH JULY, 2018.

PER COURT :-

1. Heard Mr Ruturaj C. Patil, learned counsel for the applicants. He seeks stay to the execution, implementation and operation of the impugned Judgment and Award and shows willingness to deposit the part amount under the award and claims

exemption for paying the remaining amount on the ground that, the interest is awarded from the date of possession, which according to the judgment of the Full Bench of this Court in the case of *State of Maharashtra vs. Kailash Shiva Rangari* reported in 2016(3) Mh.L.J. 457, should have been from the date of the award and on the ground that the reference Court held that the land is seasonally irrigated, when there was no well.

2. While deciding these applications for grant of stay subject to directions to deposit the amount, there cannot be minute scrutiny of the judgment of the reference Court. It is not disputed that the possession of the lands were taken before the date of award without following the provisions of Section 17 of the Land Acquisition Act. In that case, the claimants would be entitled for the rental compensation. That is also not given. Therefore, question of grant of excess interest, if any, can be considered towards adjustment of rental compensation. There are reasons given for holding the land as seasonally irrigated.

3. In the circumstances, I follow the order passed by my brother Judge, in similar matters from the same award. Hence, the order.

ORDER

(i) Pending the hearing and final disposal of first appeals, the execution, implementation and operation of the impugned judgment and award under appeals is hereby stayed on the condition that the applicants shall deposit entire amount under award with accrued interest thereon, in this Court, within a period of 12 (twelve) weeks from today, failing which the order granting stay shall stand vacated automatically without further reference to the Court.

4. Civil Applications stand disposed of.

[A. M. DHAVAL]
JUDGE

Punde