

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

14 CIVIL APPLICATION NO.1448 OF 2021
IN FIRST APPEAL [STAMP] NO.20991 OF 2020

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THE EXECUTIVE ENGINEER, IRRIGATION
STRENGTHENING DIVISION, OMERAGA
VERSUS

KRASHNA SOPAN JADHAV (DIED) THROUGH
L.Rs.BHIMRAO & OTHERS

...

Mr.Mukul S.Kulkarni, Advocate for the
applicant-appellant.

Mr.L.C.Patil, Advocate for the respondent
nos.1A to 1D - claimants.

Mr.P.M.Kulkarni, AGP for the respondent nos.2
and 3 - State.

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**CORAM : V.L.ACHLIYA,J.
DATE : 08.02.2021**

P.C.

1] The applicant-appellant has moved
this application seeking stay to the
execution of the award on the ground raised
in appeal.

2] In brief, it is the contention of
the applicant-appellant that the enhancement
is based upon the decision in connected LAR
No.345 of 2008, decided on 06.03.2008, by the
Reference Court, which is under challenge
before this Court in First Appeal [Stamp]
No.14768 of 2019 and group of the Appeals

filed by the appellants. It is submitted that the enhancement is about 15 times the compensation assessed by the SLAO. The interest to be payable u/s. 28 of the Land Acquisition Act has been awarded from the date of possession, which is contrary to the Full Bench decision in the case of ***State of Maharashtra Vs. Kailash Shiva Rangari***, reported in ***2016 [3] Mh.L.J. 457***. In this background, learned counsel submits that applicant - appellant has good case to succeed in appeal. In case the execution of the award is not stayed, the purpose of filing of appeal would be frustrated.

3] On the other hand, learned counsel for the respondents – claimants support the award with contention that appeal is devoid of merits. It is submitted that compensation has been enhanced by considering use of the land as irrigated land. It is submitted that the decision in LAR No.345 of 2008 is in respect of acquisition of the land from same project from same village.

4] Considering the challenge raised in appeal as to enhancement of compensation and award of interest from the date of

possession, which is contrary to the Full Bench decision in the case of ***State of Maharashtra Vs. Kailash Shiva Rangari***, reported in ***2016 [3] Mh.L.J. 457***, I am of the view that the award passed by the Reference Court deserves to be stayed subject to deposit of the amount to the extent of 70% of the compensation awarded by the Reference Court. Hence the following order :

ORDER

- 1] The application is allowed.
- 2] There shall be interim relief in terms of prayer clause-A subject to deposit of the amount to the extent of 70% of the compensation awarded by the Reference Court within 12 weeks from the date of passing of the order. Failure to deposit the amount within stipulated period, stay granted stands vacated without further reference to the Court unless time is extended before due date to deposit the amount.
- 3] Civil Application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE