

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

910 CIVIL APPLICATION NO.1150 OF 2021
IN FIRST APPEAL [STAMP] NO.23767 OF 2020

...

THE EXECUTIVE ENGINEER, MINOR IRRIGATION
MEDIUM PROJECT, OSMANABAD & OTHERS
VERSUS
ANNASAHEB MARUTI GADHAVE

...

WITH

CIVIL APPLICATION NO.1152 OF 2021
IN FIRST APPEAL [STAMP] NO.24703 OF 2020

WITH

CIVIL APPLICATION NO.1154 OF 2021
IN FIRST APPEAL [STAMP] NO.24696 OF 2020

WITH

CIVIL APPLICATION NO.1156 OF 2021
IN FIRST APPEAL [STAMP] NO.24710 OF 2020

WITH

CIVIL APPLICATION NO.1158 OF 2021
IN FIRST APPEAL [STAMP] NO.24716 OF 2020

...

Mr.R.A.Tambe, Advocate for the applicants –
acquiring body.
Mr.L.C.Patil, Advocate for the respondents –
claimants

...

**CORAM : V.L.ACHLIYA,J.
DATE : 03.02.2021**

P.C.

1] The applicants have preferred these applications seeking stay to the execution of the award passed by the Reference Court for the reasons set out in detail in the applications.

2] Heard learned counsel for the applicants – appellants and the counsel representing the respondents – claimants.

3] In brief, it is the contention of the learned counsel for the applicants – appellants that the award passed by the Reference Court is not sustainable in law. There is no supporting evidence to enhance the compensation. He further submits that the Reference Court has erred in holding the interest from the date of possession, which is contrary to the Full Bench decision of this Court 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 there is arguable case to be considered in appeal. In case the execution of the impugned judgment and award is not stayed, the purpose of filing of appeal would be frustrated.

4] Learned counsel for the respondents – claimants support the judgment and order passed by the Reference Court and submits that appeals are devoid of merits.

5] Considering the submissions made and the challenges raised in appeal, I am of the view that the execution of the award passed by the Reference Court deserves to be stayed subject to deposit of the amount to the extent of 75% of the award passed by the Reference Court. Accordingly, the following order is passed :

ORDER

- i] The applications are partly allowed.
- ii] There shall be interim relief in terms of prayer clause-B in respective application subject to deposit of amount to the extent of 75% of award passed by the Reference Court in respective cases, within twelve [12] weeks from the date of passing of this order.
- iii] Failure to deposit the amount within stipulated period, the stay granted stands vacated without further reference to Court unless time is extended before the due date to deposit the amount.

[V.L.ACHLIYA]
JUDGE