

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

917 CIVIL APPLICATION NO. 863 OF 2021
IN
FAST/23907/2020

THE EX. ENGINEER, (AGENCY) K.K.V.M. DIV. AT
OMERGA AND ORS
VERSUS
BALASAHEB SHANKAR MAGAR
WITH
CIVIL APPLICATION NO. 865 OF 2021
IN
FAST/24676/2020

THE EX. ENGINEER, (AGENCY) K.K.V.M. DIV. AT
OMERGA AND ORS
VERSUS
DEVIDAS BHAURAO MAGAR
WITH
CIVIL APPLICATION NO. 867 OF 2021
IN
FAST/24687/2020

THE EX. ENGINEER, (AGENCY) K.K.V.M. DIV. AT
OMERGA AND ORS
VERSUS
LAXMAN GANGARAM SHELKE
WITH
CIVIL APPLICATION NO. 869 OF 2021
IN
FAST/24680/2020

THE EX. ENGINEER, (AGENCY) K.K.V.M. DIV. AT
OMERGA AND ORS
VERSUS
BABURAO BHAURAO MAGAR

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Mr. R.A.Tambe, Advocate for Applicants.
Ms. Laxmi Thakur, Advocate for respondents.

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CORAM : V.L.ACHLIYA, J.

DATE : 15/01/2021

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ORAL ORDER :

1. The applicants have moved these applications seeking stay to the execution of Award.
2. Heard learned counsel for applicants and the counsel representing the claimants.
3. It is the contention of learned counsel for applicants that the Award passed by the Reference Court is against the settled principles of law. It is contended that the land has been acquired for the storage tank. The Special Land Acquisition Officer has assessed the compensation @ Rs. 348/- per R. which has been enhanced to Rs. 5,466/- per R. by the Reference Court. For the purpose of enhancement, the Reference Court has referred and relied upon the sale instance of 9 R. of land which can not be treated as comparable sale instance. It is submitted that the Award passed is contrary to law. The enhancement is more than 15 times the compensation assessed by the Special Land Acquisition Officer. So also, the interest has been awarded from the date of notification u/s 4 of Land Acquisition Act, which is contrary to the Full Bench Decision of this Court in the case of *State of Maharashtra V/s Kailash Shiva Rangari 2016 (3) AIR Bom.R. - 742*. In this back-

ground, learned counsel submits that in case if stay is not granted, then the purpose of filing of Appeal would be frustrated.

4. On the other hand, learned counsel for respondent support the Judgment of the Reference Court. It is submitted that in the connected matters, this Court stayed the execution of Award on deposit of compensation in terms of Award passed by the Reference Court.

5. On due consideration of submissions advanced in the light of the fact that enhancement is more than 15 times of the compensation assessed by the Special Land Acquisition Officer and based upon sale instance of small piece of land, which itself hit by the provisions of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 and make such transactions bad in law, I am of the view there is arguable case to be considered in Appeal. So also the aspect of awarding of interest from the date of notification also needs to be examined in Appeal. I am, therefore, inclined to pass the following order.

ORDER

The applications are allowed in terms of prayer clause 'B' in respective Appeals subject to deposit of amount to the extent of 50% of Award passed by the

Reference Court. Failure to deposit the amount within stipulated period, the stay granted to the execution of Award stands vacated unless time is extended to deposit the amount before due date.

[V.L.ACHLIYA]
JUDGE

KNP`