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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11663 OF 2015**

Mohan Ramesh Khandelot and Anr.	Petitioners
Vs.	
The Managing Director and Ors.	Respondents

Mr. Rahul Thakur for the Petitioners.
Mr. Ajay Khair for the Respondent Nos.1 to 4.
Mr. V.S. Gokhale, AGP for the Respondent Nos.5 to 9.

**CORAM : A.S. OKA &
G.S. PATEL, JJ.**

DATE : 21st DECEMBER, 2015

P.C.

- 1 Not on board. Taken on board.

- 2 Heard the learned counsel appearing for the Petitioners.

The challenge in this Petition under Article 226 of the Constitution of India is to the notice dated 14th August, 2015 under Sub-Section (1) of Section 53 of the Maharashtra Regional and Town Planning Act, 1966. The notice alleges that the Petitioners have carried out construction of a RCC structure consisting of ground plus three upper floors having area of 418 square meters. The Petitioners are not disputing the extent of construction described in the notice. The learned counsel appearing for the Petitioners relies upon a copy of alleged sanctioned plan tendered across the Bar. He states that construction has been carried out in the

year 1988. Admittedly, in the year 1988, the District Collector was the Planning Authority under the Maharashtra Regional and Town Planning Act, 1966 for the area in question. Going by the endorsements on the plan tendered across the Bar, there is no permission granted by the Collector under Section 18 of the MRTP Act. Moreover, the plan provides for the proposal for the construction of ground plus first floor totally admeasuring 278.93 square meters. It is not disputed by the Petitioners that today, the building consists of ground plus three upper floors. When we made a query to the learned counsel appearing for the Petitioners whether the Petitioners are willing to remove the two upper floors, on instructions, he states that the Petitioners are not in a position to remove the two upper floors.

3 Apart from the fact that construction has been carried out without obtaining permission of the Collector, who was admittedly the Planning Authority under the MRTP Act, even the proposal submitted in the year 1988 was for construction of a building consisting of ground plus one upper floor. Considering the fact that the Petitioners have constructed a structure consisting of ground plus three upper floors, no case is made out for interference in the writ jurisdiction under Article 226 of the Constitution of India. The Petition is rejected.

(G.S. PATEL, J)

(A.S. OKA, J)