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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 4560 OF 2018**

Shri Sham Rameshlal Daryani & Anr. ... Petitioners  
*Versus*  
The Kolhapur Municipal Corporation & Ors. ... Respondents

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Mr. Jaymala Ostwal, with Anagh Pradhan, and Mamta Kochar i/b  
J.J. Associates for Petitioners.  
Mrs. R.A. Salunkhe, AGP for Respondent Nos. 3 and 4.

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**CORAM: A.S. OKA AND  
RIYAZ I. CHAGLA, JJ.**  
**DATED: 11TH APRIL 2018.**

**PC:-**

1. Not on board. Taken on board.
2. Heard the learned counsel appearing for the Petitioner. The Petitioners are aggrieved by notices issued on 31st May 2016 and 22nd June 2016 by the Kolhapur Municipal Corporation in exercise of the powers under Section 478 of the Maharashtra Municipal Corporations Act, 1949. The notices alleged that the illegal construction has been carried out without obtaining permissions of the Municipal Corporation. There is no dispute that to the said Notices, the Petitioners had replied on 15th June 2016 and 18th July 2016.
3. The submission of the learned counsel appearing for the

Petitioners is that the construction has been carried out on the basis of valid permission granted by 'Uchgaon' Gram Panchayat (Exhibit 'B' and 'C'). Her second contention is that there is an ongoing dispute as to whether any part of the said Gram Panchayat limits is included in the Kolhapur Municipal Corporation and the said dispute is pending before the Apex Court.

4. We have considered the submissions. Firstly, for a period of more than two and half years, the Petitioners have not approached the Court of Law for challenging the notices issued in May and June 2016.

5. Secondly, we have perused the so called permission at Exhibit 'B' which is relied upon by the Petitioner. On a plain reading thereof, it is not a permission but it is a no objection granted by the Gram Panchayat. The condition No.5 in the said no objection is that the construction can be carried out subject to obtaining permission of the Collector who was the Planning Authority. Admittedly, the construction has been carried out without obtaining permission of the Collector.

6. Considering gross delay and conduct of the Petitioner of carrying out construction without permission of the District Collector, there is no reason to interfere in equitable and

discretionary jurisdiction under Article 226 of the Constitution of India.

7. Hence Writ Petition is rejected.

**( RIYAZ I. CHAGLA J. )**

**( A.S. OKA, J )**