

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
AN APPEAL FROM JUDGMENT AND ORDER PASSED IN ITS
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE**

**APO/46/2024
With WPO/116/2024
IA No.GA/1/2024**

SANJEEV SANYAL AND ANR.

-VERSUS -

**THE DIRECTOR GENERAL, WEST BENGAL, FIRE AND EMERGENCY
SERVICES, GOVERNMENT OF WEST BENGAL AND ORS.**

Present :

The Hon'ble Justice Debangsu Basak

-And-

The Hon'ble Justice Prasenjit Biswas

For the Appellant : *Mr. Rajarshi Dutta, Adv.*
Mr. V.V.V. Sastry, Adv.

For the State : *Mr. Sirsanya Bandopadhyay, Adv.*
Ms. Tapati Samanta, Adv.

For the KMC : *Mr. Alak Kumar Ghosh, Adv.*
Ms. Piyali Sengupta, Adv.

For the Respondent No.5 : *Ms. Sucharita Ray, Adv.*

HEARD ON : 05.08.2025
DELIVERED ON : 05.08.2025

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the two purchasers of two flats in a building.

Appeal is directed against order dated February 26, 2024 passed in
WPO/116/2024.

2. Appellants before us filed such writ petition in which the impugned order was passed. By the impugned order, learned Single Judge disposed of the writ petition with liberty to the appellants to approach the appropriate Forum/Court for reliefs as claimed by the appellants.
3. Essentially, appellants seek occupancy certificate in respect of the two flats.
4. Learned Advocate appearing for the appellants submits that, occupancy certificate in respect of two flats were not issued by the Kolkata Municipal Corporation (KMC) within whose jurisdiction the property is situated. He submits that, the obligation to obtain fire safety certificate as also the occupancy certificate lies with the promoter which is the respondent no.5 in the present appeal.
5. In response to a query of the Court, learned Advocate appearing for the appellants submits that, the appellants as also the other flat owners of the building are ready and willing to bear the costs and expenses for the purpose of obtaining the fire safety certificate subject to the appellants and the other flat owners being permitted to recover such costs and expenses from the promoter.
6. State, Kolkata Municipal Corporation authorities as also the respondent no.5 are represented.
7. Learned Advocate appearing for the respondent no.5 submits that, one of the partners of the respondent no.5 expired and that the other partner is immobile. She contends that the obligation to pay for the occupancy certificate as also the fire safety certificate lies on the individual flat owners and that such obligations are not of the promoter.

8. There is an issue with regard to the obligation of the flat owners and the promoter with regard to obtaining of the completion certificate. Completion certificate is dependent on the fire safety certificate.
9. Apparently, the private parties are not in a position to arrive at a consensus as to who is liable to obtain the occupancy and the fire safety certificate and who is to pay for the same.
10. Instead of entering into such disputed arena, it would be appropriate for us to permit the appellants before us as also the other flat owners to bear the costs and expenses at the initial stage and obtain the fire safety certificate. Such costs and expenses may be recovered from the person responsible, in a duly instituted proceedings.
11. The Court is informed that there are proceedings pending before the National Consumer Disputes Redressal Commission at New Delhi with regard to the obligation of the promoter to obtain the occupancy certificate.
12. Parties may avail of their remedies before such forum with regard to the occupancy certificate, if so advised.
13. In such circumstances, APO/46/2024 along with the connected application are disposed of without any order as to costs.

(DEBANGSU BASAK, J.)

14. I agree.

(PRASENJIT BISWAS, J.)