

APO/26/2026
IA NO: GA/1/2026
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

SUDHA YADAV AND ANR
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
The Hon'ble JUSTICE AJAY KUMAR GUPTA
Date: 17th June, 2026.

Appearance:
Mr. Arif Ali, Adv.
Mr. Sarban Bhattacharjee, Adv.
. . .for the appellants.

Mr. Nanda Gopal Khaitan, Adv.
Mr. Anindya Basu, Adv.
Mr. Anujit Mookherjee, Adv.
Mr. Nikhil Jhunhunwala, Adv.
. . .for the respondent no.8.

Mr. Raghunath Chakraborty, Adv.
. . .for the respondent no.9.

Mr. Indrajit Sen, Adv.
Mr. S. Medda, Adv.
Ms. Indralina Sen, Adv.
. . .for the respondent nos.10 and 11.

Mr. Ranajit Chatterjee, Adv.
Ms. Manisha Nath, Adv.
. . .for the K.M.C.

The Court: This is an appeal from an interim order passed by a learned Single Judge dated April 20, 2026. We are not inclined to interfere with the

order of His Lordship to the extent that the remedy of the appellant against the order of the Special Officer (Building) lies before the Municipal Building Tribunal. However, the appellant cannot be deprived from making a complaint with regard to the sanction which was allegedly given by the Corporation to the subsequent purchaser of a roof over the three storied building, on the ground of fraud and misrepresentation. Although, Mr. Ranajit Chatterjee learned advocate for the Corporation submits that fraud has to be pleaded and proved. We are of the view that the writ court is not the competent court to decide on such issue.

If the appellant approaches the concerned authority under the statute and can satisfy the authority about the illegality in the grant of the sanctioned plan, necessary orders will be passed. Prima facie, we find that the deviations were regularized by the Special Officer (Building) by an order dated 7th August, 2018. The deviations which were found, have been enumerated in the said order. Moreover, there does not appear to be any finding with regard to additional floors above the third storey. The sanction, according to the authority was with regard to a three storied building which means G+2.

Thus, the contention of Mr. Chatterjee that the learned Special Officer (Building) had taken care of the two additional floors in the order of regularization, does not appear to be correct. Allegations with regard to the illegal grant of sanction will have to be agitated before the Commissioner, who is the authority to decide whether sanction, if any, for the other additional floors had been obtained by fraud or misrepresentation.

We are not expressing any opinion on the allegations made. The authority will decide the matter in its entirety, in accordance with law. The other issues which are pending before the Writ Court will be decided independently. Undoubtedly, if any complaint is made before the Commissioner with regard to the grant of sanction in respect of additional floor(s) on the premises in question, all parties will be heard, and necessary orders will be passed.

The appeal before the building tribunal may be filed within two weeks from date.

Accordingly, the appeal and the connected application are disposed of.

(SHAMPA SARKAR, J.)

(AJAY KUMAR GUPTA, J.)

sp/b.pal.