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18.12.2023  
d.p.

**In The High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side**

**W.P.A 18430 of 2023**

**Swapan Kumar Sarkar  
-versus  
The State of West Bengal & Ors.**

**Mr. Indranil Chakraborty,  
Mr. Suryasarathi Basu.  
...For the Petitioner.**

**Mr. Debjit Mukherjee,  
Ms. Tanuja Basak.  
...For the State.**

**Mr. Soumyajit Bhatta.  
...For the Municipality.**

The petitioner is aggrieved by the order of demolition passed by the Panihati Municipality.

The petitioner submits that he could not be present in the hearing as he was physically unwell and indisposed.

Learned advocate appearing for the Municipality submits that two opportunities were given for hearing and the petitioner deliberately chose not to appear.

It has been submitted that the impugned order of demolition is an appealable one and this Court ought not to entertain the writ petition.

I have heard the submissions made on behalf of both the parties.

It appears that there is a civil suit in between the private parties seeking partition of the subject property. There is an old dilapidated construction standing at the subject land and a new construction is alleged to be made.

It is an admitted fact that the petitioner, for the reasons best known, was not able to attend the hearing. To give one more chance to the petitioner to disclose his stand as regards the construction made, the Municipality is directed to permit a further opportunity of hearing to all the necessary parties.

It will be open for the petitioner to either attend the hearing himself or to be represented by a legal representative.

The Municipality upon perusal of the documents placed by the parties, shall take a decision with regard to the construction in question and thereafter, pass a reasoned order and communicate the same to all the parties.

The Municipality is directed to keep the impugned order of demolition in abeyance till a fresh order is passed upon hearing to all the parties.

Steps shall be taken in the matter at the earliest, but positively within a period of eight weeks from the date of communication of a copy of this order.

The report in the form of affidavit filed by the Municipality and the exception thereto filed by the petitioner be retained with the record.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

**( Amrita Sinha, J.)**