

SI No.16
10.03.2023.
SB-II

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

**WPA 574 of 2023
Sri Prabin Kumar Mothay
-versus
The Principal Secretary, Department of Urban
Development & Municipal Affairs & Ors.**

Mr. Pratap Khati
Mr. Ranjan Sharma
Mr. Passang Tamang
... for the petitioner.

Mr. Subir Kumar Saha, AGP
Ms. Bedashruti Bose
... for the State

Mr. Ujjal Luksom
Mr. Bikash Singha
Mr. Rajiv Parajuli
... for the respondent no. 3 & 4

An order of demolition has been passed on 21st February, 2023 by the Kalimpong Municipality directing the petitioner to demolish the unauthorized construction which was made without valid papers and without obtaining any sanction/permission from the authority. Time was given till 4th March, 2023 for demolition of the said construction.

Learned advocate appearing for the petitioner submits that due to medical emergency it was not possible for the petitioner to demolish the said construction within the time as mentioned in the order of demolition.

Prayer has been made for extension of time for demolishing the alleged unauthorized construction.

Learned advocate for the petitioner submits, upon instruction that, his client is agreeable to demolish the alleged unauthorized portion and intends to act in accordance with the order of demolition but only seeks extension of time for effecting the demolition.

Learned advocate for the Municipality is yet to receive instruction in the matter.

Learned advocate representing the State respondents submits that at the time of execution of the demolition order, altercation took place between the parties and two police cases have been registered.

It appears from the submissions made by the parties that the petitioner intends to implement the order of demolition and has already filed an application before the Municipality on 3rd March, 2023 seeking extension of time for implementing the order of demolition. The Municipality is yet to take a decision upon consideration of the prayer of the petitioner.

In view of the above, the instant writ petition is disposed of by directing the Kalimpong Municipality to take steps for consideration of the prayer of the petitioner made in the representation dated 3rd March, 2023. If required, an opportunity of hearing may be granted to the petitioner prior to taking a final decision in the matter. A reasoned order shall be passed and communicated to the petitioner at the earliest.

Till a decision is taken by the Municipality to dispose of the representation filed by the petitioner, the Municipality is restrained from implementing the order of demolition.

Affidavit-of-service filed in Court today is taken on record.

The writ petition stands disposed of.

Urgent certified photo copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

Sh

(Amrita Sinha, J.)