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20.06.2024

*In The High Court At Calcutta
Civil Revisional Jurisdiction
(Appellate Side)*

C.O. No. 2111 of 2024

**Smt. Rita Dubey
Vs.
The North Barrackpore Municipality & Ors.**

Mr. Ayan Banerjee,
Ms. Debasree Dhamali,
Ms. Riya Ghosh ... For the petitioner.

Mr. Subhabrata Das,
Mr. M. K. Das,
Mr. Kartick Kr. Goyal
... For the North Barrackpore Municipality.

The petitioner has challenged the order of demolition dated March 05, 2024 passed by the Chairman, North Barrackpore Municipality, the opposite party no. 3 herein in an appeal under Section 218 (3) of the West Bengal Municipal Act, 1993.

The said appeal is pending before the 2nd Court of learned Civil Judge, (Junior Division), Barrackpore, District – 24 Parganas (North).

The appeal Court below by the order impugned dated May 22, 2024 has refused to stay the said order of demolition in the absence of the Municipal authorities and has dismissed the application for stay.

The appeal Court below, in the absence of the Municipal authorities may refuse to pass an ad-interim order of stay, but dismissal of the application altogether on the said ground is not sustainable, the order impugned therefore is set aside.

The learned appeal Court below is directed to decide the application for stay afresh in accordance with law and till the disposal of the said application, the operation of the order of demolition shall remain stayed.

C.O. 2111 of 2024 is disposed with the above terms without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)