47 **22.05.2026.**
Court No.03.
(sayandeep)

WPA 10970 of 2026.

Sri Shibu Prasad Sarkar

-Vs.-

The Maheshtala Municipality &Ors.

Mr. Anindya Halder,
Mr. Subhajit Chatterjee,
Mr. Ronit Deyashi.
.....for the petitioner.

Mr. R. N. Chakraborty,
.....for the municipality.

1. The affidavit-of-service filed in Court today is taken on record.
2. Citing extreme urgency, the matter was mentioned in the morning and is accordingly taken up out of turn in presence of the learned advocate for the Maheshtala Municiplaity.
3. The instant writ petition has been filed challenging an order dated 24th April, 2026 whereby the municipality has threatened to resume the demolition proceedings. Going by the aforesaid order, it would transpire that no new demolition order has been passed.
4. Learned advocate for the petitioner would submit that the petitioner has a sanctioned building plan and no demolition should be permitted up to the first

floor which has been constructed in accordance with the sanctioned building plan.

5. Mr. Chakraborty, learned advocate appears for the municipality by drawing attention of this Court to the order dated 26th July, 2023, it is submitted that the petitioner was duly heard in the meeting of the Board of Councilors held on 28th November, 2018,subsequently by the demolition order the petitioner was called upon to demolish the unauthorized portion of the building as per the order of the councilors. The said order was also duly communicated to the petitioner on 13th December, 2018. Records would reveal that a writ petition was subsequently filed by one Subodh Sarkar which was registered as WPA 165560 of 2023 complaining that despite the order passed by the municipality, the petitioner had not bothered to comply with the same. It is in connection therewith that an inspection was carried out on 24th July, 2023 and since it was noted that the private respondent who is the petitioner herein did not carry out the earlier demolition order, the order dated 26th July, 2023 was passed directing demolition of unauthorized construction and for realization for the cost of demolition. It is not the petitioner's case that the petitioner has carried out the demolition or the petitioner has made payment of the cost. The learned advocate for the petitioner

would submit that the petitioner is not standing in the way of the demolition order for demolition of the additional floor constructed beyond the sanctioned plan. He only submits that since he has a sanctioned building plan for construction of a G+1 storied building dated 6th February, 2015, the portion constructed on the basis of such plan must not be demolished.

6. At thisstage, Mr. Chakraborty, learned advocate appearing for the municipality is unable to enlighten this Court as to whether the construction carried out by the petitioner upto G+1 storey is in accordance with the sanctioned building plan and/or whether the demolition order is only restricted to the additional floor(s), however, giving benefit of doubt to the petitioner at this stage, I am of the view, the municipality may proceed with the demolition of the upper floors without interfering with the sanctioned construction of G+1 floors as claimed by the petitioner.

7. The petitioner is granted leave to implead Sri Subodh Sarkar, son of late Upendra NAth Sarkar, residing at Benepukur, Sukanta Paly, Post office-Gobindapur(M), Police Station-Maheshtala, Kolkata 700141, District-South 24 Parganas as a party respondent in the present writ petition.

8. The petitioner is also directed to implead Anju Mondal, W/O Sunil Kumar Mondal, Village-South 24 Parganas, PIN 743287 and Moumita Malo, W/O Surajit Malo, NimitaSantupara, P.O. & P.S.- Nimita, PIN-700049 as a party respondent who were also notified by the Board of Councilors as regards the demolition proceedings.
9. The petitioner must complete service on the added respondents and file affidavit-of-service on the returnable date.
10. List this matter on 16th June, 2026.

(Raja Basu Chowdhury, J.)