

Shri

Government of Odisha
Housing & Urban Development Department

No. 526 /HUD, Bhubaneswar, dated 7-1-17
TP-(apl)-3/2014

From

Shri A.K.Singh
Desk Officer

To

The Planning Member/ Secretary,
Bhubaneswar Development Authority, Bhubaneswar.

Sub: Appeal Case No.3/2014 under section 91(2) of the Orissa Development Authorities Act, 1982 filed by Shri Aakura Samantaray-vrs-B.D.A., Bhubaneswar.

Sir,

I am directed to send herewith the copy of the Order dated 31.12.2016 passed by the Appellate Authority i.e. the Special Secretary to Govt., Housing & Urban Development Department in the aforesaid appeal for favour of information and necessary action at your end.

You are further requested to furnish the copy of the said orders to the aforesaid appellants immediately.

Yours faithfully,


Desk Officer 7.1.17

Memo No. 527 /HUD., dated the 7-1-17

Copy along with copy of the order forwarded to the Team Leader, OUSIP, Housing & Urban Development Department for information & necessary action.

He is requested to take necessary steps in order to make the said order available in the official website of this Department.


Desk Officer 7.1.17

Memo No. 528 /HUD., dated the 7.1.17

Copy along with copy of the order forwarded to Shri Akura Samantaray, Village-Rasulgarh, P.S.-Mancheswar, Bhubaneswar for information & necessary action.


Desk Officer 7.1.17

03/2014

26.11.2016

The learned advocate on behalf of the appellant and the Associate Town Planner of Bhubaneswar Development Authority are present.

Heard them.

Order is reserved.

Sd/-
(S.K.Ratho)

31.12.2016

The instant appeal has been filed under Section 91(2) of the Odisha Development Authorities Act, 1982 challenging the order dated 02.01.2014 passed by the O.S.D.(ODA Act), Bhubaneswar Development Authority in UAP No.876 of 2012 wherein it has been ordered that the construction of S+2 & G+2 storied RCC roofed building over plot No.943(pt) and Government Plot No.940(pt) in Mz. Gadagopinath Prasad is held illegal, unauthorised and liable for demolition and vacate the Government land.

The learned advocate for the appellant submitted that the appellant along with other legal heirs of Late Gopal Samantaray are the owners in possession over the landed property bearing plot No.943 situated in Mz. Gadgopinath Prasad. He further submitted that the father of the appellant Late Gopal Samantaray had constructed the building in question for more than 45 years back over the plot in question. Hence the appellant is neither the exclusive owner of the building as alleged nor the appellant has constructed the building in question after the enforcement of the Odisha Development Authorities Act, 1982. He further submitted that though as per the sabik settlement records the area of sabik plot No.600 was Ac.0.295 decimals yet in the hal records it corresponds to revenue plot No.943 khata No.-4 area Ac.0.265, the appellant along with his other co-sharers are in possession over the area of Ac.0.290 decimals. While the matter stood thus, the unauthorised proceeding bearing UAP Case No.876 of 2012 was initiated against the appellant for unauthorised construction and encroachment of Government land. But without issuing any show cause notice or without hearing to the appellant, the said unauthorised proceeding has been disposed of by way of demolition order and vacation of Government land. He further contended that without field verification and without proper demarcation the demolition order has been passed which is not sustainable in the eye of law. He further pointed out that the impugned order has been passed without observing the norms of natural justice. He again submitted that the appellant has not constructed over plot No.943 (p) and also over Government land bearing plot No.940 (p) as alleged.

The Associate Town Planner, Bhubaneswar Development Authority submitted that an unauthorised proceeding case No. 876/2012 was initiated against the

03/2014

08/2014

appellant on the basis of complaint petition received from the inhabitants of Rasulgarh regarding encroachment of Government land and unauthorised construction undertaken. He further submitted that the appellant has constructed S+2 and G+2 storied RCC building violating the norms of Bhubaneswar Development Authority Planning and Building Standards Regulations 2008 (Amended 2013) with encroachment of Government land over plot No.943 (p) and plot No.940 of Mz. Godagopinath Prasad. He again contended that the appellant has constructed sewerage tank by obstructing 20'-0" wide road. During course of hearing, the appellant claimed that the construction of the building in question is more than 45 years back over plot in question i.e. much more prior than enactment of the Odisha Development Authorities Act. But regarding approval of plan and ownership of the plot in question, the appellant has not produced any document.

In view of above submissions and perusal of records, it is admitted fact that the construction has been undertaken without approved plan. Further the construction of sewerage tank has been undertaken over Government land. The learned advocate for the appellant during hearing admitted to change the sewerage tank as alleged. Considering the above submission, I am inclined to believe that there is no error found in the order passed by the Bhubaneswar Development Authority. Hence the order passed by the lower court is upheld and accordingly the appeal is dismissed.

Sd/-
(S.K.Ratho)