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**Government of Odisha
Housing & Urban Development Department**

No. 529 /HUD, Bhubaneswar, dated 7-1-17
TP-(apl)-5/2016

From

Shri A.K.Singh
Desk Officer

To

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

Sub: Appeal Case No.05/2016 under section 18 of the Orissa Development Authorities Act, 1982 filed by Shri Ramahari Mishra-vrs-C.D.A., Cuttack.

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 appellant immediately.

Yours faithfully,

Shri
Desk Officer 7.1.17

Memo No. 530 /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.

Shri
Desk Officer 7.1.17

Memo No. 531 /HUD., dated the 7-1-17

Copy along with copy of the order forwarded to Shri Ramahari Mishra, At- House of Mangu Swain, Near Gopinath Temple, Andarpur, Kalyani Nagar, Cuttack-13 for information & necessary action.

Shri
Desk Officer 7.1.17

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31.10.2016

The instant appeal has been filed under section 18 of the Odisha Development Authorities Act, 1982 challenging the order of refusal of Building plan dated 25.02.2016 passed by the Planning Member, Cuttack Development Authority wherein the appellant has been intimated that in exercise of the powers under sub-section (3) of section 16 of the Odisha Development Authorities Act, 1982, permission to undertake development on plot No.19 /3236, in Mz, Chauliaganj of Cuttack Development Authority has been refused on the following grounds:-

1. The Plot in question is included in Jalasaya list submitted by Tahasildar, Sadar, Cuttack.
2. As per Notification No. 21690/HUD, dated 25.08.2015 no building permission on the part plot/sub-divided plot shall be considered unless the sub-division lay out is approved by Cuttack Development Authority.
3. As per Amin report your plot has not been demarcated at site.

The appellant submitted that he is the owner of Plot No.19/3236 an area of A0. 040 decimals and Plot No.19/3319 an area of A0.007 decimals to the extent of total area of A0.047 decimals which has been recorded as 'Puruna Padia" as per RoR. The said land has been mutated obtained RoR. Thereafter in order to construct the building over the said plot, he submitted building plan along with all necessary requisites for necessary approvals in terms of the provisions of the Odisha Development Authorities Act, 1982. But the Planning Member, Cuttack Development Authority refused to give permission on the ground that the Plot in question is included in Jalasaya list submitted by Tahasildar, Sadar, Cuttack, as per Notification No. 21690/HUD, dated 25.08.2015 no building permission on the part plot/sub-divided plot shall be considered unless the sub-division lay out is approved by Cuttack Development Authority and as per Amin report the plot in question has not been demarcated at site. He pointed out that the plot in question is not jalasaya at all. It has been recorded in the RoR as Puruna Padia. He further submitted that the Notification in question is unwarranted in the instant case since the sub-division of plot in question was much prior to the said notification. Regarding demarcation, he submitted that the plot in question was well demarcated by Revenue Authority and also has been surrounded by the boundary wall. He once again submitted that without considering all these facts the refusal order has been passed.

The Planning Member, Cuttack Development Authority submitted that the appellant applied for building permission for construction of three storied residential building over plot in question in terms of the provisions of the Odisha Development Authorities Act, 1982. On verification it is found that the said plot is covered under Jalasay list received from the Tahasildar, Sadar, Cuttack as

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per direction of the Hon'ble High Court in O.J.C.No.6721 of 1999. He further pointed out that as per the order of the Hon'ble High Court of Odisha in O.J.C. No. 6721 of 1999, dated 29.04.2005, no building permission shall be considered on the plot mentioned in the Jalasaya list. He again submitted that as per Notification No.21690/HUD, dated 25.08.2015, no building permission on the part plot/sub divided plot shall be considered unless the sub-division lay out is approved by the Cuttack Development Authority. Taking in to all these facts, the refusal order has been passed.

In view of the above submissions and perusal of records, it is revealed that the plot of the appellant has been recorded in RoR as Puruna Padia. The submission of the appellant in respect of sub-plot is not acceptable since the Odisha Development Authorities Act, 1982 restrict the same under section 15. Only the direction has been issued to all the Development Authorities in the said Notification. Hence, the case is remanded to the Cuttack Development Authority to dispose of the matter in pursuance of the order of the Hon'ble High Court and the RoR as submitted.

Sd/-

(S.K.Ratho)