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Government of Odisha
Housing & Urban Development Department

No. 11019 /HUD, Bhubaneswar, dated 16.5.17
TP-(apl)-125/2012

From

Shri A.K.Singh
Desk Officer

To

The Planning Member/ Secretary,
Bhubaneswar Development Authority.

Sub: Appeal Case No.06/2017 under section 91(2) of the Orissa Development Authorities Act, 1982 filed by Kahnu Charan Lenka-vrs-BDA, Bhubaneswar.

Sir,

I am sending herewith the copy of the Order dated 12.05.2017 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 15.5.17

Memo No. 11020 /HUD., dated the 16.5.17

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 15.5.17

Memo No. 11021 /HUD., Dated 16.5.17

Copy along with copy of the order forwarded to Sri Kanhu Charan Lenka, Plot No.-578, Nayapalli Bhoi Sahi, Bhubaneswar, Dist.-Khurda/ Sri Rabinarayan Kar, Plot No.1066 (P), Krushna Balaram Vihar, Nayapalli, Bhubaneswar for information and necessary action.



Desk Officer 15.5.17

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29.04.2017

The Associate Town Planner of Bhubaneswar Development Authority and the intervener are present. But none appeared on behalf of the appellant.

Heard.

In spite of issue of notices repeatedly, the appellant has not turned up to agitate the matter before the Appellate Authority.

Order is reserved.

Sd/-
(P.K.Jha)

12.05.2017

The instant appeal has been filed under Section 91(2) of the Odisha Development Authorities Act, 1982 challenging the order dated 26.08.2010 passed by the O.S.D. (ODA Act), Bhubaneswar Development Authority in UAP No.101 of 2010 and order dated 19.11.2012 passed by the Enforcement Officer, Bhubaneswar Development Authority wherein it has been ordered that the construction of one tin house with encroachment of Government land over plot No.578, Mz. Nayapalli is held illegal, unauthorised and liable for demolition and vacate the Government land.

The learned advocate for the appellant in the instant appeal submitted that the appellant took the peaceful possession of plot No. 578 measuring an Ac.0.070 decimal out Ac 0.180 decimal under the Mouza Nayapalli from Purna Chandra Bhoi and others after paying a sum of Rs.3,00,000/- (Rupees Three lakh)only. He has been residing over the said plot since 2008 and paying the Municipal holding tax, electricity dues and water rent regularly since then. The learned advocate for the appellant has also annexed the inhabitant certificate of the said plot from the Corporator, Ward No. 26, Bhubaneswar Municipal Corporation in the appeal. It has also been further mentioned in the appeal that one Rabinarayan Kar, the present intervener filed CMC No.14322 of 2008 in the court of Additional DCP-cum-E.M., Bhubaneswar u/s 144(2) of Cr.P.C. against Purna Chandra Bhoi and others over the said plot which was dismissed for default of Ist Party or his advocate on 8.7.2009. Further Sri Kar agitated the matter before the court of Civil judge (Junior Division) in C.S.No.451 of 2008 which was also dismissed for default of plaintiff. While the matter stood thus, an unauthorised

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Bhubaneswar which was dismissed for default of plaintiff. Thereafter, he agitated the matter before the Bhubaneswar Development Authority for which the demolition order has been passed. The said demolition has been challenged in the instant appeal which was dismissed for default on 27.12.2014. He further pointed out that the appellant again challenged the said order of the Appellate Authority before the Hon'ble High Court in W.P. (C) No.11377 of 2015 wherein the Hon'ble Court set aside the order dated 27.12.2014 passed by the appellate authority in the instant appeal since the appeal was dismissed due to non appearance of the appellant and remitted back the appeal and direct the appellate authority to rehear the appeal. The Hon'ble Court further directed that for the said purpose, the parties will appear before the appellate authority on 6th January, 2016 on which day the hearing of the appeal may be fixed and the same shall be disposed of as expeditiously as possible after appearance of the parties.

The Associate Town Planner, Bhubaneswar Development Authority submitted that the appellant has encroached the Government land and constructed a Tin house over the said Government land for which the unauthorised proceeding was initiated. But during the hearing, the appellant has not produced any documentary evidence in support of his construction over the Government land. Accordingly the demolition order has been passed.

In view of the above submission and perusal of records, it is revealed that the appellant has not turned up to agitate his matter before this forum in spite of issue of notices repeatedly i.e. on 25.06.2016, 16.07.2016, 26.11.2016, 25.02.2017 and 29.04.2017. Regarding ownership of the land and construction, the appellant has not furnished any relevant documents in the appeal for which I am inclined to believe that the appellant has undertaken the construction over the Government land without obtaining approval from the competent authority. Hence, the order passed by the lower court is upheld. Accordingly, the appeal is dismissed.

Sd/-
(P.K.Jha)