

Government of Odisha
Housing & Urban Development Department

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No. 7210 /HUD, Bhubaneswar, dated 17.3.18
TP-(apl)-98/2013

From

Shri A.K.Singh
Desk Officer

To

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

Sub: Appeal Case No.98/2013 under section 91(2) of the Orissa Development Authorities Act, 1982 filed by Amina Bibi-vrs-BDA, Bhubaneswar.

Sir,

I am sending herewith the copy of the Order dated 16.03.2018 passed by the Appellate Authority i.e. the Commissioner-cum-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,



Desk Officer 16.3.18

Memo No. 7211 /HUD., dated the 17.3.18

Copy along with copy of the order forwarded to the Team Lead, 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 16.3.18

Memo No. 7212 /HUD., Dated 17.3.18

Copy along with copy of the order forwarded to Amina Bibi, Plot No.3535, Gadakana, P.O.- Mancheswar Railway Station, P.S.-Mancheswar, Bhubaneswar, Dist-Khurda/Smt. Nirupama Sasmal, Plot No.21(P), Saheed Nagar, Bhubaneswar-751007, Dist.-Khurda for information and necessary action.



Desk Officer 16.3.18

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16.12.2017

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

Heard.

Order is reserved.

Sd/-

(G.Mathi Vathanan)

16.03.2018

The instant appeal has been filed u/s-91(2) of the Odisha Development Authorities Act, 1982 by Amina Bibi challenging the order dated 18.07.2013 passed by the OSD (ODA Act), Bhubaneswar Development Authority wherein the appellant has been directed to demolish the entire construction undertaken over Government land bearing plot No.3574 (pt), Mz. Gadakan, P.S. Mancheswar and also vacate the encroachment of the said land.

The learned advocate on behalf of the appellant in the appeal petition has submitted that the appellant is not the owner of plot No.3574 (pt). The owner of the said plot is Taibun Bibi. But the lower Court has ordered on 18.07.2013 for demolition of construction undertaken over the said plot. The said order has been communicated to the appellant who is not the owner of the said plot. He has further submitted in the appeal that the appellant is not residing over the said plot. The impugned order has been passed in absence of the original owner for which the said order is nullity in the eyes of law. He further pointed out therein that the alleged construction was made by Taibun Bibi since 1950 when neither Bhubaneswar Development Authority nor Bhubaneswar Municipality was in existence. Hence, he prayed to quash the said impugned order.

The intervener submitted that the Bhubaneswar Development Authority initiated unauthorized proceeding against the appellant on the basis of complaint filed by him since he is seriously affected and sufficiently prejudiced by the unauthorized construction undertaken by the appellant over the Government land. He further submitted that he is the adjacent plot owner of the Government plot. Due to the construction undertaken by the appellant over the said Government land, the access to his plot has been blocked for which there is no way for egress and ingress to his plot. After detailed hearing in the lower court, the demolition order has been passed.

The Associate Town Planner, Bhubaneswar Development Authority submitted that the allegation was filed before the Bhubaneswar Development Authority by one Sri Dinesh Kumar Patra for Nirupama Samal, the present intervener that the appellant has undertaken unauthorised construction of tin shed house and one plinth level building over Government land bearing plot No.3574 (p) in Mz. Gadakan, P.S. Mancheswar without obtaining permission from the competent authority. Accordingly, the unauthorised proceeding was initiated against the appellant

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and notices were issued against her under section 91(1) and 92 of the Odisha Development Authorities Act, 1982. During the course of hearing the appellant did not submit the relevant documents in support of the building undertaken over the suit land. Accordingly, the demolition order to remove the entire unauthorised construction as undertaken and vacate the Government land.

In view of the above contentions, it is admitted fact that the appellant is not the owner of the plot in question. The unauthorised construction has been undertaken without obtaining necessary permission from the competent authority. Regarding the ownership, no document has been submitted by the appellant. But on perusal of RoR submitted by the intervener, it is revealed that the plot in question is Government land. Further in spite of issue of notices, the appellant has not turned up to agitate his case in this forum. In my opinion, the appellant is not interested in the matter and the order passed by the lower Court is just and proper. Hence the appeal merits no consideration and is accordingly dismissed.

Sd/-

(G.Mathi Vathanan)