

BY SPEED POST

**IN THE COURT OF SMT. USHA PADHEE, PRINCIPAL SECRETARY TO
GOVERNMENT, HOUSING AND URBAN DEVELOPMENT DEPARTMENT, ODISHA,
BHUBANESWAR.**

(Appellate Authority under O.D.A. Act, 1982)

Appeal No.16 of 2024

Under Section 91(2) of the O.D.A. Act., 1982

Om Shree Infra Pvt Ltd.....Appellant

-vrs-

BDA, Bhubaneswar Respondent.

Order

Date 05.04.2025

The case record is put up today.

This proceeding taken up in person mode.

The Learned Advocate for the appellants is present. Bandita Singh (Respondent No. 2), Kalyani Singh (Respondent No.3) are present. The representative of Bhubaneswar Development Authority (BDA), Bhubaneswar [Respondent] is present. Director of Town Planning is present.

This Memorandum of Appeal dated 05.02.2024 has been filed by Sri. Keshab Chandra Pradhan (aged about 52 years), S/o Late Anadi Charana Pradhan, Managing Director, M/s Om Shree Infratech Pvt. Ltd. , having its regd. Office at Plot No. 1693, Hanspal Samili Naharkanta, PO-Naharkanta, Bhubaneswar, Khurdha and others under sub-section (2) of Section- 91 of the Odisha Development Authorities Act, 1982, [here in after referred to as "the Act"] registered as TP Appeal No. 16/2024.

Heard the Parties.

The appellant filed the instant appeal to set aside the impugned order dated 31.01.2024 passed by Planning Member, Bhubaneswar Development Authority in UAP case No. 02/2018 for demolition of unauthorized structure raised by the appellant.

The allegation against the appellant is that, he has constructed a S+4 storied building in Andilo Mouza of Baliana, Dist-Khurdha without obtaining any prior building plan approval from the Competent Authority.

The submission of the appellants is as follows;

- i. The Appellants are the Promoter/Builder (Appellant No. 1), who constructed the S + 4 storied Building in Andilo Mouza of Baliana, Khurdha spanning two plots No. 798 & No. 798/2150 as per a Development Agreement and Irrevocable General Power of Attorney (GPA) from the Landowners Bandita Singh and Kalyani Singh (Respondent Nos. 2-3) and the Occupants (Appellant Nos. 2-7), who purchased the flats via Registered Sale Deeds or Agreement for Sale and residing there since 2018.
- ii. The landowners have obtained necessary Building Plan Approval from Baliana Grama Panchayat on 25/03/2010 as the said area came under the purview of BDA's extended area in the year 2011.
- iii. In 2016 the landowners executed a Development Agreement and Irrevocable General Power of Attorney (GPA) in favour of the Promoter for construction of a multi-storied residential house on 59%:41% sharing basis. The Construction took place based on the approved plan obtained from Baliana Grama Panchayat with the consent of the landowner.
- iv. The Promoter applied before BDA for plan approval for the existing scheduled property on 31/08/2016. Which was refused by BDA due to non-submission of requisite NOC in this regard.
- v. In the meantime, the landowners unilaterally cancelled the GPA in favor of the promoter. The Promoter approached the Ld. Civil Court, Bhubaneswar, and the civil suit is still pending.
- vi. By that time, 9 flats were sold via Registered Sale Deeds, and one via Agreement for Sale and the buyers took possession and are residing since then. The sale was within the Landowners' knowledge. In 2019, the Landowners also forcibly entered their share of the flats and rented them out.
- vii. Since, BDA refused development permission, the Promoter applied for regularization of the building under the Amnesty Scheme by depositing the prescribed fees.

- viii. On refusal of the regularisation the appellants (Promoter and Occupants) filed an appeal before the Principal Secretary to Government seeking regularization of the said construction and to drop the proceedings initiated in UAP case, registered as APPEAL No. 09 of 2024.

Perused the memorandum of appeal, wherein it has been prayed to drop the proceedings initiated vide UAP case No. 02/2018 and consider the his application submitted under SRUC, 2018/2019 for regularisation of the aforesaid structure.

The representative of BDA submitted that, the Appeal Case No. 09/2024 challenging the rejection of the regularisation under SRUC, which has been remitted back to BDA for reconsideration has been rejected by BDA, since it do not meet the norms prescribed under the scheme.

After careful consideration of the submissions made by both the parties, this court is of view that, the Promoter Sri Keshab Chandra Pradhan, landowners Bandita Singh & Kalyani Singh and all the occupants to vacate the property and remove the unauthorized construction, failing to adhere shall result in action under section 91(1) of ODA Act, 1982 and the same shall be demolished by the Enforcement Squad, where the demolition costs shall to be borne by both the landowner and promoter, as the landowner being clearly defined as a promoter under Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016. Non-payment shall result in recovery as land revenue arrears, including attachment of land over which the structure has been constructed. Hence, this court upholds the order dated 16.01.2024 in UAP No. 02/18 passed by the BDA, Bhubaneswar.

Accordingly, this appeal dismissed.

Urgent copy of this order be supplied as per Rules and be also uploaded in the Department website.

Sd/-

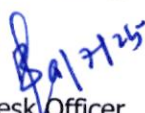
(Smt. Usha Padhee)

GOVERNMENT OF ODISHA
HOUSING & URBAN DEVELOPMENT DEPARTMENT
3RD FLOOR, KHARAVEL BHAWAN, BHUBANESWAR, PIN-751001

Memo No. 15688 /HUD.,

Date. 09.07.25

Copy forwarded to the OSD (ODA Act), Bhubaneswar Development Authority, Bhubaneswar for information and necessary action.


Desk Officer

Memo No. 15689 /HUD.,

Date 09.07.25

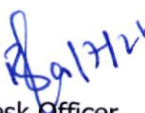
Copy forwarded to Om Shree Infratech Pvt. Ltd, Plot no. 1693, hanspal Samil, Naharkanta, PO- Naharkanta, PS- Mancheswar, Bhubaneswar, Dist- Khurdha for information and necessary action.


Desk Officer

Memo No. 15690 /HUD.,

Date 09.07.25

Copy forwarded to Bandita Singh, W/o- Bijay Kumar Singh, Badheikera, PO- Gabakund, Sakhigopal, PS- Satyabadi, Puri / Kalyani Singh, W/o- Sarat Chandra Singh, Flat No. 102, 1st floor, Premises of Om shree residency Andilo Balianata, Bhubaneswar for information and necessary action.


Desk Officer

Memo No. 15691 /HUD.,

Date 09.07.25

Copy forwarded to on Harekrushna Biswal, Flat No. 104/ Smt. Arundhati Mohanty, Flat No. 403/ Subashish Pradhan, Flat No. 303/ Diptiranjana Parida, Flat No. 302/ Smt. Manorama Prusty, Flat No. 304/ Smt. Priyadarshini Mohanty, Flat No. 209, all are resident of Om Shree Residency, At- Andilo, Balianata, Bhubaneswar, Khurdha for information and necessary action.


Desk Officer

Memo No. 15692 /HUD.,

Date. 09.07.25

Copy forwarded to the Team Lead, TASU, Housing & Urban Development Department with a request to take necessary steps in order to make the said notice available in the official website of this Department.


Desk Officer