

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.25 of 2024

Under Section 18(1) of the O.D.A. Act., 1982

Smt. Bandita Singh.....Appellant

-vrs-

BDA, Bhubaneswar Respondent.

Order

Date 04.05.2025

The case record is put up today.

This proceeding taken up in person mode.

The Learned Advocate for the appellant is present, the representative of Bhubaneswar Development Authority (BDA), Bhubaneswar [Respondent] is present. Director of Town Planning is present.

This Memorandum of Appeal dated 30.03.2024 has been filed by Smt. Bandita Singh (aged about 58 years), W/o Sri Bijay Kumar Singh , resident of Vill: Badheikara, PO- Gabakund, PS- Satyabadi, Dist: Puri and Smt. Kalyani Singh (aged about 57 years), W/o Sri Sarat Chandra Singh, resident of Vill: Andilo, PO/PS:-Balianta, Dist: Khurda under sub-section (1) of Section- 91 of the Odisha Development Authorities Act, 1982, [here in after referred to as "the Act"] registered as TP Appeal No.25/2024.

Heard the Parties.

The appellant filed the instant appeal for modification of the order dated 16.01.2024 passed by Planning Member, Bhubaneswar Development Authority in UAP case No. 02/2018 where it has ordered demolition of an unauthorized structure and held the Appellants (Landowners) along with the builder equally liable and directed recovery of the demolition cost proportionately.

The submission of the appellant is as follows ;

- i. The Appellants are landowners who entered into a Development Agreement with a builder, M/s. Om Shree Infratech Pvt Ltd. for the development of their land. The Builder applied to BDA for approval of the building plan but due to deficiency of NOC from Water Resources Department the application was rejected by BDA on 01.05.2019. Despite the rejection and an order of stay on further construction issued by BDA on 12.01.2018, the Builder proceeded to erect an illegal structure. The Builder allegedly sold flats to home buyers by producing a fake plan approval from SRO: Baliana, which was later confirmed by the Baliana Gram Panchayat on 20.07.2019 to be non-existent. The Builder also attempted to regularize the building under the Sarbakhya scheme, which was rejected by BDA on 10.01.2022.
- ii. The BDA initiated a UAP proceeding against the builder. The impugned order dated 16.01.2024 by the Respondent Authority (BDA) has directed recovery of demolition costs from the Appellants (landowners) as well, along with the builder. The Respondent Authority has made a wrong interpretation of Section 2 (zk) of the RE(R&D) Act 2016, regarding the definition of a promoter and landowners.
- iii. Since, The land owners did not participated in the business of the builder, they are only entitled to their share of the constructed area and as per the RE (R&D) Act 2016, the land owners are not the cannot be defined as the promoters.
- iv. The land owners are victims of the builder's misdeed and has no role in the illegal construction. The Respondent Authority has wrongly directed the recovery of proportionate demolition expenses from the Appellants, despite them having no role in the construction activities or the business of the builder firm. They assert there is no evidence to show their consent to the illegal construction.

During the course of hearing, the appellant prayed that the Authority / BDA be directed to partially modify the order dated 16.01.2024 to the extent of removing their remarks against the Appellants/ Landowners and to exempt them from the recovery of proportionate demolition cost.

The representative of BDA submitted that, the cost of demolition of the building shall be borne both by the land owner and the builder proportionately as land owner himself is a

promoter within the meaning of section 2(zk) of Real Estate (Regulation and Development) Act 2016.

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. 15861 /HUD.,

Date. 11/07/2025

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


Desk Officer

Memo No. 15862 /HUD.,

Date 11/7/2025

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. 15863 /HUD.,

Date. 11/07/2025

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