

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. 18 of 2024

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

Prafulla Kumar RathAppellant

-vrs-

BMC, Bhubaneswar Respondent.

Order

Date 21.06.2025

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.

This Memorandum of Appeal dated 21.02.2024 has been filed by Sri Prafulla Kumar Rath (aged about 74 years), S/o Late Shri Madan Mohan Rath, resident of VIM-791, Sailashree Vihar, Chandrasekharapur, Bhubaneswar-751021, Dist- Khordha under sub-section (1) of Section-18 of the Odisha Development Authorities Act, 1982, [here in after referred to as "the Act"] registered as TP Appeal No. 18/2024.

Heard the Parties.

The appellant filed the instant appeal to set aside the impugned order dated 21.12.2023 passed by ODA Court in UAP No. 116/19 on permission granted under provisions of the Schemes for Regularization of Unauthorized Constructions [here in after referred to as "SRUC"], 2019.

This is an appeal filed by Prafulla Kumar Rath (Appellant), the owner of House No. VIM-791, Sailashree Vihar, Chandrasekharapur, Bhubaneswar, challenging an order dated 09.02.2024 passed by the Deputy Commissioner (ODA Court), Bhubaneswar Municipal Corporation, in UAP Case No. 116 of 2019. The Respondents in this appeal include the Deputy Commissioner (ODA ACT), Bhubaneswar Municipal Corporation, Secretary,

Bhubaneswar Development Authority, City Planner, Bhubaneswar Municipal Corporation, and Mulla Liyaqat Ali (Respondent No. 4), the owner of Plot No. VIM-789.

The core of the dispute revolves around an alleged unauthorized and illegal construction undertaken by Respondent No. 4 (Mulla Liyaqat Ali) on Plot No. VIM-789. The Appellant contends that this construction involved an encroachment over the common wall and opening of doors and windows towards the Appellant's house, creating a nuisance and disturbing the privacy of the Appellant's family.

The Appellant asserts that the Learned Lower Court (ODA Court) committed gross errors by-Dropping the proceeding in UAP Case No. 116 of 2019 without providing an opportunity for the Appellant to be heard, despite specific complaints and photographic evidence of the ongoing illegal construction. The Appellant further submitted that the authority has failed to direct a joint inspection of the disputed plot, which would have confirmed the violation and thus, incorrectly concluding that there was no violation or unauthorized construction by the Opposite Party (Respondent No. 4), especially given the clear deviation and encroachment reported by the ODA office's own record.

The Appellant seeks to have the impugned order set aside and prays to direct order for demolition of the unauthorized construction by Respondent No. 4. They also highlight that the original grievance petition was filed on 01.02.2019, accompanied by a photograph of the alleged unauthorized construction.

During the course of hearing the representative of ODA Court, BMC submitted that as per the report and sketch map submitted by the area amin and the comparison statement submitted by the Planning Assistant, the lower court found that the existing building has not deviated to the approved building plan w.r.t setback and the approved area is as per the approved plan. Accordingly, the lower court dropped the UAP case No. 116/19 in the interest of justice.

Considering the facts and submission made by both the parties, this court found no reason to interfere with the orders passed by the lower court and accordingly the appeal is 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. 30435 /HUD.,

Date. 16.12.2025

Copy forwarded to the OSD (ODA Act), Bhubaneswar Municipal Corporation, Bhubaneswar/ City Planner, Bhubaneswar Municipal Corporation, Bhubaneswar .
(odacourtmmc@gmail.com) for information and necessary action.


16/12/25
Desk Officer

Memo No. 30436 /HUD.,

Date 16.12.2025

Copy forwarded to Prafulla Kumar Rath, S/o- Late Madan Mohan Rath, resident of VIM-791, Sailashree Vihar, Chandrasekharapur, Bhubaneswar, Dist- Khordha for information and necessary action.


16/12/25
Desk Officer

Memo No. 30437 /HUD.,

Date. 16.12.2025

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.


16/12/25
Desk Officer