

BY SPEED POST

**IN THE COURT OF SRI GANGADHAR NAYAK, OAS(SS), SPECIAL SECRETARY
TO GOVERNMENT, HOUSING AND URBAN DEVELOPMENT DEPARTMENT,
ODISHA, BHUBANESWAR.**

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

TP Appeal No. 19 of 2023

Under Section 19 (2) of the O.D.A. Act., 1982

Sasanka Sekhar Mohapatra.....Appellant

-vrs-

CDA, Cuttack..... Respondent.

Order

Date 24.03.2026

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 Cuttack Development Authority (CDA), Cuttack [Respondent] is present.

This Memorandum of Appeal dated 16.06.2023 has been filed by Sri Sasanka Sekhara Mohapatra (aged about 57 years), S/o Late Basanta Kumar Mohapatra, resident of Opposite Prajatantra, At/PO-Chandnichowk, PS-Lalbag, Town/City/Dist.-Cuttack- 753002 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.19/2023.

Heard the Parties.

The appellant filed the instant appeal to set aside the impugned order dated 08.05.2023 passed by Law Officer, Cuttack Development Authority in UC Case No. 216 of 2016 and communicated to the appellant vide letter No. 6525/CDA, Dt. 16.05.2023 on removal of the unauthorized/deviated construction undertaken by the appellant.

The allegation originated from a complaint dated 13.06.2016 filed by a neighboring property owner, Smt. Sarada Agrawalla, alleging that the Appellant demolished a long standing boundary wall to encroach upon her land under the guise of new construction and has undertaken unauthorized construction of a ground floor building on the vacant portion of Hal Plot No. 5, corresponding to Sabik Plot Nos. 2077 and 2078 in Mouza-Nayasarak, without obtaining prior permission or a sanctioned plan from the CDA, in gross violation of the provisions of the Odisha Development Authorities (ODA) Act, 1982.

The Appellant contend that the impugned demolition order dated 08.05.2023 is passed without proper application of mind, as it ignores material evidence including the R.O.R. and the original sanctioned plan dated 07.07.1953 issued by the then competent authority, the Cuttack Municipality. It is submitted that the case building is an ancestral structure constructed by the Appellant's predecessor, Late Susama Dei, and the works undertaken in 2016 were merely essential repairs and maintenance of a pre-existing structure, permissible under Section 15 of the O.D.A. Act, 1982 and Rule 9 of the ODA Rules, 2020. The Appellant further asserts that U.C. Case No. 216/2016 was procedurally flawed due to non-joinder of necessary parties and reliance on a biased Amin report, and that the proceedings resulted in denial of fair opportunity.

The Representative of CDA submitted that the construction of the ground floor building by the Appellant on Plot No. 5, Mouza-Nayasarak, Unit No. 14, is unauthorized and in violation of the ODA Act, relying on the Amins report dated 05.07.2016 stating that construction was made on a vacant portion without prior permission or sanctioned plan and even despite issuance of notice under Section 91(1) and order under Section 92(1) dated 15.09.2016, the development continued. The CDA submits that the structure is new construction, not an old approved one, and that despite sufficient opportunity from 2016 to 2023, the Appellant failed to establish legality, justifying the demolition order.

Considering the facts and submission made by both the parties, this court is of view that, the enquiry was conducted by the Amin without prior notice to the appellant and in his absence, thereby depriving him of a reasonable opportunity of

being heard. Such action is in violation of the principles of natural justice. Accordingly, it is deemed necessary that the appellant be afforded adequate opportunity to present his case, and all further proceedings shall be conducted in his presence. Hence, the matter is remanded to the CDA for disposal afresh in accordance with law.

Accordingly, appeal is disposed of.

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

Sd/-

(Sri Gangadhar Nayak)

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

Memo No. 10434 /HUD.,

Date. 10.04.2026

Copy forwarded to the Planning Member, Cuttack Development Authority (CDA), Cuttack/ Law Officer, Cuttack Development Authority (CDA), Cuttack for information and necessary action.


Desk Officer

Memo No. 10435 /HUD.,

Date 10.04.2026

Copy forwarded to Sasanka sekhar Mohapatra, S/o- Late Basanta Kumar Mohapatra, At/po- Chnadini Chowk, Opposite of Prasatantra, PS- Lalbag, Town/Dist.- Cuttack for information and necessary action.


Desk Officer

Memo No. 10436 /HUD.,

Date. 10.04.2026

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