
(2011) 07 OHC CK 0035
In the Orissa High Court
Case No : Writ Petition (C) No. 1708 of 2011

Nirakar Sahoo

APPELLANT

Vs

Bhubaneswar Development Authority and Others

RESPONDENT

Date of Decision : 16-07-2011

Acts Referred:

Orissa Development Authorities Act, 1982 — Section 92(1), 92(1)

Citation : (2011) 112 CLT 535 : (2011) 2 OLR 556

Hon'ble Judges : S.K. Mishra, J;B.P. Das, J

Bench : Division Bench

Advocate : P.K. Sahu, for the Appellant; Dayananda Mohapatra, J. Patnaik, A.G.A., Mr. A.K. Mishra, for the Respondent

Judgement

1. Heard Mr. P.K. Sahoo, Learned Counsel for the Petitioner, Mr. J.P. Pattnaik, Learned Additional Government Advocate for O.Ps. 2, 3 & 4; Mr. D. Mohapatra, Learned Counsel for O.P.1-B.D.A. & Mr. A.K. Mishra, Learned Counsel for O.P.5.

The Petitioner has filed this Writ Petition against the inaction of O.Ps. 1 & 2 in stopping the unauthorized constructions as per the Order Dated 9.9.2010 & notice 11.1.2011 issued u/s 92(1) of the Orissa Development Authorities Act, 1913.

2. The fact of this case is that the B.D.A. issued notice to the violator for stopping the construction work, copy of which was communicated to the I.I.C., Mancheswar P.S. for information & necessary action. Though the said communication was received by the Mancheswar P.S., no action was taken on the same & not even entered in the Station Diary. It further reveals that the B.D.A. did not pursue the matter & remained silent only after issuing the impugned notice to the LLC, Mancheswar P.S., u/s 92(1) of the Orissa Development Authorities Act, 1982.

3. The entire episode shows that the B.D.A. is not serious enough to stop the unauthorized construction, as required under law. They are perhaps of the

impression that their part of job is over once copy of the notice is forwarded to the Police Station. The police authorities were also non-responsive to the notice of the B.D.A. & did not take any action on the same. In our considered opinion, unless a coordinated effort is made by the Development Authorities as well as law enforcing agencies, one cannot expect to stop the unauthorized constructions, which are recently rampant. In order to put an end to the allegations & counter-allegations & to curb the maladies of inaction on the part of the law enforcing agency to stop the unauthorized construction, we direct the following:-

4. When the notice u/s 92(1) of the Orissa Development Authorities Act, 1982 is issued to the violator, a copy of the same shall be endorsed to the concerned I.I.C of the P.S. requesting him to give necessary police assistance to the officials of Development Authorities & it is the Development Authority to see that notice is duly served on the concerned I.I.C of the P.S. On receipt of such notice, the concerned I.I.C shall provided date & time, which shall not be later than three days from the date of service of the 92 (1) notice on the LLC on which date the police authorities shall accompany the enforcement officers of Development Authorities for the purpose of identification of the unauthorized construction & stoppage of the same.

5. Pursuant to the order of this Court dated 15.7.2011, Sri Itikanta Mohapatra, LLC, Lingaraj P.S., who was the LLC of Mancheswar P.S. & Sri Priya Ranjan Satapathy, I.I.C. Mancheswar P.S., appear in person. Sri Mohapatra submits that he was in Mancheswar P.S. only for four months but the letter of the B.D.A. was never brought to his notice, for which he could not take any action.

6. So far as non-compliance of this Court's Order Dated 18.2.2011 is concerned, Sri Mohapatra begs unconditional apology. Though we are not satisfied with his explanation offered by Sri Mohapatra, looking at his career, who is a young Officer, we are not inclined to proceed against him under the Contempt of Courts Act.

7. The B.D.A. is directed to conclude the 91 proceeding within a period of two months from today. Personal appearance of the Officers is dispensed with.

8. The Writ Petition is disposed of so also the contempt proceeding is dropped accordingly. Issue urgent certified copy.

9. Let a free copy of this order be supplied to the Learned Counsel for the B.D.A. as well as Learned Counsel for the State for onward communication to the Commissioner of Police, all D.C.Ps. & Superintendents of Police.