

ITEM NO.58

COURT NO.7

SECTION III-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCONMT.PET.(C) No. 595/2025 in C.A. No. 14604/2024

BIMALENDU PRADHAN

Petitioner(s)

VERSUS

STATE OF ODISHA

Respondent(s)

WITH

Diary No.42824/2025 (III-A)

(FOR APPLICATION FOR PERMISSION ON IA 185203/2025)

Date : 01-12-2025 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA

HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Petitioner(s) :

Mr. Shadan Farasat, Sr. Adv.
Mr. Kaustubh Chaturvedi, Adv.
Ms. Sarah Sunny, Adv.
Mr. Karan Verma, AORMr. Tushar Jain, AOR
Mr. Pradul Singhal, Adv.
Ms. Kanika Gupta, Adv.

For Respondent(s) : Ms. Mithu Jain, AOR

Mr. Shaurya Sahay, AOR
Ms. Palak Mathur, Adv.
Mr. Aman Jaiswal, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. Our Order dated 22-8-2025 reads thus:-

1. Although the petitioner has invoked the contempt jurisdiction of this Court, yet we treat this petition as an application seeking compliance or rather reporting compliance of the directions issued by this Court vide the Judgment and Order dated 17-12-2024 in Civil Appeal No.14604/2024.

2. In the main Judgment, this Court issued the following directions:-

"21. Therefore, in the larger public interest, we are inclined to issue the following directions, in addition to the directives issued by this Court in Re: Directions in the matter of demolition of structures (supra):

(i) While issuing the building planning permission, an undertaking be obtained from the builder/applicant, as the case may be, to the effect that possession of the building will be entrusted and/or handed over to the owners/beneficiaries only after obtaining completion/occupation certificate from the authorities concerned.

(ii) The builder/developer/owner shall cause to be displayed at the construction site, a copy of the approved plan during the entire period of construction and the authorities concerned shall inspect the premises periodically and maintain a record of such inspection in their official records.

(iii) Upon conducting personal inspection and being satisfied that the building is constructed in accordance with the building planning permission given and there is no deviation in such construction in any manner, the completion/occupation certificate in respect of residential / commercial building, be issued by the authority concerned to the parties concerned, without causing undue delay. If any deviation is noticed, action must be taken in accordance with the Act and the process of issuance of completion/occupation certificate should be deferred, unless and until the deviations pointed out are completely rectified.

(iv) All the necessary service connections, such as, Electricity, water supply, sewerage connection, etc., shall be given by the service provider / Board to the buildings only after the production of the completion/occupation certificate.

(v) Even after issuance of completion certificate, deviation/violation if any contrary to the planning permission brought to the notice of the authority immediate steps be taken by the said authority concerned, in accordance with law, against the builder / owner / occupant; and the official, who is responsible for issuance of wrongful completion /occupation certificate shall be proceeded departmentally forthwith.

(vi) No permission /licence to conduct any business/trade must be given by any authorities including local bodies of States/Union Territories in any unauthorized building irrespective of it being residential or commercial building.

(vii) The development must be in conformity with the zonal plan and usage. Any modification to such zonal plan and usage must be taken by strictly following the rules in place and in consideration of the larger public interest and the impact on the environment.

(viii) Whenever any request is made by the respective authority under the planning department/local body for co-operation from another department to take action against any unauthorized construction, the latter shall render immediate assistance and co-operation and any delay or dereliction would be viewed seriously. The States/UT must also take disciplinary action against the erring officials once it is brought to their knowledge.

(ix) In the event of any application / appeal / revision being filed by the owner or builder against the non-issuance of completion certificate or for regularisation of unauthorised construction or rectification of deviation etc., the same shall be disposed of by the authority concerned, including the pending appeals / revisions, as expeditiously as possible, in any event not later than 90 days as statutorily provided.

(x) If the authorities strictly adhere to the earlier directions issued by this court and those being passed today, they would have deterrent effect and the quantum of litigation before the Tribunal / Courts relating to house / building constructions would come down drastically. Hence, necessary instructions should be issued by all the State/UT Governments in the form of Circular to all concerned with a warning that all directions must be scrupulously followed and failure to do so will be viewed seriously, with departmental action being initiated against the erring officials as per law.

(xi) Banks / financial institutions shall sanction loan against any building as a security only after verifying the completion/occupation certificate issued to a building on production of the same by the parties concerned.

(xii) The violation of any of the directions would lead to initiation of contempt proceedings in addition to the prosecution under the respective laws."

3. We call upon the respondent to report compliance of the directions issued by this Court, referred to above.

4. Issue notice returnable in two weeks.

5. Dasti service, in addition, is permitted."

2. In pursuance of the directions issued by this Court in the main matter, the State of Odisha has issued Notification dated 4-9-2025.

3. The Notification reads thus:-

"Notification

File No. HUD-TP-CASEOP-0055-2025 20784/HUD Bhubaneswar, Dated 04.9.25

In the judgement dated 17.12.2024 passed by the Hon'ble Supreme

Court in Civil Appeal No.14604 of 2024, the Supreme Court has taken a strong stance against illegal and unauthorized constructions, emphasizing that they cannot be encouraged. The Court has opined that the construction(s) put up in violation of or deviation from the building plan approved by the local authority and the constructions which are audaciously put up without any building planning approval, cannot be encouraged. Each and every construction must be made scrupulously following and strictly adhering to the Rules. In the event of any violation being brought to the notice of the Courts, it has to be curtailed with iron hands and any lenience afforded to them would amount to showing misplaced sympathy.

Unauthorized constructions, apart from posing a threat to the life of the occupants and the citizens living nearby, also have an effect on resources like electricity, ground water and access to roads, which are primarily designed to be made available in orderly development and authorized activities. Master plan or the zonal development cannot be just individual centric but also must be devised keeping in mind the larger interest of the public and the environment.

Now, in pursuance of the aforesaid judgement, the Housing and Urban Development Department issues the following directions which shall be strictly adhered in line with the Odisha Development Authorities Act, 1982 and Odisha Town Planning and Improvement Trust Act, 1956 and Rules made thereunder:

(i) While issuing the building planning permission, an undertaking be obtained from the builder/applicant, as the case may be, to the effect that possession of the building will be entrusted and/or handed over to the owners/beneficiaries only after obtaining completion/occupation certificate from the authorities concerned.

(ii) The builder/developer/owner shall cause to be displayed at the construction site, a copy of the approved plan during the entire period of construction and the authorities concerned shall inspect the premises periodically and maintain a record of such inspection in their official records.

(iii) Upon conducting personal inspection and being satisfied that the building is constructed in accordance with the building planning permission given and there is no deviation in such construction in any manner, the completion/occupation certificate in respect of residential/ commercial building, be issued by the authority concerned to the parties concerned, without causing undue delay. If any deviation is noticed, action must be taken in accordance with the Act and the process of issuance of completion/occupation certificate should be deferred, unless and until the deviations pointed out are completely rectified.

(iv) All the necessary service connections, such as, Electricity, water supply, sewerage connection, etc., shall be given by the service provider / Board to the buildings only after the production of the completion/occupation certificate.

(v) Even after issuance of completion certificate, deviation / violation if any contrary to the planning permission brought to the notice of the authority immediate steps be taken by the said authority concerned, in accordance with law, against the builder / owner / occupant; and the official, who is responsible for issuance of wrongful completion /occupation certificate shall be proceeded departmentally forthwith.

(vi) No permission /licence to conduct any business/trade must be given by any authorities including local bodies of States/Union Territories in any unauthorized building irrespective of it being residential or commercial building.

(vii) The development must be in conformity with the zonal plan and usage. Any modification to such zonal plan and usage must be taken by strictly following the & rules in place and in consideration of the larger public interest and the impact on the environment.

(viii) Whenever any request is made by the respective authority under the planning department/local body for co-operation from another department to take action against any unauthorized construction, the latter shall render immediate assistance and co-operation and any delay or dereliction would be viewed seriously. The States/UT must also take disciplinary action against the erring officials once it is brought to their knowledge.

(ix) In the event of any application / appeal / revision being filed by the owner or builder against the non-issuance of completion certificate or for regularisation of unauthorised construction or rectification of deviation etc., the same shall be disposed of by the authority concerned, including the pending appeals / revisions, as expeditiously as possible, in any event not later than 90 days as statutorily provided.

(xi) Banks / financial institutions shall sanction loan against any building as a security only after verifying the completion/occupation certificate issued to a building on production of the same by the parties concerned.

4. Mr. Shadan Farasat, the learned Senior counsel appearing for the original petitioner would submit that although the State has issued Notification, referred to above, yet there is some deficiency in the same as regards two aspects. He has invited our attention to the direction as contained in Para 21(i) :-

"21. (i) While issuing the building planning permission, an undertaking be obtained from the builder/applicant, as the case may be, to the effect that possession of the building will be entrusted and/or banded over to the owners/beneficiaries only after obtaining completion/occupation certificate from the authorities concerned."

5. According to him, although this Court has said completion/occupation certificate, yet in the State of Odisha, the completion certificate is being issued by the Builder and not by any Statutory Authority. It is only the occupation certificate that can be issued by the Builder.

6. So far as the Notification is concerned, we find reference of only occupation certificate and not the completion certificate.

7. In such circumstances, referred to above, Mr. Farasat wants the State to look into this aspect and issue a corrigendum to the Notification saying that the completion certificate shall also to be issued by a prescribed authority/Statutory Authority.

8. Insofar as the second aspect is concerned, he invited our attention to the direction as contained in para 21(x).

9. The same reads thus:-

"21. (x) If the authorities strictly adhere to the earlier directions issued by this court and those being passed today, they would have deterrent effect and the quantum of litigation before the Tribunal / Courts relating to house / building constructions would come down drastically. Hence, necessary instructions should be issued by all the State/UT Governments in the form of Circular to all concerned with a warning that all directions must be scrupulously followed and failure to do so will be viewed seriously, with departmental action being initiated against the erring officials as per law."

10. According to him, the direction as contained in para (x) has been completely overlooked in the Notification, referred to above.

11. We request the learned counsel appearing for the State of Odisha to keep these two aspects in mind and take appropriate instructions from the Authority concerned.

12. One copy of this order shall be furnished at the earliest to Ms. Mithu Jain, the learned counsel appearing for the State of Odisha.

13. List in the month of January, 2026.

Diary No(s). 42824/2025:-

1. The directions issued by this Court as contained in Para 22 of our Judgment and Order dated 5-12-2024 reads thus:-

"22. As far as the present case is concerned, we pass the following orders:

(i) The order of the High Court shall stand confirmed.

(ii) The appellants are directed to vacate and handover the vacant premises to the respondent authorities within a period of three months from the date of receipt of a copy of this judgment.

(iii) On such surrender, the respondent authorities shall take steps to demolish the unauthorised construction made on the subject property, within a period of two weeks therefrom.

(iv) All the authorities shall provide necessary assistance to the Respondent No.1 to execute the order of the High Court in its letter and spirit.

(v) Appropriate criminal as well as departmental action shall be taken against the erring officials / persons concerned in line with the order of the High Court and a report shall be filed before this Court.

(vi) The amount deposited by the appellants in SLP (C) No. 36440 of 2014 be refunded to them, along with accrued interest."

2. We are informed that the possession of the subject - property has been handed over.
3. We are further informed that unauthorized construction put up on the subject - property has also been removed. However, there are many other unauthorized constructions which the Board has to remove.
4. We grant two months' time to the Board to remove all those unauthorized construction also.
5. Put it in the month of January, 2026.
6. Report compliance of our further directions.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)