

O/C



**REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY**

**ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(ERSTWHILE KOLKATA PORT TRUST)**

(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
Public Premises (Eviction of Unauthorized Occupant) Act 1971

OFFICE OF THE ESTATE OFFICER

6, Fairley Place (1st Floor)

KOLKATA - 700 001



Court Room At the 1st Floor
of SMPK's
Fairley Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 97DT 25.07.2023
PROCEEDINGS NO. 572 OF 2004

**SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(ERSTWHILE BOARD OF TRUSTEES OF THE PORT OF KOLKATA)**

-Vs-

**The Calcutta Licensed Measures (Now known as M/s. Calcutta licensed Measures
Co-operative Society Ltd.) O.P**

F O R M - "B"

**ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC
PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971**

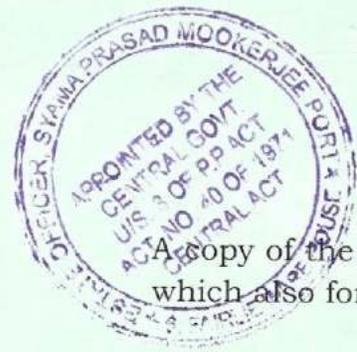
WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **The Calcutta Licensed Measures (Now known as M/s. Calcutta licensed Measures Co-operative Society Ltd.), 3, Satya Doctor Road, Kidderpore, Kolkata-700023** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

1. That O.P. has failed and neglected to pay the rental dues to Syama Prasad Mookerjee Port, Kolkata (SMPK) in gross violation to the condition of tenancy under lease;
2. The O.P. or any other person/occupant has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation".
3. That the sitting occupant appearing before the Forum has failed to explain their authority to occupy the premises.
4. That occupation of O.P. and Sitting Occupant are unauthorized in view of Sec. 2 (g) of the Public Premises Act in question;
5. That O.P./Sitting Occupant is liable to pay damages for its unauthorized use and occupation of the public premises upto the date of handing over of clear, vacant and unencumbered possession to SMK.

PLEASE SEE ON REVERSE

LS



(2)

A copy of the reasoned order No. 97, dated 20.7.2023 is attached hereto which also forms a part of the reasons.

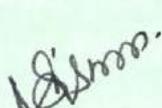
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **The Calcutta Licensed Measures (Now known as M/s. Calcutta licensed Measures Co-operative Society Ltd.), 3, Satya Doctor Road, Kidderpore, Kolkata-700023** and all persons who may be in occupation of the said premises or any part thereof to vacate the said premises within 15 days of the date of publication of this order. In the event of refusal or failure to comply with this order within the period specified above the said **The Calcutta Licensed Measures (Now known as M/s. Calcutta licensed Measures Co-operative Society Ltd.), 3, Satya Doctor Road, Kidderpore, Kolkata-700023** and all other persons concerned are liable to be evicted from the said premises, if need be, by the use of such force as may be necessary.

SCHEDULE

Plate No.D-63/1

The said piece or parcel of land msg.1736.50 Sq.m or thereabouts in the 1st belt(land lying within 50 mtrs. From the road) and 227.75 Sq.m or thereabouts in the 2nd belt(land lying beyond 50 mtrs. From the road) altogether msg.1964.25 Sq.m. or thereabouts is situate on the east side of Sastitala Road, Thana-South Port Police Station, Calcutta, District- 24 Parganas, Registration District Alipore. It is bounded on the north and west by the Trustees' Dock safety wall on the east by Satya Doctor Road and on the south by the land belonging to private owners. Trustees' means the Board of Syama Prasad Mookerjee Port, Kolkata Authority (Erstwhile Board of Trustees' for the Port of Kolkata).

Dated: 27.07.2023


Signature & Seal of
Estate Officer.



**REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY**

**ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(ERSTWHILE KOLKATA PORT TRUST)**

(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
Public Premises (Eviction of Unauthorized Occupant) Act 1971
OFFICE OF THE ESTATE OFFICER
6, Fairley Place (1st Floor)
KOLKATA - 700 001

Court Room at the 1st Floor
6, Fairlie Place Warehouse
Kolkata-700001

Form " E "

PROCEEDINGS NO.572/R OF 2004
ORDER NO. 97 DATED: 25.07.2023

Form of order under Sub-section (1) and (2A) of Section 7 of the Public
Premises (Eviction of Unauthorised Occupants) Act, 1971.

To
**The Calcutta Licensed Measures
(Now known as M/s. Calcutta licensed Measures Co-operative Society
Ltd.),
3, Satya Doctor Road, Kidderpore,
Kolkata-700023.**

WHEREAS you are in occupation of the public premises described in the
Schedule below. (Please see on reverse).

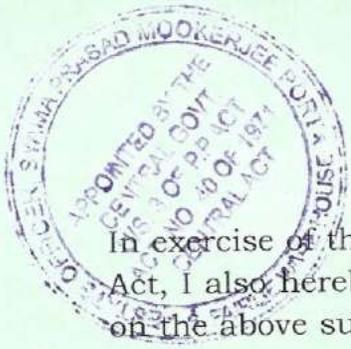
AND WHEREAS, by written notice dated 01.03.2004 you are called upon to
show cause on or before 22.03.2004 why an order requiring you to pay a sum
of Rs.2,98,571.69 (Rupees Two Lakh ninety eight thousand five hundred
seventy one and paise sixty nine only) being the rent payable together with
compound interest in respect of the said premises should not be made;

AND WHEREAS I have considered your objections and/or evidence produced
before this Forum.

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of
Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act
1971, I hereby require you to pay the sum of Rs.2,98,571.69 (Rupees Two Lakh
ninety eight thousand five hundred seventy one and paise sixty nine only) for
the period 01.08.1980 to 28.02.2002(both days inclusive) to SMPK
by 10.08.2023

PLEASE SEE ON REVERSE

18



: 2 :

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay compound interest @ 7.50 % per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

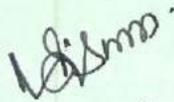
In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

SCHEDULE

Plate No.D-63/1

The said piece or parcel of land msg.1736.50 Sq.m or thereabouts in the 1st belt(land lying within 50 mtrs. From the road) and 227.75 Sq.m or thereabouts in the 2nd belt(land lying beyond 50 mtrs. From the road) altogether msg.1964.25 Sq.m. or thereabouts is situate on the east side of Sastitala Road, Thana-South Port Police Station, Calcutta, District- 24 Parganas, Registration District Alipore. It is bounded on the north and west by the Trustees' Dock safety wall on the east by Satya Doctor Road and on the south by the land belonging to private owners. Trustees' means the Board of Syama Prasad Mookerjee Port, Kolkata Authority (Erstwhile Board of Trustees' for the Port of Kolkata).

Dated: 27.07.2023


Signature and seal of the
Estate Officer

COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA FOR INFORMATION.

Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 572, 572/R of 2004 Order Sheet No. 92

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S. CALCUTTA LICENSED MEASURES CO-OPERATIVE SOCIETY LTD.

97

25.07.2023

FINAL ORDER

The matter is taken up today for delivering Final Order. Before proceedings with the merits of the matter, it is to be mentioned that due to a clerical error the proceeding No. of the present matter has been wrongly mentioned as Proceeding No. 573, 573/R of 2004 instead of 572, 572/R of 2004. However, such error is not affecting the factual aspect of the matter or the pleading filed by the parties before the Forum. Let the pleadings and the orders passed therein, be treated to be a part of Proceedings No.572, 572/R of 2004 which relates to Plate no. D-63/1 as is seen from the pleadings of the petitioner and O.P. Be that as it may, as such error is not affecting the merit of the case, I shall proceed to dispose of the matter now.

It is seen that, at some point of time both the matters were dealt with in the same record. As a result of which conjoint orders as well as separate orders were passed on both the proceedings. As such though all the orders are there before the Forum, but the order sheet numbers and the order number are not in sequence. But as such this does not dilute the gravity of the instant matter and also not prejudice the rights and liabilities of the parties to the present proceeding. Relevant facts are required to be put forward in a nut-shell for clear understanding of the issues involved in this proceedings. It is the case of Syama Prasad Mookerjee Port, Kolkata (Erstwhile Kolkata Port Trust/KoPT), Applicant herein, that land Msg. 1964.25 Sq.m situated at Sastitala Road, Thana: South Port Police Station, Dist: 24 Parganas, Regd. Dist. Alipore, comprised under occupation No. D-63/1, was allotted to **The Calcutta Licensed Measures (Now known as M/s. Calcutta Licensed Measures Co-operative Society Ltd)**, O.P. herein, on long term lease basis for a period of 30 years w.e.f 01.03.1972 under the coverer of a registered lease deed executed by both the parties on certain terms and conditions and O.P. violated the condition of tenancy under lease by way of not making the payment of rental dues to SMPK and also by

By Order of
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
 CERTIFIED COPY OF THE ORDER
 PASSED BY THE ESTATE OFFICER
 SYAMA PRASAD MOOKERJEE PORT

A. Som

26.07.2023

[Signature]

Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises
(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 572, 572/10 of 2004 Order Sheet No. 93

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

MIS. CALCUTTA LICENSED MEASURES CO-OPERATIVE SOCIETY LTD.

97

25.07.2023

unlawfully remaining in possession after expiry of the period of lease. It is argued on behalf of SMPK that O.P. has no authority under law to occupy the Public Premises after expiry of the period as mentioned in the lease deed that is to say on and from 1st March 2002 and O.P. is liable to pay damages for wrongful occupation upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

To proceed against O.P. this Forum issued Show Cause Notice u/s 4 of the Act (for adjudication of the prayer for issuance of order of eviction etc.) and Show Cause Notice u/s 7 of the Act (for adjudication of the prayer for recovery rental dues etc.) all dated 01.03.2004(vide Order No.4 dated 22.03.2004).

O.P. entered appearance through its Advocate and contested the matter by filing Written Statement/ objection on behalf of O.P. It also emerged that O.P. made a prayer for regularization of their tenancy on payment of SMPK's due. It subsequently revealed that an Order came to be issued by the Forum on 13.08.2013 directing the Estate Manager, SMPK to consider O.P.'s proposal for regularisation only on liquidation of such dues of SMPK and O.P. did not turn up before the Forum thereafter. Consequently an application dated 14.09.2020 was filed by SMPK stating the defaulting amount against Plate No.D-63/1 and accordingly the matter was taken up before the undersigned on 16.10.2020 and the Forum passed an order dated 08.12.2020 directing SMPK to intimate whether O.P has made any regular payment as per the their liquidation Scheme or not. Further O.P. was also given an opportunity to represent before the Forum however, O.P. never turned up for appearance before this Forum of Law but one Md. Haider Osman, claiming himself as a sitting occupant of the said public premises in question, appeared through his Advocate Mr. Abhishek Tiwary on 19.02.2021 and contested the matter by filing his Vakalatnama. On 01.06.2021 hearing of the instant matter was posted on virtual platform due to state wide Covid restrictions. Be that as it may, after the matter was taken up again, Ld. Advocate on behalf of Sitting Occupant

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

26.07.2023

LA

Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 572, 572/R of 2004 Order Sheet No. 94

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S. CALCUTTA LICENSED MEASURES CO-OPERATIVE SOCIETY LTD

97

25.07.2023

filed an application on 03.08.2021 with the prayer for addition of party. SMPK, on the other hand, replied to the contentions of the Sitting Occupant vide their reply dated 31.08.2021. The parties were heard on different occasions and lastly on 31.08.2021 Sitting Occupant was directed to file his reply against the rejoinder of SMPK. Ultimately, when on 14.09.2021 Sitting Occupant remained absent, this Forum, after hearing the arguments of SMPK, decided to reserve the Final Order.

I have carefully considered the documents on record and the submissions of the parties. Although initially O.P. had appeared before the Forum, however, during course of hearing before the undersigned, O.P. never appeared. All along it is the Sitting Occupant, who appeared before this Forum and claimed his possession in the said premises. It is the specific case of Sitting Occupant that he is in possession of premises/property 3, Satya Doctor Road, Kolkata-700023 wherefrom he conducts his business and for the same he has enlisted his business with Kolkata Municipal Corporation and regularly pays fees/charges for such enlistment for his own as well as for the society. Record reveals that originally the O.P. was the recorded tenant of SMPK and SMPK had no privity with Haider Osman regarding the tenancy of O.P. It is made out by SMPK that Md. Haider Osman has been entrusted by O.P. to undertake his job on this parcel of land which is beyond the knowledge of SMPK. Hence, this cannot be taken cognisance by Estate Officer and his prayer be rejected. It also revealed from the application of SMPK dated 31.08.2021 that there is no existence of recorded tenant in the premises. The entire property is being used by a third party viz Haider Osman unauthorisedly and illegally for the Storage of paints, CI Sheets, cloths and other portion is being used for parking. I have carefully considered SMPK's application dated 31.08.2021 and find that there is no bar to uphold the contention of the Port Authority as brought out in the application dated 31.08.2021. In fact, the presence of Sitting Occupant in the premises (admittedly, for considerable period)

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Rv Mm

26.07.2023

LD



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 572, 572/R Of 2004 Order Sheet No. 95

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

MIS. CALCUTTA LICENSED MEASURES CO-OPERATIVE SOCIETY LTD.

97

25.07.2023

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
R Mm
Hd. Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

26.07.2023

LS

is sufficient enough to conclude "parting with possession" by the O.P. It is evident from the application filed by the sitting occupant on 03.08.2021 that they are occupying the said premises without authority whatsoever and the said occupant has rather sought relief on "humanitarian ground". I must say that this Forum is to adjudicate the matter strictly within the four corners of P.P Act while ensuring natural justice is not denied to anyone. In my view, lack of O.P's interest coupled with prolonged enjoyment of a public premises by sitting occupant, deserves no protection in all sense of law. As such, I am not at all inspired by the prayer of sitting occupant.

I must add here that as regards non-payment of estate dues of SMPK, there is specific admission on the part of O.P. towards such non-payment, in its reply/application filed on 03.04.2007. This apart, this Forum directed from time to time for liquidation of SMK's dues and the O.P in part compliance of said order/s paid certain amounts to SMPK (albeit irregularly) without a whisper or murmur which again suggests that the contention of SMPK cannot be said be incorrect or baseless. I may mention here that it was the O.P itself who prayed easy instalment for liquidation of SMPK's dues. In my view, had the O.P not been guilty of non-payment of rent and taxes, it would definitely not have come forward to liquidate even a part of occupational charges. The very conduct of O.P establishes that contention of SMPK is not without any basis. Moreover, during the course of hearing, although SMPK has come up with a detailed Statement of Accounts however, to contradict the claim of SMPK no other submissions or documents have been placed before this Forum by O.P. Thus in the aforementioned circumstances, being satisfied as above, I have no hesitation to uphold the claim of the Port Authority. I take note of the fact that all payments made by O.P during course of the proceedings are provisionally accepted by SMPK as damages/ compensation for continuous use and occupation of the public premises in question as part payment thereof and hence, I have no reason to disbelieve the claim of SMPK, regarding arrears of rent

Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises
(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 572, 572/R of 2004 Order Sheet No. 96

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S. CALCUTTA LICENSED MEASURES CO-OPERATIVE SOCIETY LTD.

97

25.07.2023

prevailing at the time of filing the application dated 10.09.2002.

Although, the Sitting Occupant on a subsequent occasion claimed that they are paying the rent/occupational charges to Land Manager, SMPK since year 2008 but I must say that mere tendering an amount during the pendency of the proceeding, a Sitting Occupant cannot claim better right and interest than the original lessee (that is O.P.). Further, as per law, institution of proceedings/suit is sufficient to express the intention of the landlord. In the present case in hand SMPK actively participated in the proceedings for eviction of O.P and as such it cannot be an accepted proposition that the Sitting Occupant has separate right and interest over the property by any sense of law. It is also my conclusion that said Sitting Occupant cannot be said to be a present representative of O.P. He appeared solely on his personal capacity.

In view of the discussions above, it is my firm conviction that the Sitting Occupant is nothing but a complete stranger in the public premises and has not been able to prove its occupation as "authorised". Moreover, I find that the O.P. has deserted the premises and is not at all interested in the property, which is again a clear violation of the tenancy granted to the O.P. As the Sitting Occupant has also failed to disclose their right to occupy the Public Premises after expiry of the period of lease granted by the Port Authority in favour of O.P. (that is the original lessee), I do not find any alternative but to issue order of eviction against O.P./Sitting Occupant on the following grounds/ reasons :-

1. That O.P. has failed and neglected to pay the rental dues to Syama Prasad Mookerjee Port, Kolkata (SMPK) in gross violation to the condition of tenancy under lease;
2. The O.P or any other person/occupant has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation".
3. That the sitting occupant appearing before the Forum has failed to explain their authority to occupy the premises.

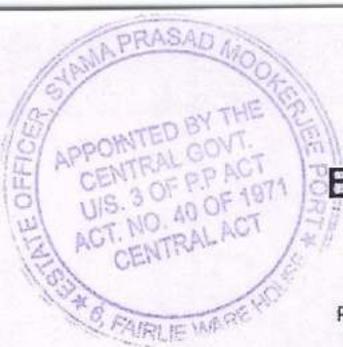
By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

TRUE COPY OF THE ORDER
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

R M

26.07.2023

CS



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 572, 5721R of 2004 Order Sheet No. 97

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

MIS. CALCUTTA LICENSED MEASURES CO-OPERATIVE SOCIETY LTD.

97
25.07.2023

4. That occupation of O.P. and Sitting Occupant are unauthorized in view of Sec. 2 (g) of the Public Premises Act in question;
5. That O.P./Sitting Occupant is liable to pay damages for its unauthorized use and occupation of the public premises upto the date of handing over of clear, vacant and unencumbered possession to SMK.

Accordingly, I sign the formal order of eviction under Sec. 5 of the Act as per Rules made thereunder, giving 15 days time to O.P. to vacate the premises. I make it clear that occupation of O.P. and all person/s whoever may be in occupation, are liable to be evicted by this order as their occupation into the Public Premises has become unauthorised in view of sec. 2(g) of the Act. SMPK is directed to submit a comprehensive status report of the Public Premises in question on inspection of the property after expiry of the 15 days as aforesaid so that necessary action could be taken for execution of the order of eviction u/s. 5 of the Act as per Rule made under the Act.

It is my considered view that a sum of Rs.2,98,571.69(Rupees Two lakh ninety eight thousand five hundred seventy one and paise sixty nine only) for the period 01.08.1980 to 28.02.2002 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of rental dues and O.P. must have to pay the rental dues to SMPK on or before ~~01.08.2023~~ Such dues attract compound interest @ 7.50 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrance of liability, till the liquidation of the same, as per the adjustment of payments, if any made so far by O.P., in terms of SMPK's books of accounts.

SMPK is further directed to submit a report regarding its claim on account of damages against O.P., indicating therein the details of computation of such damages with the rate of charges so claimed for the respective period (alongwith rates

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Signature]
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
26.07.2023

[Handwritten mark]

Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises
(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 572, 572/R of 2004 Order Sheet No. 98

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

MIS. CALCUTTA LICENSED MEASURES CO-OPERATIVE SOCIETY LTD.

97

25.07.2023

applicable for the relevant period and the date of taking over of possession of the plots) for my consideration in order to assess the damages as per the Act and the Rules made thereunder. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

(Signature)
(Nirmalya Biswas)
ESTATE OFFICER

*** ALL EXHIBITS AND DOCUMENTS
ARE REQUIRED TO BE TAKEN BACK
WITHIN ONE MONTH FROM THE DATE
OF PASSING OF THIS ORDER ***

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
RETURNED COPY OF THE ORDER
FORWARDED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
(Signature)
OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

26.07.2023