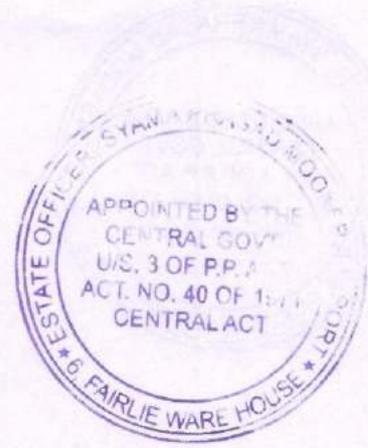


REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY



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 Kolkata Port Trust's
Fairley Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 06 DT 20 JUL 2023
PROCEEDINGS NO. 1954 OF 2022

SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(Erstwhile Board of Trustees' for the Port of Kolkata)
-Vs-

Estate Gita Rani Paul and Shri Sujit Paul (O.P)

FORM - "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 **Estate Gita Rani Paul and Shri Sujit Paul of 965, Laketown, Block-A, Kolkata-700089** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

- 1 That O.P. has failed to submit reply to the Show Cause Notice/s u/s.4 & 7 of the Act in spite of sufficient chances.
- 2 That nobody from O.P's end came to bear any witness or adduce any evidence in support of its occupation as "authorized occupation" in spite of sufficient chances.
- 3 That O.P. has violated the fundamental condition of tenancy as granted by the Port Authority on long term lease basis.
- 4 That SMPK's notice dated 28.01.2011 demanding possession of Port property from O.P. is very much valid, lawful and enforceable in the facts and circumstances of the case.
- 5 That O.P's occupation has become unauthorized in view of Sec.2(g) of the P. P. Act
- 6 That right from the date of expiry of the lease, O.P. has lost its authority to occupy the Public Premises and O.P. is liable to pay dues/compensation charges with interest for wrongful use and enjoyment of the Public Property upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

8

PLEASE SEE ON REVERSE

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



(2)

A copy of the reasoned order No. 06 dated 20 JUL 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 **Estate Gita Rani Paul and Shri Sujit Paul of 965, Laketown, Block-A, Kolkata-700089** 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 **Estate Gita Rani Paul And Shri Sujit Paul of 965, Laketown, Block-A, Kolkata-700089** 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.SB-259/B

The said piece or parcel of Land Msg.74.235 Sq.mtrs or thereabouts is situated on the north side of Cross Road No.16, Nimtollah, in the presidency town of Kolkata. It is bounded on the north by the SMP(K)'s leased out land, on the east by the SMP(K)'s leased out land, on the south by SMP(K)'s Cross Road No.16 & on the West by the SMP(K)'s strip of open land reserved as margin of safety alongside Port Trust Railway lines.

Dated: 21 JUL 2023

Syama Prasad Mookerjee
Signature & Seal of
Estate Officer.

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]
Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

COPY FORWARDED TO THE ESTATE MANAGER, SYAMA PRASAD MOOKERJEE PORT, KOLKATA FOR INFORMATION.

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 Unauthorised Occupants) Act 1971
OFFICE OF THE ESTATE OFFICER
6, Fairlie Place (1st FLOOR) KOLKATA-700001

Court Room at the 1st Floor
Of Kolkata Port Trust's
Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.1954/D OF 2022
ORDER NO. 06 DATED:

20 JUL 2023

Form- G

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

To

Estate Gita Rani Paul
And Shri Sujit Paul
965, Laketown, Block-A,
Kolkata-700089.

WHEREAS I, the undersigned, am satisfied that you are in unauthorised occupation of the public premises mentioned in the Schedule below:

AND WHEREAS by written notice dated 18.11.2022 you are called upon to show cause on or before 08.12.2022 why an order requiring you to pay damages of Rs. 24,62,729/- (Rupees Twenty four Lakh sixty two thousand seven hundred twenty nine only) together with [compound interest] for unauthorised use and occupation of the said premises, should not be made;

AND WHEREAS you have not made any objections or produced any evidence before the said date;

NOW, THEREFORE, in exercise of the powers conferred on me by Sub-section (2) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby order you to pay the sum of Rs. 24,62,729/- (Rupees Twenty four Lakh sixty two thousand seven hundred twenty nine only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.11.2004 to 30.09.2022 (both days inclusive) to SMPK by 04.08.2023.

PLEASE SEE ON REVERSE

8

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



: 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 the event of your refusal or failure to pay the damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue through the Collector.

SCHEDULE

Plate No. SB-259/B

The said piece or parcel of Land Msg. 74.235 Sq. mtrs or thereabouts is situated on the north side of Cross Road No. 16, Nimtollah, in the presidency town of Kolkata. It is bounded on the north by the SMP(K)'s leased out land, on the east by the SMP(K)'s leased out land, on the south by SMP(K)'s Cross Road No. 16 & on the West by the SMP(K)'s strip of open land reserved as margin of safety alongside Port Trust Railway lines.

21 JUL 2023

Date 21 JUL 2023

Suman Mukherjee
Signature & Seal of the
Estate Officer.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Suman Mukherjee
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

COPY FORWARDED TO THE ESTATE MANAGER, SYAMA PRASAD MOOKERJEE PORT,
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. 1954.1954/D Of 2022 Order Sheet No. 06

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

Estate Gita Rani Paul & Shri Sujit Paul.

06
20 JUL 2023

FINAL ORDER

Factual aspect involved in this matter is required to be put forward in a nutshell in order to link up the chain of events leading to this Proceedings. It is the case of Syama Prasad Mookerjee Port, Kolkata (Erstwhile Kolkata Port Trust/ KoPT), hereinafter referred to as SMPK, the applicant herein that land space msg. 74.235 Sq.m situated at Cross Road, Nimtollah, Thana: Jorabagan, in the presidency town of Kolkata, comprised under Plate No.SB-259/B was originally allotted to one Sri Nepal Chandra Paul(since deceased), on long term lease w.e.f 01.11.1974 with certain terms and conditions as embodied therein and thereafter such tenancy was transferred to Smt. Gita Rani Paul(Widow of Sri Nepal Chandra Paul)and their only son Sujit Paul w.e.f 01.11.1984 vide Office Letter dated 02.04.1991 with two options of renewal for ten years each. It is seen that before the institution of the instant Proceedings the said Gita Rani Paul also died some times after the issuance of Quit Notice dated 28.01.2011 on the part of SMPK and the instant proceedings was instituted against "**Estate Gita Rani Paul and Shri Sujit Paul**" as O.P. Such Lease was expired on 31st October, 2004 due to efflux of time. SMPK submits that even after the expiry of the lease, O.P. continues to occupy the port premises unauthorisedly and is in default in making payment of damages/ compensation charges despite SMPK's demand. It is also the case of SMPK that notice to quit being No. Lnd. 3/ 81/11/4636 dated 28.01.2011 was issued to the O.P. asking the O.P. to hand over clear, vacant, peaceful and unencumbered possession of the property to SMPK on 28.02.2011. By the said notice dated 28.01.2011 SMPK also notified the O.P. that all its relationship with SMPK stood determined on the expiry of lease w.e.f. 01.11.2004. SMPK submits that O.P. has no authority under law to occupy the public premises after issuance of notice to quit dated 28.01.2011 and was required to hand over the possession of the property in question to SMPK on 28.02.2011 as required under the notice to quit. It is the case of SMPK that O.P. is in wrongful occupation in the public premises on and from 01.11.2004 and accordingly, SMPK is entitled to have the O.P. evicted from the port premises. Further, O.P. is liable to pay compensation charges/mesne profits for unauthorized use and occupation of the Port Property in question.

[Handwritten signature]

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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

OFFICE OF THE
ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

1002
T

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. 1954, 1954/3 Of 2022 Order Sheet No. 07

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
Estate Gita Ran Paul & Shri Sujit Paul



06
20 JUL 2023
20 JUL 2023

Notice/s u/s 4 and 7 of the Act, both dated 18.11.2022 (vide Order No.2 dated 17.11.2022) were issued by this Forum to O.P. to show cause as to why an order of eviction and an order requiring O.P. to pay damages together with interest should not be made against the O.P. on the various grounds mentioned in the said Notice/s. By the said notice/s, O.P. was also called upon to appear before this Forum in person or through the duly authorised representative capable to answer all material questions connected with the matter along with the evidence which the O.P. intends to produce in support of the cause for personal hearing.

Such notice/s u/s.4 and 7 were served and affixed on the property as per reports of the process server dated 28.11.2022. However, the Notice/s sent by post were returned undelivered to the forum on 22.11.2022 with remark of the Postal Department as "no such person in this address found, hence, not known". As no one appeared on behalf of O.P. to represent their case, a notice was also published in English Daily "The Times of India(Kolkata)" on 06.01.2023 for the purpose of effecting service of notice to all concerned interested in the property in question. In spite of service of notice to all concerned, nobody appeared before me at the date scheduled for hearing etc. and nobody from O.P's side filed any objection or reply to the Show Cause Notice u/s. 4 & 7 of the Act. In such a scenario, I think effective service of notice has already been made as per mandate of the statute by affixation on the premises and through press publication. As there is no reply to the Show Cause Notice u/s.4 & 7 of the Act in spite of sufficient service of notice to all concerned, I have nothing to disbelieve SMPK's case against O.P. and I am left with no other alternative but to serve order of eviction against O.P. on the following reasons/grounds.

- 1 That O.P. has failed to submit reply to the Show Cause Notice/s u/s.4 & 7 of the Act in spite of sufficient chances.
- 2 That nobody from O.P's end came to bear any witness or adduce any evidence in support of its occupation as "authorized occupation" in spite of sufficient chances.
- 3 That O.P. has violated the fundamental condition of tenancy as granted by the Port Authority on long term lease basis.

[Handwritten signature]

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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

[Handwritten signature]
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



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. 1954, 1954/2 Of 2020 Order Sheet No. 08

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS shri
Estate Gita Rani Paul & Smt Paul

06

20 JUL 2023

- 4 That SMPK's notice dated 28.01.2011 demanding possession of Port property from O.P. is very much valid, lawful and enforceable in the facts and circumstances of the case.
- 5 That O.P's occupation has become unauthorized in view of Sec.2(g) of the P. P. Act
- 6 That right from the date of expiry of the lease, O.P. has lost its authority to occupy the Public Premises and O.P. is liable to pay dues/compensation charges with interest for wrongful use and enjoyment of the Public Property upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

ACORDINGLY, Department is directed to draw up formal order of eviction u/s.5 of the Act as per Rules made thereunder, giving 15 days time to O.P. to vacate the premises. It is made clear that any person/s whoever may be in occupation is/are directed to vacate the premises in terms of the order u/s.5 of the Act. I make it clear that all person/s whoever may be in occupation are liable to be evicted by this order and the Port Authority is entitled to claim damages for unauthorized use and occupation of the property against O.P. in accordance with Law up to the date of recovery of possession of the same.

It is my considered view that a sum of Rs.24,62,729/- (Rupees Twenty four lakh sixty two thousand seven hundred twenty nine only) for the period from 01.11.2004 to 30.09.2022 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of damages and O.P. must have to pay such dues to SMPK on or before 04.08.2023. The said damages shall 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 incurrence 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. I sign the formal orders u/s 7 of the Act.

I make it clear that SMPK is entitled to claim further damages against O.P. for unauthorized use and occupation of the public premises right upto the date of recovery of clear,

So

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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

Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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. 1954, 1954/D of 2022 Order Sheet No. 09

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

YS
Estate Gita Rani Paul & Shri Smit Paul



06
20 JUL 2023

vacant and unencumbered possession of the same in accordance with Law, and as such the liability of O.P. to pay damages extends beyond 30.09.2022 as well, till such time the possession of the premises continues to be under the unauthorised occupation with the O.P. SMPK is directed to submit a statement comprising details of its calculation of damages after 30.09.2022, indicating there-in, the details of the rate of such charges, and the period of the damages (i.e. till the date of taking over of possession) together with the basis on which such charges are claimed against O.P., for my consideration for the purpose of assessment of such damages as per Rule made under the Act.

I make it clear that in the event of failure on the part of O.P. to comply with this Order, Port Authority is entitled to proceed further for execution of this order in accordance with law. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

Suman Mukhopadhyay
(S. Mukhopadhyay)
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

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