

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

THE ESTATE OFFICER, 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
15, STRAND ROAD
(4th Floor)
KOLKATA – 700 001

Court Room At the 2nd Floor
of Kolkata Port Trust's
Head Office, Old Buildings
15, Strand Road, Kolkata- 700 001.

REASONED ORDER NO. 23 DT 19.06.2018
PROCEEDINGS NO. 1388 OF 2013

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/s Hrishikesh Kristo Chandra Nandy (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 **M/s Hrishikesh Kristo Chandra Nandy, of D-30, J.N. Ghat Godown, Strand Road, Kolkata 700007** are in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

- 1) That O.P. has failed to liquidate the rental dues of the Port Authority, for a considerable period, despite being requested for its immediate liquidation.
- 2) That O.P. has failed to show cause as to how it has complied with the Order of Hon'ble High Court, Calcutta in A.P.O. 367 of 2006 with W.P. no. 347 of 1988.
- 3) That O.P./any other person on behalf of O.P. have failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 4) That O.P. or any other person/s asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation", inspite of sufficient chances being provided.
- 5) That the notice to quit dated 24.09.2009 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P's occupation, and that of any other occupant of the premises, has become unauthorised in view of Section 2(g) of the P.P Act.
- 6) That O.P. is liable to pay damages for wrongful use and occupation of the Public Premises upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

Please see on reverse

A copy of the reasoned order No. 23 dated 19.06.2018 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 **M/s Hrishikesh Kristo Chandra Nandy, of D-30, J.N. Ghat Godown, Strand Road, Kolkata 700007** 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 **M/s Hrishikesh Kristo Chandra Nandy, of D-30, J.N. Ghat Godown, Strand Road, Kolkata 700007** 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

Godown space being Godown No.D-30, Block 'D', Msg. 31.494 Sq.mtrs. or thereabouts at Kolkata Port Trust's Jagannath Ghat Godown is situated on the West side of Strand Road in the presidency town of Kolkata. It is bounded on the North by compartment No. D-29 of Jagannath Ghat Godown leased to S.K. Mullick & Sons (P) Ltd. On the South by the road between 'D' block & 'C/1' block of Jagannath Ghat godown. On the East by road between East side 'D' block and West side 'D' block of Jagannath Ghat Godown and on the West by Compartment No. D-31 of Jagannath Ghat Godown leased to Natabar Sett.

Trustees' mean the Board of Trustees for the Port of Kolkata.

Dated: 19.06.2018


Signature & Seal of the
Estate Officer.

**COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER,
KOLKATA PORT TRUST FOR INFORMATION.**

Estate Officer, Kolkata Port Trust

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

Proceedings No. 1388 of 2013 Order Sheet No. 19

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Hrishikesh Kristo chandra nandy.
VS

23
19-06-2018

FINAL ORDER

The matter is taken up today for final disposal. It is the case of Kolkata Port Trust (KoPT), applicant herein, that M/s Hrishikesh Kristo Chandra Nandy, O.P. herein, came into occupation of KoPT's godown space being godown no. D-30 measuring about 31.494 sqm at Block-D of KoPT's Jagannath Ghat Godown, comprised under occupation No. CG-51/A, being the Public Premises in question, as a monthly lessee on certain terms and conditions. It is submitted by KoPT that the O.P. violated the conditions of grant of tenancy by way of not making payment of rental dues, and also not complying with the Order of Hon'ble High Court, Calcutta in A.P.O. 367 of 2006 with W.P. no. 347 of 1988. It is strongly argued on behalf of KoPT that the O.P. has no authority under law to occupy the public premises after expiry of the period as mentioned in the notice to quit dated 24.09.2009 and the O.P. is liable to pay damages for wrongful use and occupation of the Port property upto the date of handing over of vacant possession of the same.

This Forum issued Show Cause notice under Section 4 of the Act (for adjudication of the prayer for issuance of Order of Eviction etc.) and a Show Cause Notice under 7 of the Act (for adjudication of the prayer for recovery of rental dues, interest etc) both dated 13.11.2013.

It is seen from record that O.P. contested the matter and filed its Reply to Show Cause/s on 21.03.2014. Subsequently, O.P. also filed a scheme for liquidation of dues on 16.04.2014. However, O.P. did not appear before this Forum thereafter. It is seen from record that numerous opportunities were granted to the O.P. to appear before this Forum and represent its case but still nobody appeared on behalf of O.P. before this

Estate Officer, Kolkata Port Trust

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

Proceedings No. 1388 Of 2013 Order Sheet No. 20

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Hrishikesh Krishna Chandre Nandy.

23
19.06.2018.

Forum. Finding no other alternative, the final order was reserved by me on 03.01.2018 after hearing the arguments of KoPT.

I have carefully gone through the contentions made by KoPT against the O.P. It is seen that KoPT in its Final Notice dated 31.03.2009 categorically requested the O.P. for immediate liquidation of the rental dues by the O.P. but apparently no heed was paid by the O.P. During the course of hearing, KoPT has placed before me computerised statement of accounts, maintained in official course of business. I have nothing to disbelieve the said claim of KoPT, in the backdrop of the case. Moreover, I find that O.P. in its Reply to Show Cause has practically admitted the charge, in the following words-

".....I further submit that unfortunately the financial condition of our business was unstable for some time being and for which only some rents were paid abruptly and not in time."

As per law, a contract like a monthly lease is continued on the basis of the conduct of the parties. That is, such a lease is automatically renewed when the landlord raises a rent bill on the tenant and the tenant satisfies the bill in the prescribed mode within the prescribed time. Even the slightest deviation, for instance default of even one rent bill, is sufficient to give rise to the cause of action for determination of the lease. As such, I find the action taken by the Port Authority very much logical and within the four corners of the law. Moreover, I find that O.P. has not shed light on how it has complied with the Order of Hon'ble High Court, Calcutta in A.P.O. 367 of 2006 with W.P. no. 347 of 1988. In view of the above, I am firm in holding that the Notice to Quit dated 24.09.2009 had been validly issued and served on the O.P. and the same is binding on the parties.

(Signature)

Estate Officer, Kolkata Port Trust

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

Proceedings No. 1388 Of 2013 Order Sheet No. 21

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Hrishikesh Kristo chandra nandy.

23
19.06.2018.

In view of the circumstances, and being satisfied as above, I am left with no other alternative but to issue the Order of Eviction against O.P., as prayed for on behalf of KoPT, on the following grounds/reasons:-

- 1) That O.P. has failed to liquidate the rental dues of the Port Authority, for a considerable period, despite being requested for its immediate liquidation.
- 2) That O.P. has failed to show cause as to how it has complied with the Order of Hon'ble High Court, Calcutta in A.P.O. 367 of 2006 with W.P. no. 347 of 1988.
- 3) That O.P./any other person on behalf of O.P. have failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 4) That O.P. or any other person/s asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation", inspite of sufficient chances being provided.
- 5) That the notice to quit dated 24.09.2009 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P's occupation, and that of any other occupant of the premises, has become unauthorised in view of Section 2(g) of the P.P Act.
- 6) That O.P. is liable to pay damages for wrongful use and occupation of the Public Premises upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

ACCORDINGLY, I sign the formal order of eviction u/s. 5 of the Act as per Rule made there-under, giving 15 days' time to O.P. and any person/s whoever may be in occupation, to vacate the

↪

Estate Officer, Kolkata Port Trust

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

Proceedings No. 1388 Of 2013 Order Sheet No. 22

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Hrishikesh Krisho chandra nandy
VS


23
19.06.2018

premises. 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 enjoyment of the property against O.P., in accordance with the canons of Law till the date of unencumbered recovery of possession of the same. KoPT 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 can be taken for execution of the order of eviction u/s 5 of the Act, as per Rule made under the Act. KoPT is further directed to submit a report regarding its claim on account of damages against O.P., indicating there-in, the details of the computation of such damages with the rate of charges so claimed for the respective periods (details of computation with rates applicable for the relevant periods, till the date of taking over of possession) for my consideration in order to assess the damages as per the Act and the Rules made thereunder.

I make it clear that in the event of failure on the part of O.P. to comply with this order as aforesaid, Port Authority is entitled to proceed further for recovery of possession in accordance with law.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL


(G. MUKHOPADHYAY)
ESTATE OFFICER

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