



**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  
(4<sup>th</sup> Floor)  
KOLKATA - 700 001  
\*\*\*\*\*

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

REASONED ORDER NO. 10 DT 19.06.2018  
PROCEEDINGS NO. 1615 OF 2017

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-  
M/s Janaki Pure Oil Mill (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 Janaki Pure Oil Mill, of 67/44, Strand Road, Cross Road, Kulpigat, Kolkata 700006** are in unauthorized occupation of the Public Premises specified in the Schedule below:

**REASONS**

- 1) That O.P. has failed to file effective reply to the Show Cause Notice/s under the Act inspite of sufficient chances being given.
- 2) That O.P. has violated the condition of tenancy under monthly term lease, as granted by the Port Authority by way of not making payment of rental dues to KoPT.
- 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 09.05.2008 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**



:: 2 ::

A copy of the reasoned order No. 10 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 Janaki Pure Oil Mill, of 67/44, Strand Road, Cross Road, Kulpighat, Kolkata 700006** 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 Janaki Pure Oil Mill, of 67/44, Strand Road, Cross Road, Kulpighat, Kolkata 700006** 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

The piece and parcel of Land Msg. about 355.354 Sq.m. is situated on the South side of Cross Road No. 8, Kulpighat in the Presidency Town of Kolkata. It is bounded on the North partly by the Trustees' land leased to Harakali Das & Sidheswar Das and partly by Cross Road No. 8, On the South by Trustees' leased out land, On the East by the Trustees' land leased to Lalit Mohon Das and on the West partly by the Trustees' land leased to Harakali Das & Sidheswar Das and partly by open passage and then Trustees' land leased to Circular Railway.

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.**



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

**ESTATE OFFICER, 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  
15, STRAND ROAD (4<sup>TH</sup> FLOOR) KOLKATA-700001

Form "E"

PROCEEDINGS NO.1615/R OF 2017  
ORDER NO. 10 DATED: 19.06.2018

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

To  
M/s. Janaki Pure Oil Mill,  
Of 67/44, Strand Road,  
Cross Road, Kulpighat,  
Kolkata-700006.

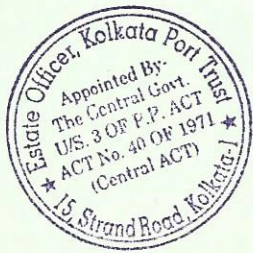
WHEREAS you are in occupation of the public premises  
described in the Schedule below. (Please see on reverse).

AND WHEREAS, by written notice dated 06.11.2017 you were  
called upon to show cause on/or before 08.12.2017 why an order  
requiring you to pay a sum of Rs.13,93,403.66/- (Rupees  
Thirteen Lakhs Ninety Three thousand Four hundred Three and  
paise Sixty Six 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 objection and/or the  
evidence produced by you.

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.13,93,403.66/- (Rupees Thirteen Lakhs Ninety Three  
thousand Four hundred Three and paise Sixty Six only.) for the  
period 01.01.1993 to 31.05.2008 (both days inclusive) to Kolkata  
Port Trust by 15.07.2018.

PLEASE SEE ON REVERSE



: 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 simple interest at the rate of 15% per annum upto 18.09.1996 and thereafter @18% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Official Gazettee/s as per Kolkata Port Trust's Rule.

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

The said piece or parcel of land msg. about 355.354 sq.m. is situated on the South side of Cross Road No.8, Kulpighat in the Presidency Town of Kolkata. It is bounded on the North partly by the Trustees' land leased to Harakali Das & Sidheswar Das and partly by Cross Road No.8, on the South by Trustees' leased out land, on the East by the Trustees' land leased to Lalit Mohon Das and on the West partly by the Trustees' land leased to Harakali Das & Sidheswar Das and partly by open passage and then Trustees' land leased to Circular Railway. Trustees' means the Board of Trustees for the Port of Kolkata.

Dated: 19.06.2018

  
Signature and seal of the  
Estate Officer.

# 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. 1615, 1615/R, 1615/D of 2017 Order Sheet No. 12

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Janaki Pure Oil Mill <sup>VS</sup>

10  
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 a monthly term lease was granted to one M/s Janaki Pure Oil Mill, O.P. herein, in respect of KoPT's land measuring 355.354 sqm situated at the south side of Cross Road no. 8, Kulpi Ghat, comprised under occupation Nos. SB-169/2 and SB-169/3 (way leave), being the Public Premises in question, on certain terms and conditions and that the O.P. violated the conditions of grant of tenancy by way of not making payment of rental dues, carrying out unauthorised construction in the public premises in question and also parting with possession in favour of rank outsiders. 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 09.05.2008 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 two Show Cause Notices under 7 of the Act (for adjudication of the prayer for recovery of rental dues, damages, interest etc) all dated 06.11.2017.

It is seen that O.P. appeared through its Ld Advocate and prayed for adjournment on 16.02.2018 which was allowed by this Forum. Another petition for adjournment was again filed on 07.03.2018 stating that representative of O.P. was minor. It was submitted that proprietor of O.P. has expired leaving behind a minor son who is representing the proprietorship firm of the O.P. As such, this Forum granted another opportunity

↪



# 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. 1615, 1615/R, 1615/D of 2017 Order Sheet No. 13

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Janaki Pure <sup>VS</sup> Oil Mill

10  
19.06.2018

for the legal guardian of the said minor representative of the O.P. to come up with Reply to the Show Cause Notice/s issued by this Forum. On 04.04.2018 an application was filed by one Sushanto Pradhan who claimed to be the legal guardian of the said minor representative. This Forum on 04.04.2018 allowed another opportunity to come up with the Reply to Show Cause Notice/s. However, none appeared on behalf of the O.P. on 23.04.2018. In my view, representative of O.P. has been deliberately delaying the proceedings thereby defeating the very purpose of the enactment. As such, after hearing the arguments of KoPT, I reserved the final order on 23.04.2018. However, it is seen from record that the said Sushanto Pradhan, claiming to be the legal guardian of the said minor representative, has filed a Written Objection on 28.05.2018 i.e. much after the final order was reserved. However, for the sake of natural justice, I have taken the same into account, while deciding the case as follows.

I have carefully gone through the materials placed before me. It is seen that KoPT vide their letter dated 17.11.2006 duly took up the issue of non-payment of dues with the O.P. KoPT again issued a Final Notice dated 23.08.2007 wherein KoPT not only highlighted the issue of non-payment of rental dues but also categorically requested the O.P. to remedy the breaches of unauthorised construction as well as parting of possession to rank outsiders. I see that the Notice to Quit dated 09.05.2008 very specifically mentions about all these breaches, and the said notice was received by the O.P. on 09.05.2008 itself. During course of hearing, KoPT has produced computerised statement of accounts maintained in official course of business. I have no reason to disbelieve such statements produced by the statutory authority. On the other hand, the Written



# 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. 1615, 1615/R, 1615/D Of 2017 Order Sheet No. 14

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Janaki Pure <sup>VS</sup> Oil Mill

10  
19.06.2018

Objection filed by the said Sushanto Pradhan is vague and evasive and in my view, mere denial of KoPT's claim is not sufficient to establish the defence of the O.P. As per law, a denial/objection by the O.P. has to be specific and not evasive. Upon consideration of the said Written Objection, I find no specific denial at all. Moreover, it is settled law that the O.P. must produce the documents he intend to rely upon, alongwith the statement of defence. Whereas, no document whatsoever has been relied upon by the instant petitioner, and in the facts and circumstances, I do not deem it appropriate to grant any further opportunity to the O.P.

As such, in my opinion, the breaches as contended by the KoPT are very much established and accordingly, I am firm in holding that the Notice to Quit dated 09.05.2008 had been validly issued and served on the O.P. and the same is binding on the parties.

In view of the circumstances, 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 file effective reply to the Show Cause Notice/s under the Act inspite of sufficient chances being given.
- 2) That O.P. has violated the condition of tenancy under monthly term lease, as granted by the Port Authority by way of not making payment of rental dues to KoPT.
- 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



## 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. 1615, 1615/R, 1615/D Of 2017 Order Sheet No. 15

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Janaki Puze VS Oil Mill

10  
19.06.2018

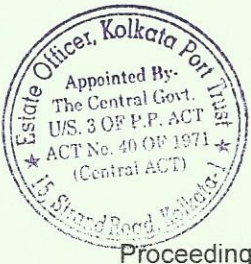
witness or adduce any evidence in support of its occupation as "authorised occupation", inspite of sufficient chances being provided.

- 5) That the notice to quit dated 09.05.2008 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 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.

It is my considered view that a sum of Rs. 13,93,403.66/- for the period 01.01.1993 to 31.05.2008 (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 KoPT on or before 15.06.2018. Such dues attract interest @ 15% per annum upto 18.09.1996 and thereafter @ 18% per annum upto





## 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. 1615, 1615/R, 1615/D Of 2017 Order Sheet No. 16

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Janaki Puze <sup>VS</sup> Oil Mill

10  
19.06.2018

06.04.2011 and thereafter @ 14.25% per annum, till the liquidation of the same, from the date of incurrance of liability in accordance with the notification of KoPT, issued under Authority of Law, as per adjustment of payments made so far by O.P., in terms of KoPT's books of accounts. I sign the formal order as per rule u/s 7 of the Act.

KoPT is 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, i.e. till the date of taking over of possession of the public premises) 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 pay the amounts to KoPT as aforesaid, Port Authority is entitled to proceed further for recovery of its claim 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 \*\*\*