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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  
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Court Room At the 2<sup>nd</sup> Floor  
of Kolkata Port Trust's                      REASONED ORDER NO. 16 DT 30.08.2018  
Head Office, Old Buildings                      PROCEEDINGS NO. 1463 OF 2015  
15, Strand Road, Kolkata- 700 001.

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-  
**M/s City Variety Stores (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 City Variety Stores, of 212A, Mahatma Gandhi Road, Kolkata 700007** is in unauthorized occupation of the Public Premises specified in the Schedule below:

**REASONS**

- 1) That O.P. has failed to appear before this Forum and has failed to file reply to the Show Cause Notice under the Act inspite of sufficient chances being given.
- 2) That O.P. has failed to satisfy the terms and conditions of grant of monthly license by refusing to pay license fees as fixed by the Port Authority from time to time.
- 3) That O.P. has violated the monthly license by parting with possession of the premises in favour of rank outsiders/unauthorised occupiers.
- 4) That O.P. has failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 5) 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.
- 6) That the notice to quit dated 21.08.1985 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.
- 7) 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. 16 dated 30.08.2018 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 City Variety Stores, of 212A, Mahatma Gandhi 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 City Variety Stores, of 212A, Mahatma Gandhi 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

Compartment no. 10 measuring about 213.027 sqm or thereabouts, situated in the 1<sup>st</sup> floor of the Trustees' godown known as Canning Warehouse on the west side of Strand Road under the North Port Police Station within the presidency town of Kolkata.

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

Dated: 30.08.2018

  
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

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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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### 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 City Variety Stores (O.P. herein) came into occupation of KoPT's Compartment no. 10 measuring about 213.027 sqm situated at first floor of KoPT's Canning Warehouse on the West side of Strand Road, Thana- N.P.P.S., Presidency Town of Kolkata, comprised under occupation No. SW-10, being the Public Premises in question, as a monthly licensee, on certain terms and conditions, and O.P. violated the conditions of such license by defaulting in payment of license fees and taxes and also by parting with possession of the premises in favour of rank outsiders. It is strongly argued on behalf of KoPT that 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 21.08.1985 and 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.) on 08.09.2015.



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It is seen from record that nobody appeared on behalf of O.P. during the course of hearing before this Forum. It is seen that the Notices sent through registered post was returned back with the postal endorsement "addressee moved". It is also seen that as reported by the Process Server, O.P. was not found in the subject premises. However, subsequently on 15.04.2016 the Process Server reported having served the order/notice on O.P. On the strength of such confirmation of service, my predecessor-in-Office reserved the final order on 08.06.2016. When the matter was placed before me for disposal, I deemed it appropriate to give another opportunity of hearing to O.P., for the sake of natural justice. However, even after repeated opportunities, nobody on behalf of O.P. turned up before this Forum. As per report of the Process Server, O.P. refused to accept the orders of the Forum. As such, finding no other alternative, I reserved the final order on 25.06.2018.

I have carefully gone through the contentions made by KoPT against the O.P. It is seen that KoPT vide letter dated 18.01.1979 conveyed its offer of grant of monthly licensee to O.P. and O.P. in turn accepted such offer vide its letter of Feb. 1979. It is further seen that subsequently O.P. questioned KoPT's right to charge

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enhanced license fees and as such, refused to pay the enhanced charges. In my view, a monthly license is renewed from month to month, on timely satisfaction of the dues by the licensee. There is no bar in enhancement of the charges, per se. As such, I do not find any justification on the part of the O.P. to satisfy only the license fees at the old rate. In fact, the monthly license stands automatically dissolved on the refusal of the O.P. to pay the enhanced amount of rent, and issuance of Notice to Quit dated 21.08.1985 by the Port Authority is a clear manifestation of its intent that it does not treat the O.P. as a licensee any longer.

Moreover, as per inspection carried out by KoPT in 2015 (as reported in application dated 01.04.2015) M/s Shakti Cargo is in occupation of the premises in question. Thus, it appears to me that the contentions of KoPT have definite merit and as such, I am inclined to hold that the Notice to Quit dated 21.08.1985 is valid, lawful and correctly served on the O.P. and the same is binding between the parties.

In view of the circumstances, as there is no reply to the Show Cause Notice under Section 4 of the Act, from or on behalf of the O.P., and being satisfied as above, I am left with no other alternative but to issue the Order of Eviction

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against O.P., as prayed for on behalf of KoPT, on the following grounds/reasons:-

- 1) That O.P. has failed to appear before this Forum and has failed to file reply to the Show Cause Notice under the Act inspite of sufficient chances being given.
- 2) That O.P. has failed to satisfy the terms and conditions of grant of monthly license by refusing to pay license fees as fixed by the Port Authority from time to time.
- 3) That O.P. has violated the monthly license by parting with possession of the premises in favour of rank outsiders/unauthorised occupiers.
- 4) That O.P. has failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 5) 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.
- 6) That the notice to quit dated 21.08.1985 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.
- 7) 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.



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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.

KoPT is further directed to submit a report regarding its claim on account of dues and damages against O.P., indicating there-in, the details of the computation of such dues and damages with the rate of charges so claimed for the respective periods (details of computation with rates applicable for the relevant periods, i.e. upto the date of taking over of possession) for



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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 \*\*\*