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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  
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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. 17 DT 12.09.2018  
PROCEEDINGS NO. 1461 OF 2015

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-  
**M/s Vora Brothers Pvt 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 **M/s Vora Brothers Pvt Ltd., of D/40, Jagannath Ghat, Lohaputty, Barabazar, Kolkata 700070** is in unauthorized occupation of the Public Premises specified in the Schedule below:

**REASONS**

- 1) That O.P. has failed to liquidate the estate dues of KoPT as well as failed to remove the unauthorised constructions carried out by it.
- 2) That O.P. has inducted several unauthorised occupants/strangers in the public premises without any authority of law.
- 3) That O.P. has failed to file Reply to the Show Cause Notice/s and also failed to justify how it is entitled to occupy the premises after issuance of Notice to Quit dated 22.04.2002.
- 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 22.04.2002 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. 17 dated 12.09.2018 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 Vora Brothers Pvt Ltd., of D/40, Jagannath Ghat, Lohaputty, Barabazar, Kolkata 700070** 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 Vora Brothers Pvt Ltd., of D/40, Jagannath Ghat, Lohaputty, Barabazar, Kolkata 700070** 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. CG-56.


The said godown space Msg. 32.330 Sq.m or thereabouts situated at Jagannath Ghat, Barabazar, Calcutta - 700 076. It is bounded On the North by Compartment No. D/39 occupied by M/s. Vora Brothers Pvt. Ltd., On the East by the Trustees' Road, On the South by the Compartment No. D-38 occupied by S. Pal Chowdhury and On the West by the Trustees' compartment No. D/22, occupied Shambhunath Kundu.

Plate No. CG-57.

The said Godown space Msg. 32.888 Sq.m or thereabouts situated at D/40, Jagannath Ghat, Lohaputty, Barabazar, Calcutta - 700 070. It is bounded On the North by the Trustees' compartment No. D/40 occupied by Tah Nandy & Co. (P) Ltd., On the East by the Trustees' Road, On the South by the Trustees' compartment No. D-39 occupied by M/s. Vora Brothers Pvt. Ltd. and On the West by the Trustees' compartment No. D-21 occupied by Nalin Behari Sett & Sons.

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

Dated: 12.09.2018

  
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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### 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 Vora Brothers Pvt Ltd, O.P. herein, came into occupation of KoPT's property (structures) measuring about 32.330 sqm & 32.888 sqm situated at Jagannath Ghat, Lohaputty, Thana- Posta, Kolkata, comprised under occupation Nos. CG-56 & CG-57 respectively, being the Public Premises in question, as a monthly lessee on certain terms and conditions. A case has been made out by KoPT that O.P. failed to pay the rent and taxes, and also that it erected unauthorized constructions and sub-let/parted with possession of the property in favour of rank outsiders. Due to these breaches, finally a Notice to Quit dated 22.04.2002 was served on said O.P. by KoPT. 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 22.04.2002 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/s under Section 4 & 7 of the Act (for adjudication of the

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prayer for issuance of Order of Eviction, recovery of arrears of rent etc.) both dated 08.07.2015.

It is seen from record that O.P. contested the matter by filing an application dated 04.11.2015. Considering the submissions of both the parties, this Forum directed the O.P. to liquidate the outstanding dues. It is seen that O.P. made payments for some time but thereafter stopped complying with the order of this Forum. O.P. filed another application dated 08.03.2018 expressing its difficulties to comply with the direction of this Forum. Be that as it may, this Forum repeatedly directed the O.P. to file its Reply to the Show Cause Notice/s but still O.P. did not come forward. Numerous opportunities were granted to the O.P. but still O.P. did not bother to turn up before the Forum. Finding no other alternative, after hearing the arguments of KoPT final order was reserved on 21.03.2018.

I have carefully gone through the contentions made by KoPT against the O.P. It is seen that an offer for grant of monthly lease was forwarded by KoPT to O.P. vide letter/s dated 12.07.1941 and O.P. came into possession of subject premises on 03.11.1941 after having accepted such offer. Be that as it may, it is seen that KoPT wrote numerous letters to the O.P. such as letters



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dated 07.01.1986, 15.11.1999, 12.01.2000, 26.05.2000, 01.09.2000 etc vide which KoPT repeatedly requested the O.P. to pay the arrears of rent as well as requested to remove the unauthorized constructions and remedy the breach of unauthorized parting of possession. I find that KoPT has been very much consistent in its approach whereas O.P. has failed to file even Reply to the Show Cause Notice/s. It is also evident from the statement of accounts produced by KoPT, that O.P. did not liquidate the dues for a considerable period. In my view, there is nothing to disbelieve the claim of the statutory authority. Moreover, O.P.'s application dated 04.11.2015 amounts to tacit acceptance/admission of its estate dues. Thus, I am satisfied with the claim of KoPT. Moreover, the letters dated 23.03.2000 from M/s Sau Enterprises and M/s Beg Raj Umesh Kumar fortifies the claim of KoPT. I find that there are several sitting occupants/strangers who acknowledge that they had been inducted into the subject premises by O.P. In such a situation, I have no hesitation to uphold the Notice to Quit dated 22.04.2002 issued by KoPT and I am of the view that after issuance of the notice to quit dated 22.04.2002, the occupation of the O.P. is nothing but "unauthorized" in terms of the P.P. Act 1971.



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

- 1) That O.P. has failed to liquidate the estate dues of KoPT as well as failed to remove the unauthorised constructions carried out by it.
- 2) That O.P. has inducted several unauthorised occupants/strangers in the public premises without any authority of law.
- 3) That O.P. has failed to file Reply to the Show Cause Notice/s and also failed to justify how it is entitled to occupy the premises after issuance of Notice to Quit dated 22.04.2002.
- 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 22.04.2002 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

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# Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises  
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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.

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.

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upto 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 \*\*\*