



**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 04.12.2018  
PROCEEDINGS NO.1381 OF 2013

**BOARD OF TRUSTEES OF THE PORT OF KOLKATA**  
**-Vs-**  
**Estate Brij Mohon Roy (as 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 **Estate Brij Mohon Roy (represented by legal heirs/representatives) of 21, Chetla Railway Siding, Kolkata 700027** is in unauthorized occupation of the Public Premises specified in the Schedule below:

**REASONS**

1. That O.P. has violated the condition of monthly lease as granted by the Port authority by way of not making payment of rental dues to KoPT and also carrying out unauthorised construction.
2. That O.P. has failed to make out any case in support of its occupation as “authorised occupation”.
3. That O.P. or any other persons asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as “authorised occupation”
4. That the notice to quit dated 23.05.2011 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 Sec.2 (g) of the P.P. Act.
5. That O.P. is liable to pay damages for wrongful use and occupation of the public premises up to the date of handing over the clear, vacant and unencumbered possession to the port authority.

*(Handwritten signature)*

**Please see on reverse**

A copy of the reasoned order No. 10 dated 04.12.2018 is attached hereto which also forms a part of the reasons.

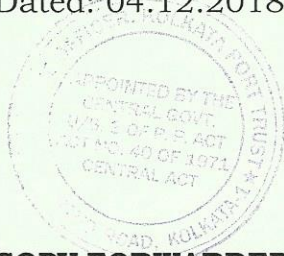
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **Estate Brij Mohon Roy (represented by legal heirs/representatives) of 21, Chetla Railway Siding, Kolkata 700027** 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 Brij Mohon Roy (represented by legal heirs/representatives) of 21, Chetla Railway Siding, Kolkata 700027** 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 said piece or parcel of land Msg. about 133.780 sqm or thereabouts situated at Chetla Station Yard at Thana – South Port Police Station, District 24 Parganas, Registration District – Alipore. It is bounded on the North by Road inside Chetla area, on the East by the lessor's leased out land, on the South by Road inside Chetla area and on the West by the lessor's leased out land.

Trustees' means the Board of Trustees of the Port of Kolkata.

Dated: 04.12.2018



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.1381/R OF 2013  
ORDER NO. 10 DATED: 04.12.2018

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

To

**Estate Brij Mohon Roy**  
**(represented by legal heirs/representatives)**  
**21, Chetla Railway Siding,**  
**Kolkata 700027**

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

AND WHEREAS, by written notice dated 07.11.2017 you were called upon to show cause on/or before 30.11.2017 why an order requiring you to pay a sum of Rs. 2,91,527.77/- (Rupees Two Lakh Ninety One thousand five hundred twenty seven and paise seventy seven 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. 2,91,527.77/- (Rupees Two Lakh Ninety One thousand five hundred twenty seven and paise seventy seven only.) for the period 01.06.1988 to 30.06.2011 (both days inclusive) to Kolkata Port Trust by 31.12.2018.

*(Handwritten signature)*

PLEASE SEE ON REVERSE

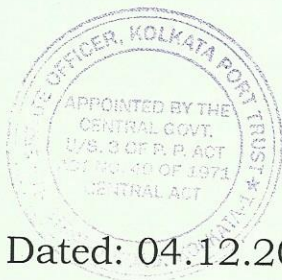
In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest at the rate of 15% per annum upto 18.09.1996 and thereafter @18% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Official Gazette/s.

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 133.780 sqm or thereabouts situated at Chetla Station Yard at Thana – South Port Police Station, District 24 Parganas, Registration District – Alipore. It is bounded on the North by Road inside Chetla area, on the East by the lessor's leased out land, on the South by Road inside Chetla area and on the West by the lessor's leased out land.

Trustees' means the Board of Trustees of the Port of Kolkata.

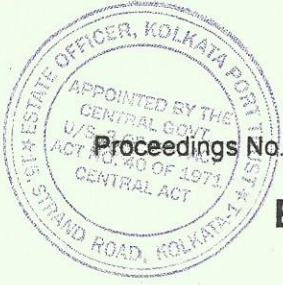


Dated: 04.12.2018

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. 1381, 1381/R, 1381/D of 2013 Order Sheet No. 9

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS  
Shri Brij Mohan Roy.

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04-12-2018

### FINAL ORDER

The matter is taken up today for final disposal. It is the case of Kolkata Port Trust (KoPT), applicant herein, that Shri Brij Mohon Roy came into occupation of the Port property measuring about 133.780 sq.mtr. at Chetla Station Yard (Plate No. D-439/A) as a monthly lessee and had defaulted in making payment of the arrear dues, interest and taxes and also made unauthorised construction without prior approval of the Port Authority, in clear violation of the terms and conditions of the lease in question.

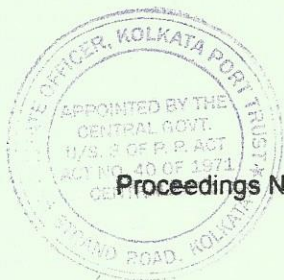
It is submitted that Shri Brij Mohon Roy has no authority under law to occupy the public premises after issuance of notice to quit dated 23.05.2011 and was required to hand over the peaceful vacant possession of the property in question to KoPT on 30.06.2011 in terms of the notice to quit dated 23.05.2011. My attention is drawn with a strong argument that the cause of action arises upon failure on the part of Shri Brij Mohon Roy to hand over possession in terms of the said notice dated 23.05.2011 as served upon him and thereafter.

This Forum issued Show Cause Notice/s under sections 4 & 7 of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for adjudication of the prayers of passing of Order of Eviction, recovery of rent, damages etc., all dated 07.11.2017.

On receipt of the Show Cause Notices one Lal Muni Roy claiming to be wife of Late Brij Mohon Roy appeared before this Forum. A Xerox copy of death certificate of Late Brij Mohon Roy was also produced before this Forum (date of death as mentioned - 04.06.2014). Subsequently, the said Lal Muni Roy filed an application dated 20.02.2018, wherein she has claimed ignorance about the dues of the Port Authority. Additionally, she has expressed her willingness to liquidate the dues, provided the escalation of rent is explained to her. Be that as it may, KoPT on 13.03.2018 filed a

# 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. 1381, 1381/R, 1381/D of 2013 Order Sheet No. 10

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

**VS**  
Shri Brij Mohan Roy.

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04.12.2018

Rejoinder to the said application filed by Lal Muni Roy, submitting that only a meager amount of Rs 5000/- has been paid till dated against the huge estate dues. On 10.04.2018, after hearing the arguments of all concerned, final order was reserved by this Forum.

Now while delivering the final order, I have carefully gone through the contentions made by KoPT along with supporting documents submitted in this respect and submissions of the respective appearing parties in this respect thereto. First and foremost, I must mention that taking cognizance of the death of Shri Brij Mohon Roy, I have continued this proceedings against "Estate Brij Mohon Roy" as O.P. thereby giving opportunity to the legal heirs and representatives of Late Brij Mohon Roy to contest the matter. Smt Lal Muni Roy, claiming to be wife of Late Brij Mohon Roy, has appeared before this Forum and filed an application dated 20.02.2018. Now, a decision must have to be taken as to whether sufficient cause has been shown on behalf of O.P., or not. On perusal of the materials placed before me, I find that KoPT wrote a letter dated 23.10.2008 to Shri Brij Mohon Roy with request for immediate liquidation of the dues. Not only this, it is seen that KoPT again wrote to Shri Brij Mohon Roy on 24.02.2011 again requesting for liquidation of dues, as also mentioning about erection of unauthorized constructions which were required to be removed immediately. During course of hearing, O.P. has failed to produce a single scrap of document to rebut such contention of the Port Authority. Rather, O.P. has practically admitted about the dues in its application filed on 20.02.2018. In my view, the submissions of the Port Authority appear to me to be consistent and uniform and as such, I do not find any reason to disbelieve the claim of the Port Authority. Moreover, the KoPT has clarified that the rent amounts were charged by KoPT from time to time as per the SoR (Schedule of Rates) which has been duly notified in the Official Gazette. As such, I find no merit in the submission of the O.P. that the

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# 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

VS  
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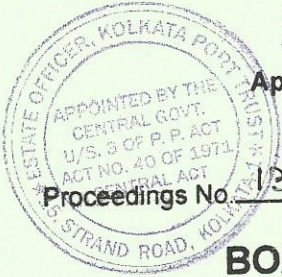
rent charged suffered from any irregularity or infirmity. Taking note of such background of the matter, I think the allegations of KoPT against the O.P. are well established, in the facts and circumstances of the case.

The properties of the Port Trust are coming under the purview of "public premises" as defined under the Act. Now the question arises as to how a person becomes unauthorized occupant into such public premises. As per Section 2 (g) of the Act, the "unauthorized occupation", in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever. The monthly lease granted to Shri Brij Mohon Roy was undoubtedly determined by the Port Authority by due service of notice to quit dated 23.05.2011 (when Shri Brij Mohon Roy was very much alive) and institution of proceedings against O.P. by KoPT is a clear manifestation of Port Authority's intention to get back possession of the premises for violation of the fundamental conditions of the lease.

As such, I am left with no other alternative but to issue the order of eviction against O.P. (Estate Brij Mohon Roy) as prayed for on behalf of KoPT on the following ground/ reasons:

1. That O.P. has violated the condition of monthly lease as granted by the Port authority by way of not making payment of rental dues to KoPT and also carrying out unauthorised construction.
2. That O.P. has failed to make out any case in support of its occupation as "authorised occupation".
3. That O.P. or any other persons asserting any right through O.P. has failed to bear any witness or

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# 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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adduce any evidence in support of its occupation as "authorised occupation"

4. That the notice to quit dated 23.05.2011 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 Sec.2 (g) of the P.P. Act.
5. That O.P. is liable to pay damages for wrongful use and occupation of the public premises up to the date of handing over the 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. (Estate Brij Mohon Roy) 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 Law up to the date of 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 could 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. 2,91,527.77/- for the period from 01.06.1988 up to 30.06.2011 (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 ~~30.11.2018~~ <sup>31.12.2018</sup>. Such dues attracts interest at the rate of 15% per annum upto 18.09.1996 and thereafter at the rate of 18% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum till its liquidation of the same from the date of incurrance of liability in accordance with the notification of KoPT issued

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# 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. 1381, 1381/R, 1381/D Of 2013 Order Sheet No. 13

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

<sup>VS</sup>  
Shri Brij Mohan Roy.

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under Authority of Law as per adjustment of payments made so far by O.P as per KoPT's books of accounts. I sign the formal order as per Rule u/s 7 of the Act.

I am not inclined to assess the damages at this stage as the Notice u/s 7(2) was issued only for a particular period whereas the O.P. is liable to pay damages for unauthorized use and enjoyment of the property right upto the date of handing over of possession of the public premises to KoPT. As such, the damages are to be assessed later, upon issuance of fresh Notice u/s 7(2) of the Act by this Forum, at the appropriate time. 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 (including 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. or any other occupier 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

(A.K. SARKAR)  
ESTATE OFFICER

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