



**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  
6, FAIRLEY PLACE  
(1<sup>ST</sup> Floor)  
KOLKATA - 700 001  
\*\*\*\*\*

Court Room At the 1<sup>ST</sup> Floor  
of Kolkata Port Trust's  
Fairley Warehouse  
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 10 DT 18.03.2019  
PROCEEDINGS NO.1660 OF 2018

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-

**M/s. Khemchand Rajkumar (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**

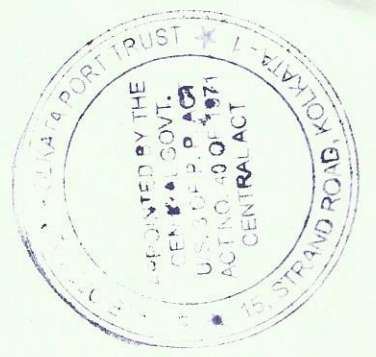
WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **M/s. Khemchand Rajkumar, OF Belvedere Court, 11 & 13, Alipore Road, Kolkata 700027 AND Also Everest House, 10<sup>th</sup> Floor, 46-C, Chowringhee Road, Kolkata-700071** is in unauthorized occupation of the Public Premises 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 violated the monthly lease by erecting unauthorised construction and by defaulting in payment of rental dues and taxes, at the time of issuance of Notice to quit dated 19.06.1985.
- 3) That O.P. has paid no heed to KoPT's communication dated 12.12.2017 reiterating the unauthorised occupation of the O.P. right since 01.09.1985.
- 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 19.06.1985 read with vacation notice dated 12.12.2017 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**





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A copy of the reasoned order No. 10 dated 18.03.2019 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. Khemchand Rajkumar, OF Belvedere Court, 11 & 13, Alipore Road, Kolkata 700027 AND Also Everest House, 10<sup>th</sup> Floor, 46-C, Chowringhee Road, Kolkata-700071** 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. Khemchand Rajkumar, OF Belvedere Court, 11 & 13, Alipore Road, Kolkata 700027 AND Also Everest House, 10<sup>th</sup> Floor, 46-C, Chowringhee Road, Kolkata-700071** 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 200.67 sqm or thereabouts situated at Shibpur, Howrah, P.S. Shibpur, Dist. And Registration District- Howrah. It is bounded on the North and East by the Trustees' land occupied by M/s. K.R. Steel Union Pvt. Ltd., On the South by the Trustees' land occupied by Beni Madhab Sett and Satya Charan Sett and on the West by the Trustees' strip of open land beyond which is the Trustees' open drain alongside Foreshore Road.

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

Dated:18.03.2019

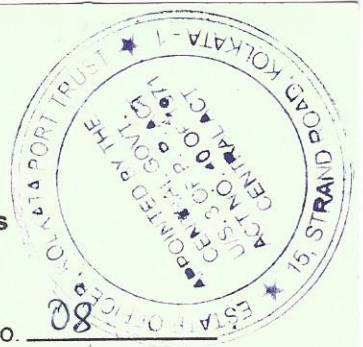
Signature & Seal of the  
Estate Officer.

**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. 1660 Of 2018 Order Sheet No. 08

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Khemchand Rajkumar VS Plateno. 248 & SF-127/2

10  
18-03-2019

### 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. Khemchand Rajkumar (O.P. herein) came into occupation of KoPT's land measuring about 200.67 sqm situated at Shibpur, Thana- Shibpur, District and Registration District- Howrah, under occupation No. HL.248/4 and SF.127/2, being the Public Premises in question, as a month to month lessee, on certain terms and conditions, and O.P. violated the conditions of such lease by defaulting in payment of rent and taxes and also by erecting unauthorized construction. 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 19.06.1985 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 08.08.2018.

It is seen from record that nobody appeared on behalf \_\_\_\_\_ of O.P. during the course of hearing before this





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### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Uhem Chand Rajkumar

VS

Pratono. 2484 SF-127/2

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18.3.2019

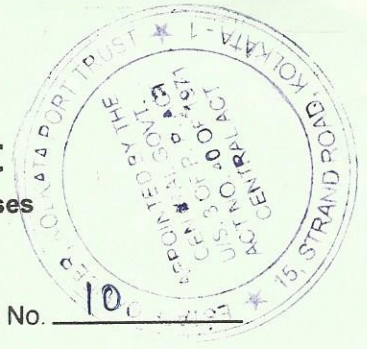
Forum. It is seen that the Notice sent through registered post was returned back with the postal endorsement "Left". It is also seen that as reported by the Process Server, O.P. was not found in the subject premises. However, the Process Server has reported that the Notice in question has been duly affixed in the premises in question, as per the mandate of the Act. Finding no other alternative, this Forum directed a Notice to be published in reputed daily newspaper for information to all concerned. Such publication was made in an English Daily "The Times Of India" on 25.01.2019 but the same also yielded no results. The Notice was also published in the official website of KoPT, inviting the attention of all concerned. As no one appeared on behalf of O.P. or any person interested in this proceedings inspite of publication of notice in Daily Newspaper having wide circulation, I have no bar to decide the instant proceeding exparte and accordingly reserved the final order on 14.02.2019.

I have carefully gone through the contentions made by KoPT against the O.P. It is seen that originally a long term lease (of 10 years, without any option for renewal) was granted to O.P. and upon its expiry, KoPT vide letter dated 27.04.1982 conveyed an offer of grant of monthly lease to O.P. in response to the prayer



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(Eviction of Unauthorised Occupants) Act 1971



Proceedings No. 1660 Of 2018 Order Sheet No. 10

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Plateno. 248+3F-127/2

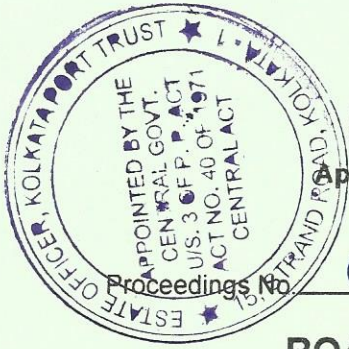
M/s Khanchand Rajkumar

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18.3.19

for renewal of the occupation by O.P.. Such relationship continued as a month to month lease until it was determined by KoPT by issuing notice to quit dated 19.06.1985 for deliberately defaulting in payment of rental dues and also erecting unauthorized construction at the subject premises. Moreover, it also appears from record that one notice for vacation of the premises was again served by KoPT on O.P. on 12.12.2017, reiterating the continued unauthorized occupation of the O.P. but still no fruitful response was received from the O.P.

As regards KoPT's submission for rental dues on the part of O.P., it is seen from the statement of accounts placed before me that O.P. was indeed a defaulter of rent, at the time of issuance of the notice to quit dated 19.06.1985 by the Port Authority. It further appears from the documents filed by KoPT that vacant land was granted by KoPT in which O.P. erected certain unauthorized construction without any permission as is stated in the original application dated 15.06.2018. On the other hand, despite all possible efforts nobody interested in the property chose to defend the contentions of KoPT before this Forum. Thus, I have no alternative but to hold that the contentions of KoPT have definite merit and as such, I am inclined to conclude that the Notice





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(Eviction of Unauthorised Occupants) Act 1971

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Of

2018

Order Sheet No. 11

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Khan Chand Rajkumar

VS

Plateno. 248 & SF-127/2

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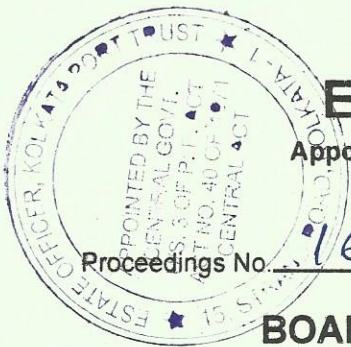
18.3.2019

to Quit dated 19.06.1985 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 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 violated the monthly lease by erecting unauthorised construction and by defaulting in payment of rental dues and taxes, at the time of issuance of Notice to quit dated 19.06.1985.
- 3) That O.P. has paid no heed to KoPT's communication dated 12.12.2017 reiterating the unauthorised occupation of the O.P. right since 01.09.1985.
- 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.





# 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. 1660

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Order Sheet No. 12

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/s Khann Chand Rajkumar

Plate no. 2484 SF 127/2

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18.3.2019

6) That the notice to quit dated 19.06.1985 read with vacation notice dated 12.12.2017 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.

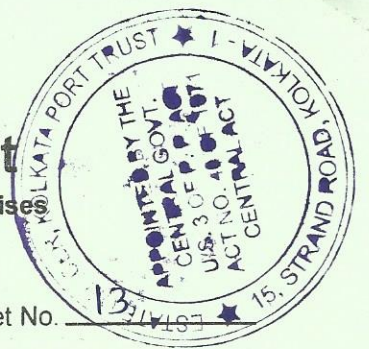
ACCORDINGLY, I sign the formal order of eviction u/s. 5 of the Act as per Rule made there-under, giving 15 days' time to O.P. and any person/s whoever may be in occupation to vacate the premises. I make it clear that all person/s, whoever may be in occupation, are liable to be evicted by this order and 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.



# 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


M/s Khem Chand Rajkumar VS Plates no. 24B + SR 127/2

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18.3.2019

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 my consideration in order to assess the dues 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

  
(R. MUKHERJEE)  
ESTATE OFFICER

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