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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
1st Floor, 6, Fairlie Place Warehouse,
Kolkata-700001

Court Room At the 1st Floor
6, Fairlie Place Warehouse
Kolkata- 700 001.

REASONED ORDER NO. 15 DT 20.09.2019
PROCEEDINGS NO.1366 OF 2012

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
The Bhagirathi Bichali Arathdar & Company

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
The Bhagirathi Bichali Arathdar & Company, Prop. Shew Balak Singh OF
51/1, Botanical Garden Road, P.O. Botanical Garden, District- Howrah-
711103 AND Also at 103/1/C, Bichalighat, P.O. Shibpur, District- Howrah-
711102 is in unauthorized occupation of the Public Premises specified in the
Schedule below:

REASONS

1. That O.P. has failed to file his reply to the Show Cause Notice u/s 4 of the Act inspite of sufficient chances.
2. That O.P. has failed to bear any witness or adduce any evidence in support of his occupation as "authorised occupation" inspite of sufficient chances.
3. That O.P. has violated the condition of tenancy under lease as granted by the Port authority by way of unauthorised parting with possession of the Public Premises.
4. That the ejection notice dated 23.05.1989, demanding possession from O.P. as issued by the Port Authority is valid, lawful and binding upon the parties.
5. That O.P's occupation has become unauthorised in view of Sec.2(g) of the P.P. Act and O.P. is liable to pay damages for wrongful use and enjoyment of the Port Property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

6. That O.P's occupation into the public premises is wrongful on and from 01.08.1989 and O.P. is liable to pay damages/compensation for such unauthorized use and occupation of the public premises upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

A copy of the reasoned order No. 15 dated 20.09.2019 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 **The Bhagirathi Bichali Arathdar & Company, Prop. Shew Balak Singh OF 51/1, Botanical Garden Road, P.O. Botanical Garden, District- Howrah-711103 AND Also at 103/1/C, Bichalighat, P.O. Shibpur, District- Howrah- 711102** 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 **The Bhagirathi Bichali Arathdar & Company, Prop. Shew Balak Singh OF 51/1, Botanical Garden Road, P.O. Botanical Garden, District- Howrah-711103 AND Also at 103/1/C, Bichalighat, P.O. Shibpur, District- Howrah- 711102** 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 66.890 sqm or thereabouts is situate at Ramkristopur, Howrah, Thana- Howrah, District and Registration District- Howrah under Plate No. HL-244 and SF-113/1. It is bounded on the North by the Trustees' land leased to Shri Motilal Mondal, on the East and West by the Trustees' open land and on the South by the Trustees' land leased to Shri Madan Kumar Das.

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

Dated: 26.09.2019



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.
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THE ESTATE OFFICER, KOLKATA PORT TRUST
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1st Floor, 6, Fairlie Place Warehouse,
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Form "E"

PROCEEDINGS NO.1366/R OF 2012
ORDER NO. 15 DATED: 20.09.2019

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

To
The Bhagirathi Bichali Arathdar & Company,
Prop. Shew Balak Singh,
51/1, Botanical Garden Road,
P.O. Botanical Garden,
District- Howrah-711103.

AND Also at

103/1/C,
Bichalighat,
P.O. Shibpur,
District- Howrah- 711102.

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

AND WHEREAS, by written notice dated 25.07.2014 you were called upon
to show cause on/or before 22.08.2014 why an order requiring you to pay a
sum of Rs. 14,923.31/- (Rupees Fourteen Thousand Nine Hundred and Twenty
Three and paise Thirty one only.) being the rent payable together with simple
interest in respect of the said premises should not be made;

And whereas you have failed to represent the instant proceedings inspite
of repeated chances being given to you. Even Paper Publication of the Notice
yield no fruitful result and therefore no evidence have been produced by you in
support of your case.

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. 14,923.31/- (Rupees
Fourteen Thousand Nine Hundred and Twenty Three and paise Thirty one
only.) for the period 01.05.1976 to 16.02.2012 (both days inclusive) to Kolkata
Port Trust by 04.10.2019

PLEASE SEE ON REVERSE

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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 @ 7 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) payable from the date of incurrance of liability, on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

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 66.890 sqm or thereabouts is situate at Ramkristopur, Howrah, Thana- Howrah, District and Registration District- Howrah under Plate No. HL-244 and SF-113/1. It is bounded on the North by the Trustees' land leased to Shri Motilal Mondal, on the East and West by the Trustees' open land and on the South by the Trustees' land leased to Shri Madan Kumar Das.

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

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

Dated: 26.09.2019

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. 1366, 1366/R Of 2012 Order Sheet No. -13-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

The Bhagirathi Bichali Arathdar Company ^{VS}

15
20.09.2019

FINAL ORDER

The matter is taken-up today for Final Disposal. It is the case of Kolkata Port Trust (KoPT) that The Bhagirathi Bichali Arathdar & Company, Shibpur, Bichali Ghat (O.P) came into occupation of the Port Property in question being land Msg. 66.89 Sq.m., situated at Ranikristopur, Howrah comprised under Plot No. HL-244 and SF-113/1 as lessee under Short term lease and thereafter violated the condition of tenancy by way of not paying rental dues to KoPT. It is also the case of KoPT that O.P. has unauthorisedly parted with possession of the Public Premises and O.P. is liable to pay damages for wrongful use and occupation of the Public Premises after expiry of the period as mentioned in the notice to quit dated 23.05.1989. It is argued that O.P. has lost its authority to occupy the Public Premises on and from 01.08.1989. This Forum of Law formed its opinion to proceed against O.P. and issued Show Cause Notice u/s 4 of the Act (for adjudication of the prayer for issuing order of eviction etc.) and Show Cause Notice u/s 7 of the Act (for adjudication of the prayer for recovery of arrear rental dues etc.) both dated 01.08.2014 as per Rule made under the Act. The said Notice/s were sent by way of post and affixation at the subject premises and also hand delivery.

The Acknowledgement Card that of the Postal Department returned with the endorsement 'Left'. Perused the report of the Process Server dated 06.08.2014 and subsequent report of the Process Server filed on 05.05.2017 regarding affixation of Show Cause notice/s on the property. Even publication of notice in Kolkata Port Trust's website and in English Daily "The Times Of India" on 23.11.2017 yielded no results. 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 ex parte and accordingly reserved the final order on 11.12.2017.

[Handwritten signature and date]
S. De
26.09.2019

[Handwritten mark]

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

The Bhagirathi Bichali ^{VS} Arathdar Company

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20.09.2019

I have carefully gone through the contentions made by KoPT against the O.P. It is seen that a registered lease was executed between KoPT and O.P. on 06.03.1964 w.e.f. 01.08.1963 for a term of 5 years, thereafter the lease was continued as month to month lease until it was finally determined by way of issuance of Quit Notice dated 23.05.1989 w.e.f. 31.07.1989, when O.P. was asked to vacate the subject premises. The Quit Notice was served upon O.P. following due process of Law. It is the case of KoPT that O.P. defaulted in making paying of rental dues to KoPT. It is also the case of KoPT that O.P. has unauthorisedly parted with possession to rank outsiders.

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 23.05.1989 is valid, lawful and correctly served on the O.P. and the same is binding upon the parties.

I am satisfied with the service of notice to all concerned.

No one appears on behalf of O.P. with proper authority.

I am convinced that occupation of the aforesaid occupants are wholly unauthorised and occupants are rank outsider to the Public Premises. As no reply to the Show Cause Notice u/s 4 of the Act has been filed on behalf of O.P. inspite of repeated chances, I have no other alternative but to issue order of eviction against O.P. of the following grounds/reasons :

1. That O.P. has failed to file his reply to the Show Cause Notice u/s 4 of the Act inspite of sufficient chances.
2. That O.P. has failed to bear any witness or adduce any evidence in support of his occupation as "authorised occupation" inspite of sufficient chances.
3. That O.P. has violated the condition of tenancy under lease as granted by the Port authority by way of unauthorised parting with possession of the Public Premises.

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OFFICE
KOLKATA



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 1366, 1366/R Of 2012 Order Sheet No 15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

The Bhagirathi Bichali Arathi dar Company
VS

15
20.09.2019

4. That the ejection notice dated 23.05.1989, demanding possession from O.P. as issued by the Port Authority is valid, lawful and binding upon the parties.

5. That O.P's occupation has become unauthorised in view of Sec.2(g) of the P.P. Act and O.P. is liable to pay damages for wrongful use and enjoyment of the Port Property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

ACCORDINGLY, Department is directed to draw up 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 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.

Department is also directed to draw formal order for rent u/s.7 of the Act for Rs. 14,923.31/- for Plate No. HL-244 and SF-113/1 both for the period 01.05.1976 to 16.02.2012(both days inclusive), directing O.P. to pay the amount on or before 04.10.2019 and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 04.10.2019. In terms of Section 7 (2-A) of the PP Act, 1971, such dues attract simple interest @ 7 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrance of liability,

P

26.09.2019

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
The Bhagirathi Bichali Agratarlas Company

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20.09.2019

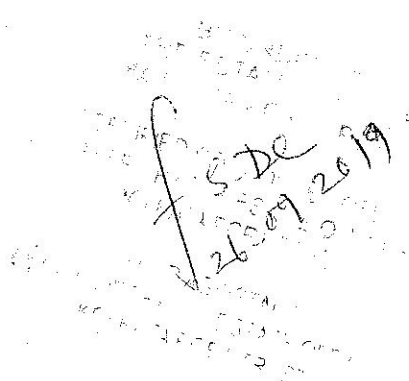
til the liquidation of the same, as per the adjustment of payments, if any made so far by O.P. in terms of KoPT's books of accounts. I sign the formal order u/s 7 (1) & (2-A) of the Act. I make it clear that in the event of failure on the part of O.P. to pay the amount to KoPT as aforesaid, Port Authority is entitled to proceed further for recovery of its claim in accordance with law.

KoPT is directed to submit a report regarding its claim on account of damages against O.P., indicating therein the details of the computation of such damages with the rate of charges so claimed for the respective period (details of computation with rates applicable for the relevant period) for my consideration in order to assess the damages as per the Act and the Rules made thereunder. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL


(Sanyabrata Sinha)
ESTATE OFFICER

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


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20.09.2019