

Affixed.

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. 04 DT 25.09.2019
PROCEEDINGS NO.1724 of 2019

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
Shri Ram Kissen Singh

8 30.09.19

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
Shri Ram Kissen Singh, OF 38, Raja Kantra, Kolkata-700007 is in
unauthorized occupation of the Public Premises specified in the Schedule
below:

REASONS

1. That O.P. has failed to submit any reply to the Show Cause Notice u/s 4 of the Act inspite of repeated chances.
2. That O.P. has failed to appear before this Forum of Law and has failed to bear any witness or adduce any evidence in support of its authorized occupation into the Public Premises inspite of sufficient chances.
3. That O.P. has defaulted in making payment of arrear dues to Kolkata Port Trust in gross violation to the condition of tenancy under the lease as granted by the Port Authority.
4. That O.P. has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the notice of vacation dated 22.02.2016 as issued from the Port Authority.
5. That occupation of O.P. (including the occupation of anybody asserting any right through O.P.) has become unauthorised in view of Sec. 2(g) of the P.P. Act.
6. That O.P. is liable to pay damages for its 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.

Sd/-

A copy of the reasoned order No. 04 dated 25-09-2019 is attached hereto which also forms a part of the reasons.

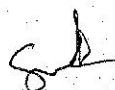
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **Shri Ram Kissen Singh, OF 38, Raja Kantra, Kolkata-700007** and all persons who may be in occupation of the said 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 **Shri Ram Kissen Singh, OF 38, Raja Kantra, 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

The said piece or parcel of land Msg. about 92.624 sqm on the South Side of Cross Road No. 13 at Nimtollah, Thana- Jorabagan Police Station in the Presidency town of Kolkata (under Plate No. SB-240). It is bounded on the North by the Cross Road No. 13, on the East by the Trustees' land occupied by Ram Prasad Singh & Guru Prasad Singh, On the South by the Trustees' Land occupied by Dinanath Kanoria and on the West by the Trustees' land occupied by East Land Wood Corporation.

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

Dated: 27-09-2019.


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.
HAND DELIVERY
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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
1st Floor, 6, Fairlie Place Warehouse,
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Form G

Court Room At the 1st Floor
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REASONED ORDER NO. 04 DT 25.09.2019
PROCEEDINGS NO.1724/D OF 2019.

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-

Shri Ram Kissen Singh

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

To
Ram Kissen Singh,
38, Raja Kantra,
Kolkata- 700007.

25.09.19

Whereas I, the undersigned, am satisfied that you are in unauthorised
occupation of the public premises mentioned in the Schedule below:

And whereas by written notice dated 28.03.2019 you were called upon to
show cause on/or before 22.04.2019 why an order requiring you to pay
damages of sum of Rs. 15,74,078.25/- (Rupees Fifteen Lakhs Seventy Four
Thousand Seventy Eight and paise twenty five only.) for Plate No. SB-240
together with compound interest for unauthorised use and occupation 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 and therefore no evidence have been
produced by you in support of your case.

PLEASE SEE ON REVERSE

Sub

Now, therefore, in exercise of the powers conferred on me by Sub-section (2) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby order you to pay the sum of Rs. 15,74,078.25/- (Rupees Fifteen Lakhs Seventy Four Thousand Seventy Eight and paise twenty five only.) for the period 01.07.1985 to 30.04.2017 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust by 14.10.2019.

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 on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

In the event of your refusal or failure to pay the damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue.

SCHEDULE

The said piece or parcel of land Msg. about 92.624 sqm on the South Side of Cross Road No. 13 at Nimtollah, Thana- Jorabagan Police Station in the Presidency town of Kolkata (under Plate No. SB-240). It is bounded on the North by the Cross Road No. 13, on the East by the Trustees' land occupied by Ram Prasad Singh & Guru Prasad Singh, On the South by the Trustees' Land occupied by Dinanath Kanoria and on the West by the Trustees' land occupied by East Land Wood Corporation.

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

Dated: 27.09.2019.

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 Unauthorized Occupants) Act 1971

Proceedings No. 1724 & 1724/D of 2019 Order Sheet No. 05

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Sri Ram Kissen Singh (SB-240)

FINAL ORDER

The matter is taken today for passing final order for proceedings nos. 1724 and 1724/D all of 2019 which arises out of the application bearing No. Lnd. 7/72/II/17/1096 filed by the Kolkata Port Trust (KoPT) on 11.05.2017 for eviction and recovery of dues/damages/mesne profit/compensation/other charges etc. along with accrued interest against Sri Ram Kissen Singh, the OP herein, under the relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

The fact of the case in nutshell is that the opposite party came into occupation of the port property of land measuring 92.624 sq. mt. thereabout situated on the South side of Cross Road No. 13 at Nimtollah, Thana - Jorabagan Police Station, in the Presidency town of Kolkata under Plate No. SB 240. The OP came into occupation of the premises as a lessee for 10 years w.c.f. 01.07.1975 which expired by efflux of time and O.P. became unauthorized occupant on and from 01.07.1985.

It is the case of KoPT that O.P. defaulted on the conditions of tenancy on the grounds of expiry of the said lease by efflux of time on 30.06.1985 in clear violations of the terms and conditions of the lease in question at the time of serving vacating notice dated 22.02.2016. It is argued on behalf of KoPT that O.P. has no authority under law to occupy the public premises after the said lease expired by virtue of efflux of time on 30.06.1985 and further notice dated 22.02.2016 was issued for vacating the possession and was required to hand over the possession of the property in question to KoPT on the expiry of the lease in question i.e., 30.06.1985 and since O.P. failed to vacate the possession finally vacating notice was again which was issued on 22.02.2016 and was asked to vacate in the month of March 2016 as required under the notice of vacating.

This Forum of Law proceeded against O.P. under the relevant provisions of the P.P. Act, hereinafter referred to as the 'Act' and issued Show Cause Notice u/s 4 of

04

25.09.2019.

J. 30.09.19.

Sd/-

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. 1724 A/1724/D Of 2019 Order Sheet No. -6-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Sri Ram Kishore Singh. (SB-240)

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the Act (for adjudication of the prayer for recovery of possession of the Public Premises). Show Cause Notice u/s 7 of the Act was also issued to O.P. (for adjudication of the prayer for recovery of damages etc.). Both the Show Cause Notice/s u/s 4 & 7 of the Act were issued as per Rule made under the Act and both dated 25.03.2019. O.P. was asked to Show Cause on or before 22.04.2019.

It reveals from record that Postal Service to O.P's address at 38, Raja Kantra, Kolkata - 700007 was returned undelivered with remarks of the Postal Department "Addressee Moved" on 02.04.2019. I have duly considered the report of the Process Server dated 01.04.2019 regarding Affixation of Notice u/s 4 and 7 of the Act on the Public Premises. I am satisfied with the service of notice to all concerned interested into the property. In my view, sufficient chances have been given to all concerned to represent their case and as O.P. failed to submit its reply to the Show Cause Notice/s u/s 4 & 7 of the Act both dated 25.03.2019 inspite of sufficient chances, direction was issued to publish notice in Local Daily newspaper and website publication. The Notice was published on 28.05.2019 in the "The Times of India", and at KoPT's Website requiring O.P. to appear and to Show Cause on or before 13.06.2019. As no one appeared on behalf of O.P. or on behalf of any person/s interested into the property inspite of several dates scheduled for hearing and no reply to the Show Cause Notice/s has been filed as yet, I am left with no other alternative but to issue order of eviction u/s 5 of the Act to O.P. and to all person/s whoever may be in occupation on the following grounds/reasons:

1. That O.P. has failed to submit any reply to the Show Cause Notice u/s 4 of the Act inspite of repeated chances.
2. That O.P. has failed to appear before this Forum of Law and has failed to bear any witness or adduce any evidence in support of its authorized occupation into the Public Premises inspite of sufficient chances.

[Handwritten signature]

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. 1724/1724/D of 2019 Order Sheet No. 7

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Shri Ram Kissen Singh. (SB-240)

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25.09.2019.

J. 30.09.19.

3. That O.P. has defaulted in making payment of arrear dues to Kolkata Port Trust in gross violation to the condition of tenancy under the lease as granted by the Port Authority.
4. That O.P. has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the notice of vacation dated 22.02.2016 as issued from the Port Authority.
5. That occupation of O.P. (including the occupation of anybody asserting any right through O.P.) has become unauthorised in view of Sec. 2(g) of the P.P. Act.
6. That O.P. is liable to pay damages for its 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.

In my opinion KoPT's claim for damages upto 30.04.2017 for Rs. 15,74,078.25/- against Plate No. SB-240 (excluding interest for delayed payment) for wrongful occupation may be payable by O.P. as it is gathered in course of hearing that the charges so claimed by KoPT is on the basis of the Schedule of Rent Charges published under the Authority of Law as per provisions of the Major Port Trusts Act 1963. In course of hearing, I find that KoPT has made out an arguable claim against O.P., founded with sound reasoning. I make it clear that Kolkata Port Trust is entitled to claim damages against O.P. for unauthorized use and occupation of the public premises upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance

SB

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. 1724/1724/D Of 2019 Order Sheet No. 8

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Sri Ram Kissen Singh VS (SB-240)

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with Law and KoPT is entitled to claim interest upon dues/charges right from the date of incurrence of liability by O.P. till KoPT take over possession of the subject premises as per KoPT's Rule.

NOW THEREFORE, I hereby assess the damages payable by the O.P. for wrongful and unauthorised occupation of the public premises in question, for the period 01.07.1985 to 30.04.2017 as Rs 15,74,078.25/- (principal amount). 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 incurrence of liability, till 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.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

S. Mitra
(S. Mitra)
ESTATE OFFICER

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