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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-700001.

Form "E"

PROCEEDINGS NO.1395/R OF 2013
ORDER NO.17 DATED: 02.12.19

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

To
Smt. Gita Bose & ors,
195, Bidhan Park,
Baranagar,
Kolkata-700090.

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

AND WHEREAS, by written notice dated 02.05.2018 you were called upon to show
cause on/or before 24.05.2018 why an order requiring you to pay a sum of Rs.4,83,857.11/-
(Rupees Four Lakhs Eighty Three Thousand Eight Hundred and Fifty Seven and paise Eleven
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 objections and the evidence/s
produced before this Forum on the said date.

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.4,32,941.11/- (Rupees Four Lakhs Thirty Two Thousand
Nine Hundred Forty One and Eleven paise only.) for the period 01.08.1983 to 31.08.2010
to Kolkata Port Trust by 10.10.2019 after making the adjustment of the security deposit of
Rs. 50,916/-.

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 @ 14.25% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Calcutta Gazettee/s as per Kolkata Port Trust's Rule.

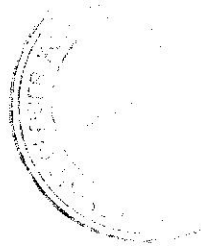
In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

SCHEDULE

The piece or parcel of land msg. about 551.38 Sq.m or thereabouts is situated at Remount Road, Thana- South Port Police Station, Dist: 24 Parganas(South), Registration Dist. Alipore under Plate No. D-631. It is bounded On the North by Trustees' vacant land previously occupied by Som Service, On the South by Trustees Quarters area, on the East by the Trustees' vacant Land then Boat Canal and West by Trustees' Road connecting Remount Road and Trustees Labour Quarters area.

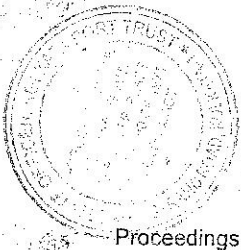
Trustees' means the Board of Trustees for the Port of Kolkata.

Dated: 3/12/19



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. 1395/R Of 2013 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Smt. Gita Bose & Ors.

17

02.12.19

FINAL ORDER

The instant proceedings No. 1395/R of 2013 arises out of the application bearing No. Lnd.5000/12/3817 dated 24.12.2012 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of recovery of rent and other charges etc. along with accrued interest in respect of the public premises as defined in the Schedule of said application, against Smt. Gita Bose & Ors, the O.P herein, under relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

The fact of the case in a nutshell is that the O.P. came into occupation of the port property measuring 551.38 sq.mt. or thereabout situated at Remount Road (under Plate No.D-631) as monthly lessee, more fully described in the 'Schedule of Property' of the KoPT's application. The allegations levelled by KoPT against the O.P is that while in possession of Port property as monthly lessee, the O.P has defaulted in making payment of rent and taxes and also accrued interest thereon the details of which has given in 'Schedule-B' of the KoPT's application.

It is the case of KoPT that the O.P. was asked to pay rents upto 17.10.2012 as because the subject premises has already been taken over by KoPT on 17.10.2012.

Considering the submission and documents as submitted by KoPT, Notice to Show Cause dated 02.05.2018(vide Order No.4 dated 09.04.2018) was issued by this forum to the O.P. U/s 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 to show cause as to why an order requiring to pay arrear rent together with interest should not be made against the O.P. The O.P. was also called upon to appear before this forum in person or through authorized representative capable to answer of material question connected with the matter along with the

[Handwritten signature]

OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST
REMOUNT ROAD
KOLKATA-700017

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.

1395/R

Of

2013

Order Sheet No.

14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Smt. Gita Bose & ors.

17
02.12.19

evidence which the opposite party intends to produce in support of this case.

It is placed on record that the said Notice was sent to the recorded address of O.P. vide Speed Post, hand delivery as well as by affixation of the same in the Public Premises in question as per mandate of the Act. The Notice/s sent by Speed Post were not returned back to this Forum. However, it appears from the report of Process Server dated 09.05.2018 that the notice has been personally served upon O.P at about 4:45P.M. and affixation has duly been made on the subject premises on 10.05.2018. at about 12noon. Thereafter O.P appeared and file his letter of authority to represent before this Forum and contested the matter by filing his Reply to the Show Cause on 14.06.2018 alleging inter-alia that O.P has surrendered the subject plot of land to KoPT on 17.10.2012 and the rent was enhanced three times but O.P's earning is fixed and profit out of business is of a specific nature. Therefore, such sudden enhancement of rent is illegal, arbitrary in nature and is also in violation of West Bengal Premises Tenancy Act. More over KoPT is demanding arrear rent after six years of surrender of Tenancy which is unjustifiable. They should adjust the arrears rent from the security deposit and cost of constructions which is already lying with them (KoPT). After that KoPT filed their rejoinder on 07.08.2018 denying all the averments made by O.P under reply. KoPT stated that they have charged monthly rent as per SoR of Gazette notification published by TAMP. Here rent has been charged as per SoR of 1996 and enhanced 5.1% per annum upto 06.04.2011 but from 07.04.2011 rent has been charged as per SoR of 2011. Further in reply to the O.P's submission regarding the adjustment of security deposit with pending dues, KoPT submitted that the O.P has to submit original TR issued by the KoPT. After that the matter was heard several occasions and on 24.01.2019 when the matter was lastly heard by this Forum, the final order was reserved on that day.

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Estate Officer, Kolkata Port Trust

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(Eviction of Unauthorised Occupants) Act 1971

Proceedings No.

1395/R

Of

2013

Order Sheet No.

15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Smt. Gita Bose 2005

17
02.12.19

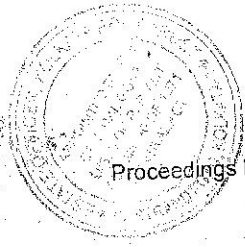
Now after carefully considering the documents on record and the submissions of both the parties, my considered view is that O.P's allegation regarding sudden enhancement of rent and the violation of W.B Premises Tenancy Act etc. are not tenable in the eye of law. It is required to be mentioned that properties owned by Port Authority are exempted from the operation of the West Bengal Premises Tenancy Act (Rent Control Act). In such a situation, the concept of tenancy right or statutory tenant as envisaged under the Rent Control Act is wholly inapplicable. It is worthy to point out that the erstwhile Commissioners for the Port of Kolkata (now known as Kolkata Port Trust) by virtue of Major Port Trusts' Act, 1963 is the owner of landed property beside River Hooghly, in and around Kolkata. The landed property of the Port Authority is exempted from the purview of The West Bengal Premises Tenancy Act being a 'Local Authority' as defined under the General Clauses Act, 1897 and The West Bengal General Clauses Act, 1899. Moreover, the status of the Port Authority is that of a 'Statutory Authority' created under the Major Port Trusts' Act and the operation of the Rent Control Act is also exempted under the Premises Tenancy Act. O.P's allegation that sudden increase of rent is illegal and arbitrary is also not justifiable and acceptable to me because when charges for occupation and enjoyment of Port Property are fixed up in accordance with the provisions of the Major Port Trusts Act, it is very difficult to accept any contention regarding charging of fair rent.

Therefore, in view of this circumstance, I have no bar to accept the claim of KoPT on account of arrear rental dues etc. In fact, I have nothing to disbelief in respect of KoPT's claim against O.P. as per statement of accounts maintained regularly in KoPT's office in regular course of business.

It is my considered view that a sum of Rs.4,32,941.11/- (principal amount) for the period 01.12.2010 to 30.11.2012 is due and recoverable from

[Signature]

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16/11/12
3/12



Estate Officer, Kolkata Port Trust

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Proceedings No. 1395/R Of 2013 Order Sheet No. 16

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Smt. Gita Bose & Ors. **VS**

17
02.12.19

O.P. by the Port authority on account of rental dues which is deducted after making the necessary adjustment of the Security Deposit of Rs. 50,916/- and O.P. must have to pay the rental dues to KoPT on or before 15.10.2019. The adjustment of such security deposit is also an admitted position by the respective parties and therefore is not required to proved. 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 13.02.2010 and thereafter at the rate of 14.25% per annum till its liquidation of the same from the date of incurrence of liability in accordance with the notification of KoPT issued under Authority of Law as per adjustment of payments made so far by O.P as per KoPT's books of accounts.

Department is directed to draw up formal order as per Rule u/s 7 of the Act. I make it clear that in the event of failure on the part of O.P. to pay the dues/charges as aforesaid, KoPT is at liberty to recover the rental dues etc. 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***

RECEIVED
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST
02.12.19