

to be scanned.

**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 (1st Floor)
KOLKATA - 700 001

Court Room At the 1st Floor
of Kolkata Port Trust's
Fairlie Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO.21 DT 03.12.2019
PROCEEDINGS NO. 1393 OF 2013

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
Sk. Sabir (O.P.)

F O R M - "B"

4. 05.12.19.

**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 **Sk. Sabir of Hawkers Stall No. 10, Block No. C, 52, Circular Garden Reach Road, Opposite Khidderpore Tram Depot AND 16, Dent Mission Road, Kolkata-700023** 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 failed to file Reply to the Show Cause Notice/s, inspite of sufficient opportunities being provided to him.
2. That O.P. has been a defaulter of license fees and taxes for a considerable period.
3. That O.P. has handed over possession in favour of rank outsider/s without any authority of law.
4. That the sitting occupants who have appeared before this Forum have failed to justify their authority to occupy the public premises in question.
5. That the sitting occupants/strangers cannot be allowed to thrive at the cost of the public exchequer, even for the sake of natural justice.

PLEASE SEE ON REVERSE

6. That O.P. has failed to bear any witness or adduce any evidence in support of its occupation into the public premises as 'authorized occupant'.
7. That the ejectment notice as served upon O.P., demanding possession of the public premises by KoPT is valid, lawful and binding upon the parties.
8. That the occupation of O.P. beyond the period of the revocation notice is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question;
9. That O.P. is liable to pay damages for its unauthorized use and occupation of the public premises upto the date of handing over of clear, vacant and unencumbered possession to KoPT.

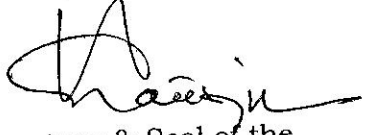
A copy of the reasoned order No. 21 dated 03.12.2019 is attached hereto which also forms a part of the reasons.

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 **Sk. Sabir of Hawkers Stall No. 10, Block No. C, 52, Circular Garden Reach Road, Opposite Khidderpore Tram Depot AND 16, Dent Mission Road, Kolkata-700023** 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 **Sk. Sabir of Hawkers Stall No. 10, Block No. C, 52, Circular Garden Reach Road, Opposite Khidderpore Tram Depot AND 16, Dent Mission Road, Kolkata-700023** 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 Piece or parcel of land msg. about 3.72 sq.m or thereabouts (under Plate No.D-582) ~~which~~ is situated at Circular Garden Reach Road, Thana- South Port Police Station, District-24 Parganas, Registration District- Alipore. It is bounded on the North by the Circular Garden Reach Road, on the East, South & West by the Trustees' leased out land. Trustees' means the Board to Trustees' of the Port of Kolkata.

Date- 04.12.2019.


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
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, Fairlie Place (1st Floor)
KOLKATA - 700 001

Court Room At the 1st Floor
of Kolkata Port Trust's
Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.1393/D OF 2013
ORDER NO 21 DATED: 03.12.2019

1 B 05-12-19.

Form- G

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

To
Sk. Sabir
Hawkers Stall No. 10, Block No. C,
52, Circular Garden Reach Road,
Opposite Khidderpore Tram Depot
AND
16, Dent Mission Road,
Kolkata-700023.

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 27.08.2015 you are called upon to show cause on/or before 17.09.2015 why an order requiring you to pay damages of **Rs.52,510/- (Fifty Two Thousand Five Hundred and Ten only)** for **Plate No.D-582** for unauthorised use and occupation of the said premises, should not be made.

And whereas you have not made any objections or produced any evidence before the said date.

PLEASE SEE ON REVERSE

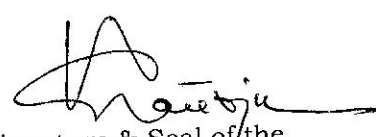
Now, therefore, in exercise of the powers conferred on me by Sub-section (2) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby order you to pay the sum of **Rs.52,510/- (Fifty Two Thousand Five Hundred and Ten only)** for **Plate No.D-582** as damages on account of your unauthorised occupation of the premises for the period from 01.02.1984 to 31.01.2013 to Kolkata Port Trust by 15.12.2019. In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act.

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 till 06.04.2011 and thereafter @14.25% per annum on the above sum with effect from the date of incurrance of liability, till its final payment in accordance with Notification Published in Official Gazette/s. 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 through the Collector.

SCHEDULE

The Piece or parcel of land msg. about 3.72 sq.m or thereabouts (under Plate No.D-582) ~~which~~ is situated at Circular Garden Reach Road, Thana-South Port Police Station, District-24 Parganas, Registration District-Alipore. It is bounded on the North by the Circular Garden Reach Road, on the East, South & West by the Trustees' leased out land. Trustees' means the Board to Trustees' of the Port of Kolkata.

Date 04.12.2019.


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. 1393 & 1393/D Of 05.12.2019 Order Sheet No. -24-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Sk. Sabir

D-582

FINAL ORDER

The matter is taken up for final disposal today. It is the case of Kolkata Port Trust (KoPT), the applicant herein, vide original application dated 03.04.2013, filed under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as 'the Act'), that Sk. Sabir (hereinafter referred to as O.P.) came into occupation of the Port Property in question (land Msg. about 3.72 Sq.m under occupation No. D 582 at Circular Garden Reach Road, Thana- South Port Police Station, Kolkata) on a monthly license basis and that the said O.P. defaulted in payment of monthly license fees and taxes/interests thereon and also parted with possession of the public premises to the rank outsiders. KoPT has made out a case that O.P. was served with an ejection notice, the receipt of which has been acknowledged by the O.P. on several occasions. Consequently, it is averred by KoPT that O.P. has no right to occupy the public premises after revocation of the license.

This Forum of Law formed its opinion to proceed against O.P. under the relevant provisions of the P.P. Act and issued show cause notices under Sec. 4 & 7 of the Act both dated 27.08.2015 as per Rules made under the Act. The matter was heard extensively on several occasions.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions advanced before me. It is striking to note that during the course of hearing, the O.P. (Sk. Sabir) did not appear before this Forum even once. Instead, certain sitting occupants appeared before this Forum and filed an application styled as a Reply on 24.04.2019. It reveals from the said application that the O.P. has parted with full and complete possession of the public premises in favour of one Arati Devi Shaw, by virtue of a notarised deed (unregistered) photocopy of which has been produced before me. Even a cursory glance of the said document reveals that it is a clear case of parting of possession in favour of a stranger, leaving the KoPT authorities completely in the dark. It appears to me that the said unauthorised person/s have been enjoying the port property since long, and carrying out their business without bothering to pay the KoPT its legitimate estate

21
03.12.2019

J 05.12.19

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. 1393/1393/D Of 2013 Order Sheet No. -25-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS.
Sd. *Saber.*

D-582

21
03-12-2019.

d. 05-12-19.

dues. I cannot allow an unauthorised commercial activity to thrive at the cost of the public exchequer. The statement of accounts filed before me by the KoPT reveals clearly that the dues are mounting on a daily basis, which is completely unacceptable. I am therefore of the firm view that there is sufficient merit behind the revocation of license of the O.P. by the Port Authority and consequently I have no alternative but to declare the occupation of the O.P. and all other occupants as "unauthorised" under Sec. 2 (g) of the P.P. Act, 1971.

In the aforementioned circumstances, being satisfied as above, I am inclined to issue order of eviction against O.P. on the following reasons,

1. That O.P. has failed to appear before this Forum and failed to file Reply to the Show Cause Notice/s, inspite of sufficient opportunities being provided to him.
2. That O.P. has been a defaulter of license fees and taxes for a considerable period.
3. That O.P. has handed over possession in favour of rank outsider/s without any authority of law.
4. That the sitting occupants who have appeared before this Forum have failed to justify their authority to occupy the public premises in question.
5. That the sitting occupants/strangers cannot be allowed to thrive at the cost of the public exchequer, even for the sake of natural justice.
6. That O.P. has failed to bear any witness or adduce any evidence in support of its occupation into the public premises as 'authorized occupant'.
7. That the ejectment notice as served upon O.P., demanding possession of the public premises by KoPT is valid, lawful and binding upon the parties.
8. That the occupation of O.P. beyond the period of the revocation notice is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question;



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. 1393/1393/D of 2013 Order Sheet No. -26-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

SK. Seber VS *D-582*

21
03-12-2019

9. That O.P. is liable to pay damages for its unauthorized use and occupation of the public premises upto the date of handing over of clear, vacant and unencumbered possession to KoPT.

Accordingly, I sign the formal order of eviction under Sec. 5 of the Act as per Rules made thereunder, giving 15 days time to O.P. 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 as their occupation into the Public Premises is/are unauthorised in view of Sec. 2(g) of the Act. 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.

I find that KoPT has made out an arguable claim against O.P., founded with sound reasoning, regarding the damages/compensation to be paid for unauthorised occupation. As such, I must say that Rs. 52,510/- (Fifty Two Thousand Five Hundred and Ten only) as claimed by the Port Authority as damages, is correctly payable by O.P. for the period 01.02.1984 to 31.01.2013 (both days inclusive) for the Plate in question and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 15.12.2019. The said damages shall carry simple interest @ 15% per annum upto 18.09.1996 and thereafter @ 18% per annum till 06.04.2011 and thereafter @ 14.25% per annum on the above sum from the date of incurrance of liability till its final payment in accordance with the relevant notification/s published in Official Gazette. The formal order u/s 7 of the Act is signed accordingly.

I make it clear that KoPT is entitled to claim damages against O.P. for unauthorized use and occupation of the public premises right upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law, and as such liability of O.P. to pay damages extends beyond 31.01.2013 as well, as the possession of the premises is still lying unauthorisedly with the O.P. who has clearly parted the same to certain stray sitting occupants. KoPT is directed to submit a statement comprising details of its calculation of

05.12.19

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. 1393/1393/D Of 2013 Order Sheet No. -27-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

SK. ^{VS} *Sobir*

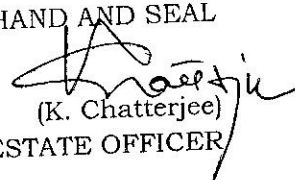
D-582

21
03-12-2019

damages after 31.01.2013, indicating there-in, the details of the rate of such charges, and the period of the damages (i.e. till the date of taking over of possession) together with the basis on which such charges are claimed against O.P., for my consideration for the purpose of assessment of such damages as per Rule made under the Act.

I make it clear that in the event of failure on the part of O.P. to comply with this Order, Port Authority is entitled to proceed further for execution of this order in accordance with law. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL


(K. Chatterjee)
ESTATE OFFICER

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

d 05-12-19