



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 1<sup>st</sup> Floor  
of Kolkata Port Trust's  
Fairlie Warehouse  
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO.23 DT 11.12.2019  
PROCEEDINGS NO. 1470 OF 2015

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-

59037 M/S Shankar & Co (O.P.)

59038 F O R M - "B"

Handwritten signature 'S-D' and a date stamp '11.12.2019'. There is also a circular stamp from the Board of Trustees of the Port of Kolkata.

**ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971**

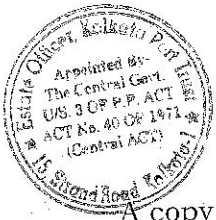
WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **M/S Shankar & Co, Coal Marchants, 56, Kasundia Road Post. Santragachi, Dist: Howrah AND ALSO AT Shalimar Coal Depot, Siding No9/9 P.D. Shibpur, Howrah-711102** is in unauthorized occupation of the Public Premises specified in the Schedule below:

**REASONS**

1. That occupation of O.P. beyond the period of 'Quit Notice' is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question.
2. That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.
3. That O.P. has violated the condition of short term lease as granted by the Port authority by way of making unauthorised parting of possession of subject premises, carrying out unauthorised construction etc.
4. That the Quit notice dated 31.10.1972 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties:
5. That O.P. has failed to make out any case in support of its occupation as "authorised occupation".
6. That O.P. is liable to pay damages/ mesne profit along with the accrued interest thereon for wrongful enjoyment of the Port Property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

Please see on reverse

Handwritten signature or mark.



(2)

A copy of the reasoned order No. 23 dated 11.12.2019 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 **M/S Shankar & Co, Coal Marchants, 56, Kasundia Road Post. Santragachi, Dist: Howrah AND ALSO AT Shalimar Coal Depot, Siding No9/9 P.D. Shibpur, 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 **M/S Shankar & Co, Coal Marchants, 56, Kasundia Road Post. Santragachi, Dist: Howrah AND ALSO AT Shalimar Coal Depot, Siding No9/9 P.D. Shibpur, 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**

**Plate No.H.L-370**

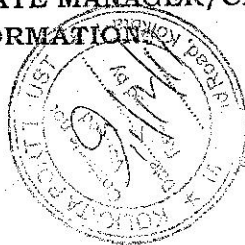
The said piece or parcel of land msg. about 268.21 sq.m or thereabouts is situated at P.T.R, Siding No.9 Shalimar, Howrah Thana-Shibpur Police Station Dist: Howrah, Registration District- Howrah. It is bounded on the North by the partly strip of open land alongside Foreshore Road & partly Trustee's land used as road, on the East by the Trustee's strip of open land used as Road and partly Trustee's land allotted to Ram Surat Roy Sharma, on the South by the Trustee's partly allotted to Ram Surat Roy Sharma and partly siding No.9, and on the West by the Trustee's strip of open land alongside siding no.9 and partly strip of open land alongside Foreshore Road. Trustees' means the Board of Trustees' for the Port of Kolkata.

Date- 11.12.2019

  
Signature & Seal of the  
Estate Officer.

**COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER,  
KOLKATA PORT TRUST FOR INFORMATION**

Registration No.....  
Received on 12/12/19 मकर /Time...  
Attachments/Annexure/Attachment not verified  
Received by.....  
Legal Division, Kolkata Port Trust





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 1<sup>st</sup> Floor  
of Kolkata Port Trust's  
Fairlie Warehouse  
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.1470/D OF 2015  
ORDER NO.23 DATED : 11.12.2019

Form- G

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

To  
**M/S Shankar & Co,**  
**Coal Marchants,**  
**56, Kasundia Road Post. Santragachi,**  
**Dist: Howrah**  
**AND ALSO AT**  
**Shalimar Coal Depot**  
**Siding No9/9 P.D. Shibpur,**  
**Howrah-711102**

Handwritten signature: F.S. De  
Date: 11.12.2019  
Official stamp: THE ESTATE OFFICER, KOLKATA PORT TRUST, 15, STRAND ROAD, KOLKATA-700001

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

And whereas by written notice dated 27.02.2017 you are/were called upon to show cause on/or before 20.03.2017 why an order requiring you to pay damages of Rs. **12,72,706.68** (Rupees Twelve lakhs Seventy two thousand Seven hundred Six and paise sixty eight only) for **Plate No.H.L-300** together with compound interest should not be made; for unauthorised use and occupation of the said premises.

And whereas I have considered your objections and/or evidence produced before this Forum.

Now, therefore, in exercise of the powers conferred on me by Sub-section (2) of Section 7 of the Public Premises(Eviction of Unauthorized Occupants) Act 1971, I hereby order you to pay the sum of Rs. **12,72,706.68** (Rupees Twelve lakhs Seventy two thousand Seven hundred Six and paise sixty eight only) for **Plate No.H.L-300** as damages on account of your unauthorised occupation of the premises for the period from 01.01.1973 to 21.02.2017 to Kolkata Port Trust by 17.12.2019.

PLEASE SEE ON REVERSE



: 2 :

I also hereby require you to pay simple interest @ 6.75 % 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 on the above sum from the date of incurrence of liability till its final payment in accordance with Kolkata Port Trust's Notification published in the 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 by Collector.

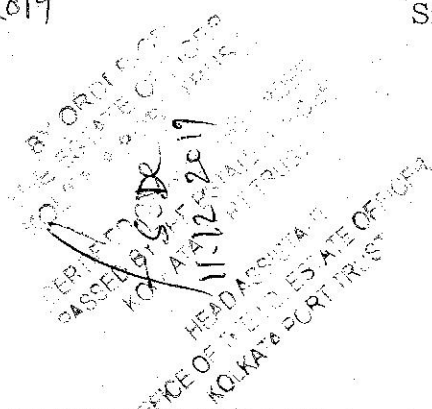
### SCHEDULE

#### Plate No.H.L-370

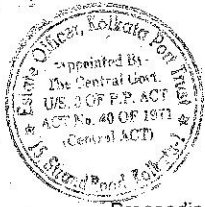
The said piece or parcel of land msg. about 268.21 sq.m or thereabouts is situated at P.T.R, Siding No.9 Shalimar, Howrah Thana-Shibpur Police Station Dist: Howrah, Registration District- Howrah. It is bounded on the North by the partly strip of open land alongside Foreshore Road & partly Trustee's land used as road, on the East by the Trustee's strip of open land used as Road and partly Trustee's land allotted to Ram Surat Roy Sharma, on the South by the Trustee's partly allotted, to Ram Surat Roy Sharma and partly siding No.9, and on the West by the Trustee's strip of open land alongside siding no.9 and partly strip of open land alongside Foreshore Road. Trustees' means the Board of Trustees' for the Port of Kolkata.

Date 11-12-2019

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 Unauthorized Occupants) Act 1971

Proceedings No. 1470, 1470/D Of 2015 Order Sheet No. 24

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*M/S Shankar & Co* VS (Plate no. HL-370)

### FINAL ORDER

23

11.12.2015

The instant proceedings No. 1470, 1470/D of 2015 arises out of the application bearing No. Lnd.3893/14/3568 Dated 25.03.2014 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of eviction and recovery of dues /damages and other charges etc. along with accrued interest in respect of the public premises as defined in the 'Schedule A' of said application, against M/S Shankar & Co, the O.P herein, under relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

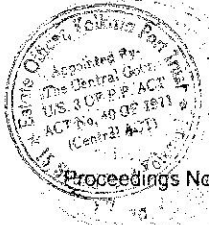
The fact of the case in a nutshell is that the O.P. came into occupation of the Port property measuring 268.21 sq.mtrs. or thereabout at P.T.R Siding No.9, Shalimar, Howrah under (Plate No.HL-370) as short term lessee, morefully described in the 'Schedule of Property' of the said KoPT's application dated 25.03.2014. The allegation levelled by KoPT against the O.P is that O.P has made unauthorised construction over the subject premises and unauthorisedly parted with possession of the said premises, therefore, he was asked to vacate the premises on 01.01.1973 vide the Notice to Quit dated 31.10.1972 and the O.P. failed and neglected to deliver the clear, vacant, unencumbered possession to KoPT thereafter. It is further the case of KoPT that the O.P. is liable to pay compensation charges/ mesne profit along

BY ORDER OF  
THE ESTATE OFFICER  
KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
KOLKATA PORT TRUST

HEAD ASSISTANT  
OFFICE OF THE ESTATE OFFICER  
KOLKATA PORT TRUST

R



**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. 1470, 1470/D Of 2015 Order: Sheet No. 25

**BOARD OF TRUSTEES OF THE PORT OF KOLKATA**

**VS**  
**M/S Shankar & Co.**

23

11.12.2019

with the accrued interest to KoPT for such wrongful use and occupation of the Public Premises in question, the details of which has been provided by KoPT vide 'Schedule-C' of the said application of KoPT dated 25.03.2014.

Considering the submission and documents filed by KoPT, the Notice/s to Show Cause were issued by this forum both dated 27.02.2017 (vide Order no. 5 dated 23.02.2017) U/s 4 and 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 to the O.P. directing them to file show cause as to why an order of Eviction and payment of arrear compensation/damages 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 all material question/s in connection with the matter along with the evidence which the opposite party intends to produce in support of their case.

It is placed on record that the said Notices were sent to the recorded address of O.P. vide Speed Post, hand delivery as well by affixing the same in the Public Premises in question as per mandate of the Act. The Notice/s sent by Speed Post were returned back to this Forum with a mark "long day door locked & tried to send". However, it appears from the record that the said Notice/s had been served upon O.P personally on

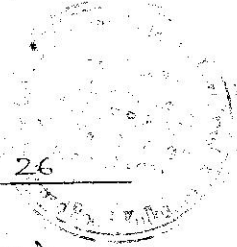
BY ORDER OF  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
KOLKATA PORT TRUST  
HEAD ASSISTANT  
OFFICE OF THE ESTATE OFFICER  
KOLKATA PORT TRUST

2





**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. 1470, 1470/D Of 2015 Order Sheet No. 26

**BOARD OF TRUSTEES OF THE PORT OF KOLKATA**  
 (Plataona HL-370)  
**VS**  
 M/S Shankar & Co.

23  
11.12.2019

16.03.2017 and on 20.03.2017. Advocate of O.P appeared, filed his Vakalatnama and prayed for time to file reply. Thereafter O.P failed to appear before the Forum on two consecutive dates. On 08.05.2017, Advocate of O.P filed an application challenging the maintainability of the instant proceeding on the ground of principles of Resjudicata, estoppels and Waiver and spoken about a compromise decree passed by the Ld 1st Court of Munsif at Howrah in the Title Suit being No.131 of 1973. But considering the application to be decided on appropriate time, the Forum directed O.P to file their effective reply to the Show Cause and KoPT to file their comment in respect of such application on maintainability. On 19.06.2017 KoPT filed their comment. Thereafter O.P filed his Reply to the Show Cause on 16.08.2017 alleging inter-alia that the application of KoPT is devoid of any cause of action, is barred by law of limitation, barred by principles of estoppel, waiver, acquiescence and resjudicata and also bad for misjoinder and nonjoinder of necessary parties and the Notice dated 31.10.1972 <sup>1972</sup> 2017 is insufficient. Therefore, be dismissed altogether as the proceeding is not maintainable. O.P Further submitted that they intend to settle the matter with KoPT. Thereafter, being dissatisfied with O.P's submission on an enquiry, joint inspection was ordered by the Forum which was directed to be completed by 25.08.2017. On

BY ORDER OF  
 THE ESTATE OFFICER  
 KOLKATA PORT TRUST  
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 PASSED BY THE ESTATE OFFICER  
 KOLKATA PORT TRUST  
 HEAD ASSISTANT  
 OFFICE OF THE ESTATE OFFICER  
 KOLKATA PORT TRUST

2



# 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. 1470, 1470/D Of 2015 Order Sheet No. 27

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/S. Shankar & Co.

23

11.12.2019

30.08.2017 minutes of joint inspection signed by both the parties was submitted. However, O.P was given chance to file his objections against such joint inspection. Thereafter O.P filed objection against such joint inspection report as well as an application for regularisation of tenancy and a scheme of liquidation before the Forum on 18.09.2017 but the Forum directed O.P to present such application before the competent authority of KoPT and liberty was given to O.P in this regard. Thereafter on 11.12.2017 O.P submitted that in spite of approaching before the competent authority of KoPT, no communication has been received by them. Representative of KoPT submitted that until the breaches had been remedied and all dues/charges including interest are being paid by O.P in full there arises no question of regularization. Thereafter both the parties were directed to file their respective Written Notes of Arguments over the subject matter of disputes and when on repeated call O.P has failed to file such Written Notes of Arguments before the Forum, on 22.12.2017 the matter was reserved for final order.

Now, after carefully considering all the documents on record and the submissions of both the parties, my considered view is that Firstly, an application challenging the maintainability of the said proceeding when filed, the Estate Officer had recorded that "Let the application filed by the O.P.

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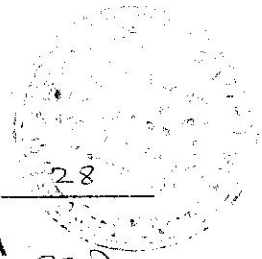
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KOLKATA PORT TRUST  
11/12/19  
HEAVY ASSISTANT  
OFFICE OF THE ESTATE OFFICER  
KOLKATA PORT TRUST





# 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. 1470, 1470/D Of 2015 Order Sheet No. 28

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

(plate no HL-375)

M/S Shannor & Co

23  
11.12.2019

be kept with the record. I find that no decision was taken on the application raising the question of maintainability at that time. Anyway, the proceeding under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 is a summary proceeding and there is no provision for maintaining such application raising the question of maintainability and that is why, it has been kept with the record for decision possibly at the time of enquiry. This being the position, since no decision has been taken up on the said application and there is no provision for filing of such application raising the question of maintainability in the said Act of 1971, I am of the view that there is no scope of interference with the application, therefore such application challenging the maintainability is not tenable in the eye of law. My second view is that principles of estoppels, waiver and resjudicata are procedural in nature and thus the same will have no application in a case where issue involves only pure question of law. Thirdly, regarding the applicability of limitation, I must say that The Limitation Act has no application in the proceedings before the Estate Officer which is not a Civil Court, governed by the Civil Procedure Code. Sec. 15 of the P.P. Act puts a complete bar in entertaining any matter before the Civil Court in respect of Public Premises. As such, I am firm in holding that Limitation Act has no application

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RECORDED  
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 KOLKATA  
 PASSED  
 S. De  
 11.12.2019  
 HEADQUARTERS  
 D.F.S. AIE 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. 1470, 1470 LD Of 2015 Order Sheet No. 29

**BOARD OF TRUSTEES OF THE PORT OF KOLKATA**

**VS**  
M/S. Shankar & Co.

23

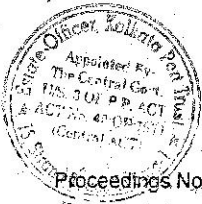
11.12.2019

in the instant case. 4thly regarding unauthorised construction and unauthorised parting, I must say that sketch plan attached with the joint inspection report filed by KoPT on 30.08.2017 clearly shows that 68.733 Sq.m area is encroached by O.P. by way of making unauthorised construction apart from 268.21Sq.m of his holding land. Considering all the points mentioned above, I have left with no other alternative but to accept that Paper/documents produced on behalf of O.P., contradicting/ disputing the claim of KoPT are baseless and have no weightage in the eye of Law, therefore this Forum was not constrained to proceed with the matter. Further the occupation of O.P. beyond the period of Quit Notice is unauthorised in view of Sec. 2 (g) of the Public Premises Act in question; In view of the deliberations mentioned above, I am left with no other alternative but to issue an order of eviction u/s 5 of the Act against O.P. on the following grounds/reasons :-

1. That occupation of O.P. beyond the period of 'Quit Notice' is unauthorised in view of Sec. 2 (g) of the Public Premises Act in question.
2. That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.

2

BY ORDER OF  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
DATE 11.12.2019  
ASSISTANT  
ESTATE OFFICER  
KOLKATA PORT TRUST



# 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.

1470, 1470/D

Of

2015

Order Sheet No.

30

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

(Plate no. HL-370)

M/S Shamson & Co

23

11.12.2019

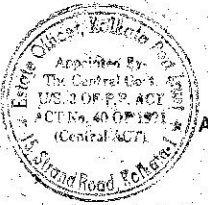
3. That O.P. has violated the condition of short term lease as granted by the Port authority by way of making unauthorised parting of possession of subject premises, carrying out unauthorised construction etc.
4. That the Quit notice dated 31.10.1972, as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.
5. That O.P. has failed to make out any case in support of its occupation as "authorised occupation".
6. That O.P. is liable to pay damages/ mesne profit along with the accrued interest thereon for wrongful 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.Ps' 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.Ps' in accordance with

BY ORDER OF  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
11.12.2019  
CERTIFIED COPY  
PASSED BY THE ESTATE OFFICER  
KOLKATA PORT TRUST  
HEAD ASSISTANT  
ESTATE OFFICER  
KOLKATA PORT TRUST

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# 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. 1470, 1470/D Of 2015 Order Sheet No. 31

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

**VS**  
*M/S Shankar & Co.*

23  
11.12.2019

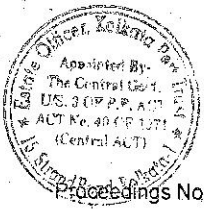
Law up to the date of recovery of possession of the same.

Regarding payment of compensation/damages /Mesne profit dues to KoPT, I must say that Rs 12,72,706.68/- for Plate No (H.L-370) as claimed by the Port Authority in relation to the Plate in question, is payable by O.P. for the period 01.01.1973 to 21.02.2017 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 17.12.2019. Such dues attract simple interest @ 6.75 % 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.

I also make it clear that KoPT is entitled to claim further 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 I am not in a

BY ORDER OF  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
11/12/2019  
OFFICE OF THE ESTATE OFFICER  
KOLKATA PORT TRUST

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# 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. 1470, 1470/D Of 2015 Order Sheet No. 32

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS  
M/s Shanxon & Co.

(Plate no. HL-370)

23

11.12.2019

position to assess the damages which is payable by the O.P. in total at this stage when possession of the premises is still with the O.P. KoPT is directed to submit a statement comprising details of its calculation of damages 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 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 recovery of possession in accordance with law.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

(Satyabrata Sinha)  
ESTATE OFFICER

BY ORDER OF  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
11.12.2019  
ASSTANT  
OFFICER

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

