

Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

o/c

1767

Of 2019

Order Sheet No.

7

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

(Plate no HL-659)

M/S Bonar Brothers & Co.

08

31-12-2019

FINAL ORDER

The matter is taken up for consideration today. In a nutshell, the instant proceedings being No.1767 of 2019 has been initiated on the strength of KoPT's application dated 11.09.2019 praying for Order of restoration of land from M/S Bonar Brothers & Co, the O.P herein, under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act,1971. It is the allegation of KoPT that O.P. was granted a long term lease of thirty years in respect of the said Public Premises in question, altogether measuring about 1334.005 sq.mts(High Land 834.360 Sq.mtrs & Low Land- 499.645 sq.mtrs) situated at Timberpond, Shibpore (under occupation no.HL-659), and O.P violated the conditions of such lease by way of conversion of such low land into high land. It is further the submission of Port Authority that a Notice dated 01.04.2019 was issued upon O.P asking him to refrain from making illegal activities & required to restore the land in its original form. However, since no heed was paid by O.P it is now prayed by KoPT for restoration of such land by the O.P.

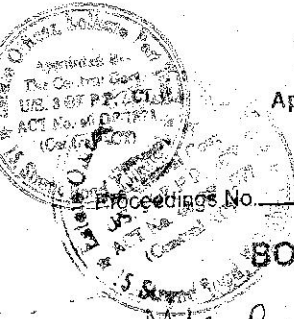
Considering the submission and documents filed by KoPT, the Notice/s to Show Cause were issued by this forum dated 26.09.2019 (vide Order no. 2 dated 25.09.2019) U/s 5B of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 to the O.P. directing them to file show cause as to why an order of demolition of such work, execution of which has been commenced should not be made against the

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Proceedings No. 1767 Of 2019 Order-Sheet No. 8

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

(Plate no HL-659)

VS
M/s Bonar Brothers & Co

08

31.12.2019

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 Notice was 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 was returned back to this Forum with a mark "insufficient address". However, it appears from the record that the said Notice had been served upon O.P personally on 03.10.2019 and affixation was done on the same day. Thereafter dated 03.10.2019 O.P appeared, and prayed for time to file his reply along with other documentary evidences. Subsequently on 24.10.2019 O.P appeared and filed his identity proof but further prayed time to file his reply. Thereafter dated 07.11.2019 O.P finally filed his reply to the Show Cause on the ground that the application filed by KoPT is not maintainable in its present form and prayer. Thereafter dated 19.11.2019 KoPT filed their comment denying all the allegations made by O.P. and O.P admitted that fact. However, finding a stark contradiction between O.P's verbal submission and O.P's written reply, Forum directed both the parties to make a ground inspection of the subject premises and draw a joint minutes of the same. Finally on 03.12.2019 Report on joint inspection was

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THE BOARD OF TRUSTEES OF THE PORT OF KOLKATA
(Plate no HL-659)

M/s Bonar Brothers & Co. ^{VS}

08
31-12-2019



submitted by KoPT vide an application bearing No. Lnd.5748/19/2952 dated 03.12.2019, where it is specifically mentioned that such low land msg about 499.645 sq.mtrs, which was earlier converted into high land, has been very recently restored into low land again.

Now, after carefully considering all the documents on record and the submissions of both the parties, I find that as KOPT admits by way of an application dated 03.12.2019 that such earlier converted high land has been very recently restored into low land, KoPT's allegation loses its ground & no cause of actions sustain to continue this proceeding. Therefore, this instant proceeding against M/S Bonar Brothers & Co is dropped and the instant proceeding No.1767 of 2019 is disposed of today, with liberty to KoPT to initiate fresh proceedings against M/S Bonar Brothers & Co, if so desired, in accordance with law.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

(Satyabrata Sinha)
ESTATE OFFICER

S. S. D.
31.12.2019

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

