

SCAN



**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.23 DT 30.01.2020
PROCEEDINGS NO. 359 OF 1999

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
Shri Mohar Lal Singh (O.P.)

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 Mohar Lal Singh, Prop. Shiv Shakti Coal Co. Son of Sukdeo Singh, of Village Takina, P.O Terha, Dist: Saran(Chapra), Bihar, AND ALSO Plot No.73, Chetla Railway Siding Calcutta-700027** 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. Moreover, the O.P has the purpose of the use of property in question without any permission from KoPT.
3. That the Quit notice dated 03.07.1990 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.
4. 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

(2)

A copy of the reasoned order No. 23 dated 30.01.2020 is attached hereto which also forms a part of the reasons.

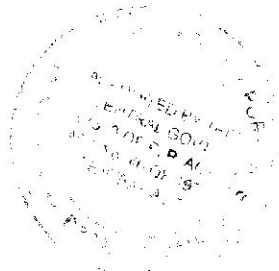
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **Shri Mohar Lal Singh, Prop. Shiv Shakti Coal Co. Son of Sukdeo Singh, of Village Takina, P.O Terha, Dist: Saran(Chapra), Bihar, AND ALSO Plot No.73, Chetla Railway Siding Calcutta-700027** 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 Mohar Lal Singh, Prop. Shiv Shakti Coal Co. Son of Sukdeo Singh, of Village Takina, P.O Terha, Dist: Saran(Chapra), Bihar, AND ALSO Plot No.73, Chetla Railway Siding Calcutta-700027** 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.D489/C/1

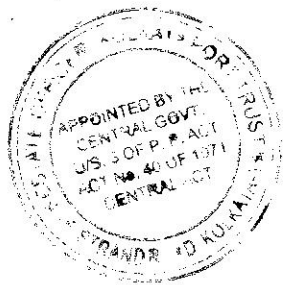
The said piece or parcel of land msg.83.15 sq.m or thereabouts is situate at Chetla Station Yard, P.S- New Alipore, Dist.24Parganas. It is bounded on the North and East by the Trustees' strip of land beyond which is their boundary wall, on the South by the Trustees' Road and on the West by the Trustees' land leased to Shri Rajendra Prosad Roy. Trustees' means the Board of Trustees' for the Port of Kolkata.

Date- 31.01.2020



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)
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OFFICE OF THE ESTATE OFFICER
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6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.359/D OF 1999
ORDER NO 23 DATED : 30.01.2020

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
**Shri Mohar Lal Singh,
Prop. Shiv Shakti Coal Co.
Son of Sukdeo Singh,
of Village Takina, P.O Terha,
Dist: Saran(Chapra), Bihar,
AND ALSO
Plot No.73, Chetla Railway Siding
Calcutta-700027**

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 20.03.2017 you are/were called upon to show cause on/or before 06.04.2017 why an order requiring you to pay damages of Rs.3,14,414.90 (Rupees Three lakhs Fourteen thousand Four hundred Fourteen and paise Ninety only) together with [compound interest] for unauthorised use and occupation of the said premises, should not be made;

And whereas I have considered your objections and/or the evidence produce by you;

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.3,14,414.90 (Rupees Three lakhs Fourteen thousand Four hundred Fourteen and paise Ninety only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.11.1990 to 28.02.2017 to Kolkata Port Trust by 07.02.2020.

PLEASE SEE ON REVERSE

: 2 :

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 @ 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 Kolkata Port Trust's 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 by Collector.

SCHEDULE

Plate No.D489/C/1

The said piece or parcel of land msg.83.15 sq.m or thereabouts is situate at Chetla Station Yard, P.S- New Alipore, Dist.24Parganas. It is bounded on the North and East by the Trustees' strip of land beyond which is their boundary wall, on the South by the Trustees' Road and on the West by the Trustees' land leased to Shri Rajendra Prosad Roy. Trustees' means the Board of Trustees' for the Port of Kolkata.

Date 31.01.2020



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. 359, 359/D Of 1999 Order Sheet No. 20

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Mohar Lal Singh

23

30.01.2020

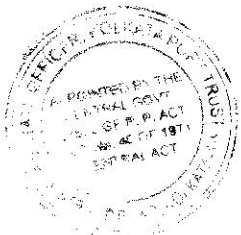
FINAL ORDER

The instant proceedings No. 359, 359/D of 1999 arisen out of the application bearing No. Lnd.3184/88/II dated 16.07.1994 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 Shri Mohar Lal Singh, 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 83.15 sq.mtrs. or thereabout at Chetla Station Yard (under Plate No.D-489/C/1) as monthly tenant, morefully described in the 'Schedule of Property' of the said KoPT's application dated 16.07.1994. The allegation levelled by KoPT against the O.P is that O.P. was asked to vacate the premises on 01.09.1990 vide the Notice to Quit dated 03.07.1990 and the O.P. has 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 with the accrued interest to KoPT for 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 16.07.1994.

Considering the submission and documents filed by KoPT, the Notice/s to Show Cause were issued by this Forum both dated 20.03.2017 (vide Order no 5 dated 28.02.2017) 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

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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

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Mohar Lal Singh

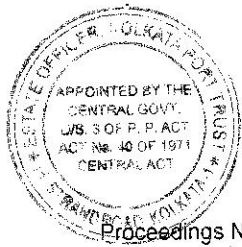
23

30.01.2020

RECEIVED BY THE
ESTATE OFFICER
KOLKATA PORT TRUST
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST
100, CHANDERNAGORE
KOLKATA - 700014
[Signature]
30/1/2020

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 not returned back to this Forum. However, it appears from the report of Process Server dated 03.04.2017 that the said notice had been served upon O.P personally and affixation was made on the same day at about 12:15 P.M. As a result, on 06.04.2017 O.P appeared and submitted that they are ready and willing to pay the outstanding dues of KoPT. O.P was directed to file his reply along with a scheme of liquidation on the next date of hearing. On 04.05.2017 O.P prayed for further time to file his reply to the Show Cause. On 11.05.2017, O.P filed his Reply to the Show Cause alleging inter-alia that the question of revalidation of cheque was a method to desist O.P and moreover the Quit Notice dated 03.07.1990 is not suffice to declare O.P as unauthorised and illegal and prayed that the application of KoPT be dismissed as it is not maintainable in the eye of law. O.P Further stated that he has submitted Rs.25000/- on 10.05.2017 to Port authority. Hearing the submission of O.P, Forum directed him to file the copy of the High Court Order on which he relied upon to file his reply along with the receipt of such cheque by which he paid that amount to KoPT and KoPT was directed to file their comment on 11.05.2017. Thereafter dated 25.05.2017 KoPT has submitted that a Cheque of Rs.25000 as was submitted by O.P to KoPT had been dishonoured by Bank and O.P accordingly replaced that Cheque but Copy of the High Court Order on which O.P relied upon has no where depicts any interim Order. However, KoPT has failed to submit their rejoinder on

[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. 359, 359/D of 1999 Order Sheet No. 22

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Mohar Lal ^{VS} Singh.

23

30.01.2020

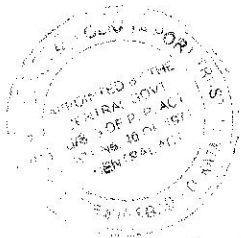
APPOINTED BY THE
CENTRAL GOVT.
U/S 3 OF P.P. ACT
ACT No. 40 OF 1971
CENTRAL ACT

30.01.2020

that day. Thereafter, dated 20.06.2017 KoPT prayed for further time to file their rejoinder. Ultimately on 10.08.2017 KoPT has filed their rejoinder denying all the averments of O.P's reply. KoPT submitted that they have been charging dues correctly as per law to every tenant as per schedule rate therefore, O.P's objection of exorbitant rent charges is totally baseless and concocted. O.P is liable to prove it with documentary evidences. More over O.P is using such land as residential purpose whereas the land allotted to O.P for open storage of coal, coke, firewood and building material. Thereafter dated 21.09.2017 KoPT has submitted that O.P had deposited a Cheque with Estate Department against his arrear Compensation due but the same could not be encashed because of it was not drawn in the name of O.P. However, the Forum directed KoPT to intimate the present position by filing a report. Thereafter dated 19.12.2017 when KoPT has failed to comply with that Order, Forum issued Show Cause against KoPT directing them why such matter should not be dismissed. Thereafter, dated 21.12.2017 KoPT has filed another application but failed to file reply to the Show Cause dated 19.12.2017. On 18.01.2019 KoPT has again failed to comply with the earlier order dated 19.12.2017 and when on repeated call O.P has failed to appear before the Forum, the matter was taken for exparte final hearing on 15.03.2018 and the final order was reserved on that day.

Now, after carefully considering all the documents on record and the submissions of both the parties, my considered view is that O.P' first objection that the question of revalidation of cheque was a method to desist O.P is not proper in my consideration, 2ndly, the Quit Notice dated 03.07.1990 is not suffice to declare O.P as unauthorised and illegal etc. This reasoning is also seemed to be unacceptable to me because after issuance of Notice to Quit no one can claim that his occupation is lawful. 3rdly, application of KoPT be dismissed as it is not maintainable in the eye of law etc. is not at all tenable in the eye of law. So

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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. 359, 359/D Of 1999 Order Sheet No. 23

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Mohar Lal Singh

23
30.01.2020

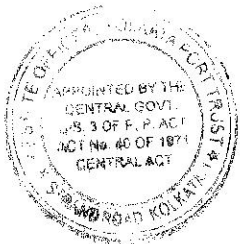
APPROVED BY
THE ESTATE OFFICER
KOLKATA PORT TRUST
DEPARTMENT OF THE TRUST
DATED 30.01.2020
S. K. Ghosh
31/1/2020

long the property of the Port Authority is coming under the purview of "public premises" as defined under the Act, adjudication process by serving Show Cause Notice/s u/s 4 & 7 of the Act is very much maintainable and there cannot be any question about the maintainability of proceedings before this Forum of Law. In fact, proceedings before this Forum of Law is not statutorily barred unless there is any specific order of stay of such proceedings by any competent court of law. Moreover the copy of writ Petition filed by O.P had not mentioned any order of Stay, therefore this Forum was not constrained to proceed with the matter. Further the 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; 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 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. Moreover, the O.P has the purpose of the use of property in question without any permission from KoPT.
3. That the Quit notice dated 03.07.1990 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.
4. 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

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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. 359, 359/D of 1999 Order Sheet No. 24

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Mohay-Lal Singh

23
30.01.2020

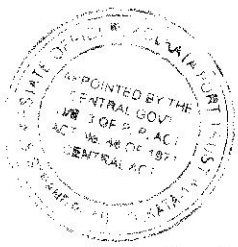
any person/s whoever may be in occupation to vacate the premises. I make it clear that all person/s whoever may be in occupation are liable to be evicted by this order and the Port Authority is entitled to claim damages for unauthorized use and enjoyment of the property against O.Ps' in accordance with 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 3,14,414.90/- for Plate No (D-489/C/1) as claimed by the Port Authority in relation to the Plates in question, is payable by O.P. for the period 01.11.1990 to 28.02.2017 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 07.02.2020. O.P. shall be liable to pay 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 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 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 therein, 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 also clear that in the event of failure on the part of O.P. to comply with this Order, Port Authority

31/1/2020



Estate Officer, Kolkata Port Trust

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

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Mohar Lal Singh.

23

30.01.2020

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

(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 ***

Dr. [Signature]
31/1/2020