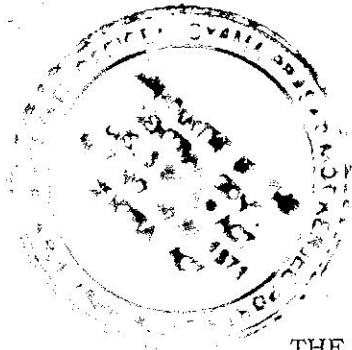


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THE ESTATE OFFICER, KOLKATA PORT TRUST
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
Public Premises (Eviction of Unauthorized Occupant) Act 1971
OFFICE OF THE ESTATE OFFICER
6, Fairley Place (1st Floor)
KOLKATA - 700 001

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

REASONED ORDER NO. 19 DT 06.08.2020,
PROCEEDINGS NO. 1334 OF 2012

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
SMT. BASANTI DEVI
F O R M - "B"

OFFICER
19.08.2020

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 **Smt. Basanti Devi, C/o, Sri Tarakeswar Singh, Plot No. 62, Chetla Railway Siding, Calcutta-700027** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

- 1) That O.P has violated the condition of tenancy under monthly term lease as granted by the Port Authority by way of not making payment of the dues to KoPT without any valid justification.
- 2) That O.P has further violated the condition of tenancy under monthly term lease as granted by the Port Authority by way of unauthorisedly parting with possession to various rank outsiders / strangers without any authority of law.
- 3) That O.P. has failed to make out any case in support of its occupation as "authorised occupation", in spite of sufficient chances being given.
- 4) That O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation", in spite of sufficient chances being given.
- 5) That the notice to quit dated 28.07.1993 as served upon O.P by the Port Authority is valid, lawful and binding upon the parties and O.P's occupation, and that of any other occupant of the premises, has become unauthorised in view of Section 2(g) of the P.P Act.
- 6) That O.P is liable to pay damages for wrongful use and occupation of the Public Premises upto the date of handing over of clear, vacant and unencumbered possession of the subject premises to the Port Authority.

Please see on reverse

A copy of the reasoned order No. 19 dated 06.08.2020 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 **Smt. Basanti Devi, C/o, Sri Tarakeswar Singh, Plot No. 62, 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 **Smt. Basanti Devi, C/o, Sri Tarakeswar Singh, Plot No. 62, 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

All that piece or parcel of land msg. about 37.44 sq.m. at Chetla Station Yard (Plate No.D-478/1/A) District: 24 Parganas, Registration District: Alipore. It is bounded on the North by the Trustees' strip of open land, on the East by the Trustees' leased out land, on the South by the Trustees' leased out land and on the West by the Trustees' land beside the water tank. Trustees' means the Board of Trustees for the Port of Kolkata.

Dated: 06.08.2020


Signature & Seal of the
Estate Officer.

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

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19.08.2020
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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
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Court Room At the 1st Floor
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Fairley Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 19 DT 06.08.2020.
PROCEEDINGS NO. 1334/D OF 2012

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
Smt. Basanti Devi,
C/o, Sri Tarakeswar Singh,
Plot No. 62, Chetla Railway Siding,
Calcutta-700027

By Order of
ESTATE OFFICER
KOLKATA PORT TRUST
19.08.2020
J. B. 19.08.2020.
ESTATE OFFICER
KOLKATA PORT TRUST

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 24.04.2018 you were called upon to show- cause on/or before 25.05.2018 why an order requiring you to pay a sum of Rs. 1,49,655.00/- (Rupees One Lakh Forty Nine thousand Six hundred Fifty Five *only*) being damages payable together with compound interest for unauthorised use and occupation of the said premises, should not be made.

And whereas I have considered your objection and/or the evidence produced 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. 1,49,655.00/- (Rupees One Lakh Forty Nine thousand Six hundred Fifty Five *only*) for the period from 01.10.1993 to 30.04.2017 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust, by 30.08.2020.

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay compound 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 with effect from the date of incurrance of liability, till its final payment in accordance with Notification Published in Official Gazette/s.

Please see on reverse

:2:


A copy of the reasoned order no. 19 dated 06.08.2020 is attached hereto.

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.

SCHEDULE

All that piece or parcel of land msg. about 37.44 sq.m. at Chetla Station Yard (Plate No.D-478/1/A) District: 24 Parganas, Registration District: Alipore. It is bounded on the North by the Trustees' strip of open land, on the East by the Trustees' leased out land, on the South by the Trustees' leased out land and on the West by the Trustees' land beside the water tank. Trustees' means the Board of Trustees for the Port of Kolkata.

Dated: 06-08-2020.

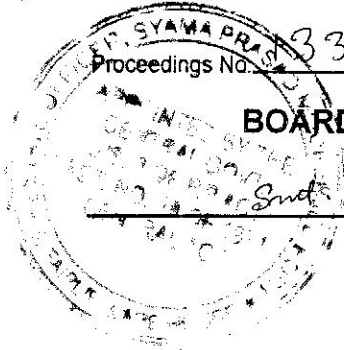

Signature and seal of the
Estate Officer.

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

RECEIVED
KOLKATA PORT TRUST
19.08.2020

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. 334 A/334/D Of 2012 Order Sheet No. 21

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Smt. Basanti Devi; c/o Sri Tarakeswar Singh.

FINAL ORDER

19
06-08-2020

The instant proceedings arises out of the application dated 18.04.2012 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of eviction and recovery of dues and other charges etc. along with accrued interest against Smt Basanti Devi, C/o Shri Tarakeswar Singh, the O.P. herein, under the relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

The facts of the case, in terms of a nutshell, are that the O.P. came into occupation of the port properties measuring 37.44 sqm or thereabouts (under plate no. D478/1/A) situated at Chetla Station Yard, Registration District : Alipore and District : 24 Parganas, as a month to month lessee and had defaulted in making payment of KoPT's rent and taxes and unauthorisedly parted with possession/sub-let the Public Premises in question to the rank outsiders.

It is the case of KoPT that the O.P. was asked to vacate the premises in terms of the Quit Notice dated 28.07.1993, served as per statute upon the O.P. by registered post with acknowledgement due. It is the submission of KoPT that in spite of said Ejectment Notice, the O.P. failed and neglected to quit, vacate and deliver up vacant and peaceful possession of the said premises on or even after the scheduled date and hence is liable to be evicted therefrom.

Considering the submissions and materials on record as submitted by KoPT, Notice/s to Show Cause U/s 4 and 7 of the Public Premises (Eviction of Unauthorised

J. S. S.
19-08-2020

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. 1334/1334/D Of 2012 Order Sheet No. 22

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Smt. Basanti Devi ^{VS} *Sri Tarakeswar Singh*

19

06.08.2020

Occupants) Act, 1971 all dated 24.04.2018 were issued to the O.P. as well as any other person interested on the subject property, as to why an order of eviction should not be made against the O.P.

One Sri Sunil Kumar Singh expressing himself as the son of Smt. Basanti Devi (O.P. herein) appeared before this Forum on 25.05.2018 when he was directed to file documentary evidence establishing his relationship as the son of O.P. Thereafter on 03.08.2018, Sri Singh has filed the photocopies of his Voter ID Card, the Ration Card of Smt. Basanti Devi and the Death Certificate of his late father Tarakeswar Singh in support of his credentials. A Letter of Authority has also been filed authorizing Sri Singh on 09.01.2019 to represent the OP during deliberations in the Forum. Furthermore, during the course of hearing, no evidences were found contra-indicative to the submission of Sri Singh that he was the authorized representative of Smt Basanti Devi (O.P.). This Forum takes note of the report of the Process Server dated 30.04.2018 regarding affixation of the said Notice/s issued u/s 4 & 7 on the Public Premises in question. The O.P. has represented their case vide several applications filed on 20.08.2018, 12.11.2018, 21.01.2019. The O.P., while admitting to the lease assigned to it and the defaults of outstanding rent and taxes on their part, has raised the following contentions/issues :

1. Public Premises Act is applicable only to the Members of the Parliament, the employees/ staffs of Central Government etc. and not applicable to the genuine tenants like O.P.

[Handwritten 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.

1334 & 1334/D

Of

2012

Order Sheet No.

23

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Bmt. Basanti Devi; Sri Tarakeswar Singh.

19

06.08.2020

J B 19.08.2020

2. KoPT have been enhancing rent schedule violating the norms provided in the offer letter of KoPT and in contradiction with resolution no 21013/1/2000-Pol.Im dated 30.05.2002, Published in the Indian Gazette Notification dated 08.06.2002.
3. The business of O.P. has been facing hardship since 1981 when the facilities provided under Indian Railway & Port Railway Act were withdrawn and as such O.P. is entitled to indemnification of damage / commensurate benefit / compensation and other charges @ 25 times of prevailing rent from time to time, till restoration of railway track facilities at Chetla siding.
4. There is no unauthorised parting with possession and encroachment at the premises in question.
5. O.P. did not receive the Notice to Quit dated 28.07.1993.
6. O.P. is not an unauthorised occupant of the premises in question

The matter was heard extensively on several dates.

Now while delivering the final order, I have carefully gone through all the documents on record. In order to decide the respective rights and contentions, of the parties, I am inclined to take up the charges leveled by ~~OP~~ ^{KoPT} against ~~the O.P.~~, one by one.

[Handwritten signature]

With regard to issue raised by O.P. regarding the non applicability of the Public Premises Act to O.P., I must

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. 1334 & 1334/D Of 2012 Order Sheet No. 24

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

smt. Basanti Devi ^{VS} Sri Tarakeswar Singh

19

06.08.2020

say that that P.P. Act, is very much clear about its intent and object. The Act is to provide speedy machinery for eviction of unauthorized occupants from the public premises and recovery of arrear rental dues, damages etc. arising out of occupations in the public premises as defined under the Act. The Act puts a complete bar of court's jurisdiction to entertain any matter in respect of the public premises in connection with order of eviction, recovery of rental dues and damages etc. in terms of sec. 15 of the Act. In a situation where there is no order of stay on the proceedings by any competent court of law, it is very difficult to accept the contention of anybody to dismiss or stay the proceedings. I am consciously of the view that P.P. Act operates in a field where the Act itself specifically provides for the jurisdiction of this Forum of Law (Adjudicating Authority under the Act) and any question about the maintainability of the proceedings is not sustainable without any appropriate order, restraining the proceedings etc. from the writ court or from any competent court of law. KoPT has come up with an application for declaration of O.P's status as "unauthorized occupant" into the public premises with the prayer for order of eviction, recovery of rental dues and damages against O.P., on the ground of determination of lease or termination of authority to occupy the premises as earlier granted to O.P. in respect of the premises in question. So long as the property of the Port Authority, being an autonomous body under the Ministry of Shipping, Govt. of India, is coming under the purview of the "Public Premises", as defined under the Act, the due adjudication process, initiated through service of Show Cause Notice/s u/s 4 & 7 of the Act, is very much maintainable and there



19.08.2020

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. 834/1334/D of 2012 Order Sheet No. 25

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Smt. Basanti Devi ^{VS} *Sri Tarakeswar Singh*.

19
06.08.2020

Order of
THE ESTATE OFFICER
KOLKATA PORT TRUST
19.08.2020

cannot be any question about the same before this Forum of Law. In fact, it is reiterated that proceedings before this Forum of Law are not statutorily barred, unless there exists any specific order of stay of such proceedings by any competent court of law.

Hon'ble Division Bench of Calcutta High Court had the occasion to decide the jurisdiction of the Estate Officer under P.P. Act in Civil Appellate Jurisdiction being **MAT No.2847 of 2007 (The Board of Trustees of the Port of Kolkata and Anr -vs- Vijay Kumar Arya & Ors.)** reported in Calcutta Weekly Note 2009 CWN (Vol.113)-P188. I have applied my mind to the Judgment and the order passed by the Division Bench of Calcutta High Court, particularly to the paragraphs 28 and 29, regarding the duty cast upon the Estate Officer under the P.P. Act, dealing with the scope of the adjudication process. The relevant portion of the judgment is reproduced below :-

Para -28 "After the Ashoka Marketing case, the question that is posed here should scarcely have arisen. Any further doubt is now settled by the Nusli Neville Wadia judgment. Though an Estate Officer under the said Act is not required to be versed in law, he has sufficient powers to decide the question as to whether a noticee u/s 4 of the said Act is an unauthorised occupant and it is adjudication of such score against the noticee that will permit him to proceed to evict the occupant adjudged to be unauthorised. Just as in the case of any Landlord governed by the Transfer of Property Act, such land lord would have to justify his decision to determine the lease or terminate the authority of the occupier to

JM

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. 1334 A 1334/D Of 2012 Order Sheet No. 26

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Smt. Basanti Devi; Sri Tarakeswar Singh.
VS

19
06-08-2020

remain in possession in a Civil suit instituted either by the Land Lord for eviction or by the Lessee or the occupier to challenge the notice, so is it with a statutory authority landlord under the said Act of 1971. The said Act merely removes the authority of the Civil Court to adjudicate such issue and places it before an Estate Officer under the said Act to decide the matter in summary proceedings. The estate officer has to look into all materials before him and, in fit cases, receive oral evidence before he can arrive at a conclusion as to whether the noticee u/s 4 of the said Act is in unauthorised occupation of the Public Premises. If he holds that the noticee is, indeed, an unauthorised occupant, he proceeds to remove the noticee and his belongings from the Public Premises; if he finds that the noticee is entitled to continue in possession, the matter is over. It is only the entire scope of adjudication on such issues that it removed from a Civil Court and is placed before the estate officer; the substantive law under the Transfer of the Property Act may still be cited before the estate officer and taken into account by him for the purpose of his adjudication. The usual process under the Civil Procedure Code is merely substituted by a summary procedure before the Estate officer. The only difference is that the lessee or occupier of any Public Premises may not bring a matter before the Estate officer of his own accord, such lessee or occupier only defend his position as respondent if the estate officer is moved by the statutory authority landlord."

Para-29 " As in a Civil suit that a landlord would be required to institute if the lessee or occupier did not pay heed to a notice to



19.08.2020

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. 1334/1334/D Of 2012 Order Sheet No. 27

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Smt. Basanti Devi; Sri Tarakeswar Singh.

19
06.08.2020.

quit, so would a statutory authority landlord be liable to justify, before the estate officer, its decision to determine the lease or revoke the occupier's authority to remain possession of the Public Premises. It is not an Anamallai Club situation where a notice to quit is issued the previous moment and bulldozers immediately follow".

In view of the authoritative decisions as cited above, I have no hesitation in my mind that proceedings before this Forum of Law are very much maintainable and are not statutorily barred.

As regards default in payment of rent and taxes, KoPT has produced communications as those dated 21.04.1990, 21.05.1991 etc whereby the O.P. was requested to liquidate the estate dues immediately but apparently O.P. paid no heed to the same. In its Reply to the Show Cause Notice/s filed by O.P. on 12.11.2018, O.P. did not deny about such default in rent and taxes. In fact, the O.P. practically admitted the charge by submitting that she was ready to pay the arrear rent and taxes. The only defence taken by the O.P. was that rent had been enhanced arbitrarily and unjustifiably. I, however, fail to find any merit in such contentions of the O.P. The tariff/rate of rent of the land belonging to the statutory authority under the Major Port Trusts Act, 1963 is very much guided by the Gazette Notifications of the Tariff Authority for Major Ports (TAMP). Such TAMP notifications are uniformly applicable to all users of the port property and O.P. cannot claim any exceptional or special treatment, so far as fixation of the rent was concerned. O.P. has also complained about alleged withdrawal of

19.08.2020.



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. 1334/1334/D Of 2012 Order Sheet No. 28

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Smt. Basanti Devi; VS Sri Tarakeswar Singh.

19

06.08.2020

19.08.2020

certain facilities by the Port Authority in the past. However, the O.P. did not produce any shred of evidence in terms of a bankable document etc in support of their contention. In my view, assuming and not admitting that even if such a grievance of the O.P., emerges to be true, it does not and cannot empower the O.P. to refuse the legitimate rental dues of the landlord, as issued from time to time, duly notified in the Government Gazettes. With such observation, I am inclined to decide this issue against the O.P.

As regards parting with possession in favour of rank outsiders, it is seen from record that the KoPT, vide its application dated 24.05.2017, had mentioned about the presence of unauthorized persons in the premises in question. In order to adjudge the ground realities, this Forum vide its order dated 09.01.2019 directed both the parties for a joint inspection of the premises on 11.01.2019, when, the KoPT authorities were present; but no one was present during the said inspection on behalf of the O.P. I have gone through KoPT's application dated 21.01.2019 in this regard. KoPT has specifically mentioned (and also submitted photographic evidences thereof) about the unauthorized occupiers of the premises, vide the said application. It is quite intriguing that there is no presence of O.P. in the premises in question. In the application dated 25.03.2019, the O.P. has only denied the charge. It is a settled principle of law that mere issuance of a denial is not sufficient to rebut the charges unless it is corroborated by sufficient evidence. Here, no such attempt has been made by the O.P. at all. The plea taken by O.P. that officials of KoPT did not make any telephonic contacts while attending



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.

34/1334/D

Of

2012

Order Sheet No.

29

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Smt. Basanti Devi ^{VS} Sri Tarakeswar Singh

19

06-08-2020

to the inspection or did not arrive at the scheduled time, does not inspire any confidence at all, especially in the context of the fact that the Joint Inspection of the Premises was directed by this Forum on 09.01.2019, in presence of the representatives of both the parties, viz., KoPT and O.P. Thus, I am not satisfied with the specious reply of the O.P., and in the facts and circumstances of the case, I am inclined to decide this issue in favour of the Port authority.

On the question of non-receipt of ejectment notice dated 28.07.1993, I have considered the matter seriously. There is no dispute or objection from O.P's side regarding the status of O.P's tenancy under lease. Now the question arises how far the question of non-receipt of notice deserves merit in the facts and circumstances of the case. It is claimed by KoPT that notice has been served through Certificate of Posting and through hand service at the recorded address of O.P. at the relevant point of time. Keeping in view the fact that the notice dated 28.07.1993 was served at the recorded address of O.P. as recorded in the file of papers concerning the tenancy of O.P. as maintained in the Estate Division of KoPT, in the fitness and fairness of the issues left to my judgment, I am inclined to accept that the notice was served properly by KoPT. Moreover, a notice served during the official course of business cannot be ignored by a mere statement, questioning the sufficiency of serving such a notice. This takes me to the question whether a lessee like O.P. can continue in occupation when the lease has been terminated long time back. As per the Transfer of Property Act, a lessee is under legal obligation to hand over possession of the property to



19.08.2020

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. 1334A/1334/D Of 2012 Order Sheet No. 30

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Smt. Basanti Devi VS Sri Tarakeswar Singh

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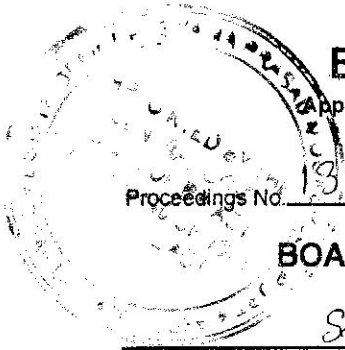
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19-08-2020

its landlord/lessor in its original condition after determination of tenancy under lease. It is a settled question of law that a lessee like O.P. cannot claim any legal right to hold onto the property after expiry of the period as mentioned in the notice of ejection, unless O.P. has succeeded in making a case of "Tenant Holding Over". "Holding Over" means continuance of occupation with the same terms and conditions as per the expired Lease Deed. Evaluation of factual aspect and the papers/documents brought before me in course of hearing will certainly lead one to the conclusion that KoPT never consented in O.P.'s occupation into the public premises after expiry of the period as mentioned in the notice dated 28.7.1993. The essential element of "consent" for constituting the matter of holding over is absent and the O.P. has failed to adduce any evidence or bear any witness in support of its contention regarding holding over.

No evidence has been laid on behalf of O.P. by way of producing any receipt for acceptance of any payment wherefrom it could at least be inferred that the Port Authority has any intention to the continuance in occupation by accepting any amount as rent for such occupation. No attempt has been made on behalf of O.P. to satisfy this Forum of Law about any consent they had been able to obtain from KoPT in occupying the public premises unconditionally, which would have satisfied the essential ingredient of holding over. Rather, on the other hand, it is the case of KoPT that by the notice dated 28.07.1993, the O.P. was directed to hand over the possession. A letter/notice issued in official course of business has definitely got an evidentiary value, unless there is a material, sufficient enough to bear legal scrutiny, to otherwise contradict





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. 1334 & 1334/D Of 2012 Order Sheet No. 31

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Smt. Basanti Devi ^{VS} *Sri Tarakeswar Singh*

19

06.08.2020

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19.08.2020

the case of KoPT. In such a situation, it is very difficult to accept the contention of O.P. regarding non-receipt of any notice, demanding possession from KoPT's side. Further, I am consciously of the view that KoPT never recognized O.P. as a lawful user/tenant in respect of the property in question after expiry of the lease in question. Also, filing of the application before this Forum of Law with the prayer to evict O.P. from the public premises is sufficient to establish KoPT's bonafide intention to get back the possession of the public premises from O.P. and in my view, a mere statement from O.P's end regarding non-receipt of the notice for handing over of possession is a perfunctory afterthought at best and a fatuous excuse at the worst.

In the light of discussions against the foregoing and based on documents submitted to the Forum, it may be reasonably inferred that there is a substantial element of factual veracity in KoPT's Notice to Quit dated 28.07.1993 and therefore, I am of the firm view that the monthly lease of the O.P. was rightly determined by the Port Authority, vide the said Notice to Quit. Consequently, I have no hesitation to hold that the said Notice had been validly issued and served on the O.P. and the same are binding on the parties. As such, after the determination of the lease through issuance of the valid Notice to Quit by the KoPT authority, O.P's occupation to the property could be termed as Unauthorized Occupation in view of the particular provision of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 which is reproduced below :

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. 1334 A/1334/D of 2012 Order Sheet No. 32

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Smt. Basanti Devi ^{VS} Sri Tarakeswar Singh

19

06.08.2020

Section 2(g) "Unauthorized Occupation, in relation to any public premises, means the occupation by any person of the Public Premises without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority 'Whether by way of grant or any other mode of transfer' under which he was allowed to occupy the premises has expired or has been determined by any reason whatsoever."

In view of the circumstances, I am left with no other alternative but to issue the Order of Eviction against O.P., as prayed for on behalf of KoPT, on the following grounds/reasons:-

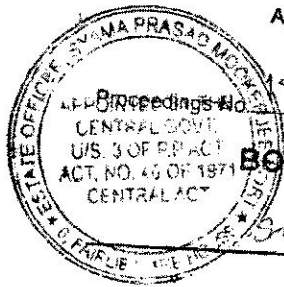
- 1) That O.P has violated the condition of tenancy under monthly term lease as granted by the Port Authority by way of not making payment of the dues to KoPT without any valid justification.
- 2) That O.P has further violated the condition of tenancy under monthly term lease as granted by the Port Authority by way of unauthorisedly parting with possession to various rank outsiders / strangers without any authority of law.
- 3) That O.P. has failed to make out any case in support of its occupation as "authorised occupation", in spite of sufficient chances being given.
- 4) That O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation", in spite of sufficient chances being given.




19.08.2020

Estate Officer, Kolkata Port Trust

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



BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Smt. Basanti Devi VS Sri Tarakeswar Singh.

Order Sheet No. 33

19
06-08-2020



5) That the notice to quit dated 28.07.1993 as served upon O.P by the Port Authority is valid, lawful and binding upon the parties and O.P's occupation, and that of any other occupant of the premises, has become unauthorised in view of Section 2(g) of the P.P Act.

6) That O.P is liable to pay damages for wrongful use and occupation of the Public Premises upto the date of handing over of clear, vacant and unencumbered possession of the subject premises to the Port Authority.

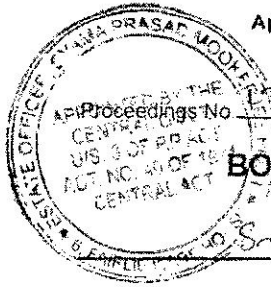
ACCORDINGLY, I sign the formal order of eviction u/s. 5 of the Act as per Rule made there-under, giving 15 days' time to O.P. and any person/s whoever may be in occupation, to vacate the premises. I make it clear that all person/s, whoever may be in occupation, are liable to be evicted by this order and the Port Authority is entitled to claim damages for unauthorized use and enjoyment of the property against O.P., in accordance with the Law, up to the date of recovery of possession of the same. 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 can 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

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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. 3334 A 1334/D Of 2012 Order Sheet No. 34

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Smt. Basanti Devi vs Sri Tarakeswar Singh

19

06.08.2020

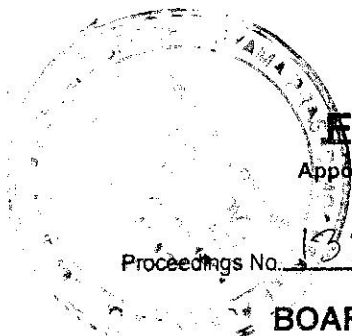


Handwritten notes and signatures, including a date stamp: 19.08.2020

unauthorised occupation. As such, I must say that Rs. 1,49,655/- as claimed by the Port Authority as damages, is correctly payable by O.P. for the period 01.10.1993 to 30.04.2017 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by 30.08.2020. The said damages shall carry ~~compund~~ 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 posscssion of the same in accordance with Law, and as such the liability of O.P. to pay damages extends beyond 30.04.2017 as well, as the possession of the premises is still lying unauthorisedly with the O.P. KoPT is directed to submit a statement comprising details of its calculation of damages after 30.04.2017; 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, the Port Authority is



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. 1334/1334/D Of 2012 Order Sheet No. 32.

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Smt. Basanti Devi; Sri Tarakeswar Singh
VS

19
06-08-2020

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

(Handwritten Signature)
(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 ***

By Order of:
ESTATE OFFICER
19.08.2020