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**ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT, KOLKATA  
(erstwhile 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  
Fairley Warehouse  
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 14 DT 02-12-2020  
PROCEEDINGS NO. 1450 OF 2014

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

-Vs-

**SRI RAM CHANDRA PROSAD**

**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 **Sri Ram Chandra Prosad, Vill: Chhotikseria, P.O. Chhota, P.S. Bansdih, Dist: Ballia, Uttarpradesh, PIN No 277 202 AND ALSO AT 13, P.T.R. Siding, Shalimar, P.S. Shibpur, PIN 711 102** is in unauthorized occupation of the Public Premises specified in the Schedule below:

**REASONS**

- 1) That you have failed to appear before this Forum and failed to file reply to the Show Cause Notice/s under the Act inspite of sufficient chances being given.
- 2) That you have violated the condition of tenancy under monthly term lease, as granted by the Port Authority, by way of not making payment of rent and taxes, to the Port Authority.
- 3) That you have violated the condition of tenancy under monthly term lease, as granted by the Port Authority by way of unauthorised construction and unauthorised parting of possession to rank outsiders.
- 4) That you /any other person on behalf of yourself have failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 5) That you or any other person/s asserting any right through yourself has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation", inspite of sufficient chances being provided.
- 6) That the notice to quit dated 06.12.1967 and further notice dated 26.09.2013 as served upon you by the Port Authority are valid, lawful and binding upon the parties and your occupation, and that of any other occupant of the premises. has become unauthorised in view of Section 2(g) of the P.P Act.
- 7) That you are 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 to the Port Authority.

Please see on reverse



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of the reasoned order No. 14 dated 02.12.2020 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 **Sri Ram Chandra Prosad, Vill: Chhotikseria, P.O. Chhota, P.S. Bansdih, Dist: Ballia, Uttarpradesh, PIN No 277 202 AND ALSO AT 13, P.T.R. Siding, Shalimar, P.S. Shibpur, PIN 711 102** 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 **Sri Ram Chandra Prosad, Vill: Chhotikseria, P.O. Chhota, P.S. Bansdih, Dist: Ballia, Uttarpradesh, PIN No 277 202 AND ALSO AT 13, P.T.R. Siding, Shalimar, P.S. Shibpur, PIN 711 102** 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 HL-379 & SF 114

All that piece or parcel of land msg. 357.68 sqm or thereabouts situated at PTR Siding No 13, Shalimar, Howrah, Thana- Shibpur Police Station, Dist & Registration Dist- Howrah. The said piece or parcel of land is bounded by on the **North** by the Trustees' strip of open land beyond which by the railway siding on the **East** by the Trustees' land occupied by Hindustan Steel Supply Co., on the **South** Trustees' vacant land then railway siding and on the **West** by the Trustees' Foreshore Road.

Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

Dated: 02-12-2020

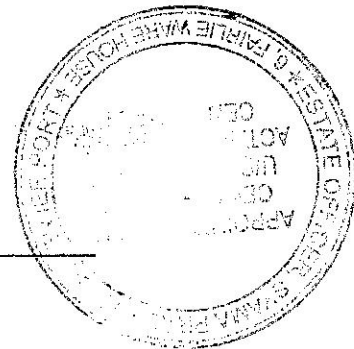
Signature & Seal of the  
Estate Officer.

**COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER, SYAMA PRASAD MOOKERJEE PORT, KOLKATA 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. 1450 Of 2014 Order Sheet No. 11

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Ram Chandra Prasad <sup>VS</sup>

### FINAL ORDER

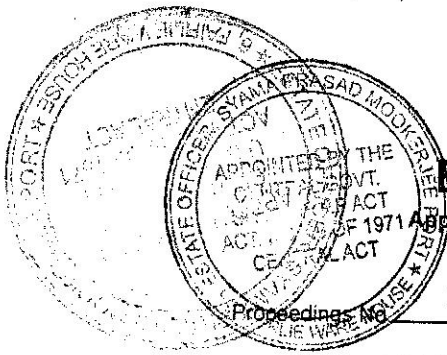
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02.12.2020

The instant proceeding No 1450 of 2014 arises out of the application bearing No. Lnd.3391/14/2872 dated 10.01.2014 filed by Syama Prasad Mookerjee Port, Kolkata (erstwhile Kolkata Port Trust, hereinafter referred to as '**SMP, Kolkata**'), the applicant herein, under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as '**the Act**') praying for an order of eviction and recovery of rental dues, compensation/damages and other charges etc. along with accrued interest in respect of the Public Premises as defined under Schedule- 'A' of said application, against **Shri Ram Chandra Prasad** (hereinafter referred to as **O.P.**).

The fact of the case in a nutshell is that the O.P. came into occupation of the port property (under Plate Nos. HL 379 and SF 114) on a monthly lease at Shalimar, Howrah, morefully described in the Schedule 'A' of SMP, Kolkata's application dated 10.01.2014. The allegations leveled by SMP, Kolkata against the O.P are that the O.P has defaulted in payment of monthly rent and taxes with the accrued interest thereof, has unauthorisedly parted with the possession of the premises to the rank outsider, erected unauthorised construction on the subject premises in gross violation of the terms and conditions of the tenancy and changed the purpose of lease without taking prior approval of SMP, Kolkata. It is the case of SMP, Kolkata that the tenancy with the O.P. was determined w.e.f. 01.02.1968 in terms of the Notice to Quit dated 06.12.1967 and finally on 01.11.2013 in terms of an additional Notice dated 26.09.2013. The O.P. failed and neglected to vacate/ hand over the possession of the premises after service of the said Notice to Quit. SMP, Kolkata has made out a case that O.P. has no right to occupy the premises after the termination of

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
DATE: 04.12.2020  
S.D.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. 1450 of 2014 Order Sheet No. 12

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Ram Chandra VS Prasad

14  
02.12.2020

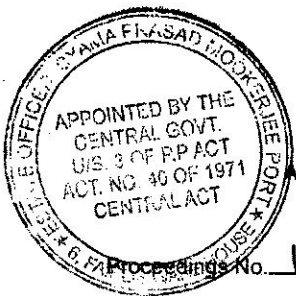
the lease in question upon service of a quit notice dated 06.12.1967.

Accordingly, this Forum of Law formed its opinion to proceed against O.P. under the relevant provisions of the Public Premises Act, 1971 and issued show cause notices under Section 4 of the Act (for adjudication of the prayer for issuance of Order of Eviction etc.) dated 11.12.2017 (vide Order No 08 dated 11.12.2017) as per the Rules made under the Act.

It reveals from record that the Notice/s sent through Speed Post was returned undelivered by the Postal Department. It is reported by the Process Server vide his report dated 13.12.2017 that the O.P. was not found at the recorded address. It is however confirmed by the Process Server vide the said report dated 13.12.2017 that the Notice/s have been affixed on the property in question, as per mandate of the Act. This Forum granted several opportunities for effecting service on O.P. but every time it was reported by the Process Server that O.P. was not found at the address. In my view, as per the Rules framed under the P.P. Act, 1971, affixation on property is due service of Notice on the O.P. as well as on anybody else interested in the property in question. I take note of the fact that nobody appeared before this Forum despite numerous opportunities, after publication of a Notice in a local Hindi daily newspaper named 'Sanmarg' on 14.04.2018 and as such, I am inclined to proceed ex-parte against the O.P.

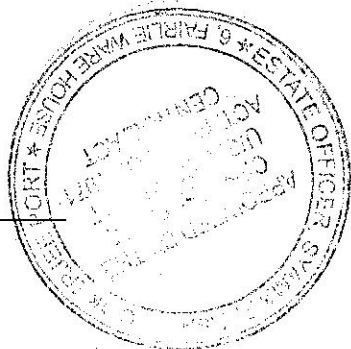
I have carefully considered all the documents placed before me. As regards change of purpose, it is seen that no evidence has been led by SMP, Kolkata, and as such it is very difficult to believe these allegations against the O.P. However, the contentions of default in payment of

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SYAMA PRASAD MOOKERJEE PORT  
14/12/20  
Asst. Assistant  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT



# 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. 1450 of 2014 Order Sheet No. 13

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

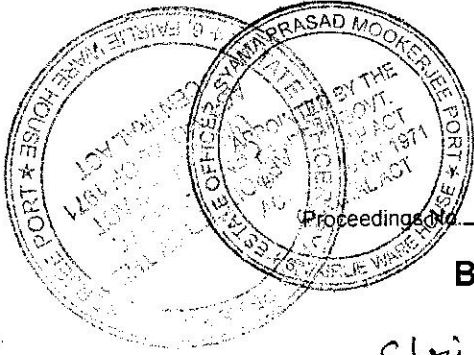
Shri Ram Chandra <sup>VS</sup> Prasad

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02.12.2020

rent and taxes, unauthorised parted with possession of the premises to the rank outsiders and erection of unauthorised construction appear to have merit. As regards the allegations of non-payment by O.P., I find that SMP, Kolkata has produced detailed statement of accounts dated 02.05.2014, 29.08.2014 in respect of the said occupations. It appears from the said statements of accounts that since 1971, no payment, whatsoever, has been made on behalf of the O.P. in respect of both the occupations under plate no HL 379 and SF 114. In my view, such statement maintained by the statutory authority in the usual course of business has definite evidentiary value, unless challenged with fortified documents/evidences etc, ready to bear the test of legal scrutiny. During the course of hearing, I am given to understand by the Port Authority that the rent charged from time to time is based on the rates notified by the Tariff Authority for Major Ports (TAMP) in the Official Gazette, which is binding on all users of the port property. Non-payment of rental dues by O.P. for decades together is very much prominent and established, as discussed above. As per law, a monthly lease tenancy like the one granted to the O.P., continues only on the basis of timely payment of rent bill/s and non-payment of the same, even for a small period, is enough to vitiate the contract. The moment O.P. delays to pay the rent, there is no scope for automatic monthly renewal of the tenancy. Here, in the instant case, O.P. is a defaulter for decades. In my view, the breach committed by the O.P. is very much well established in the facts and circumstances of the case and O.P. must have to suffer the consequences, following due applications of the tenets of law. As regards the allegation of unauthorised parting with the possession, I have gone through the application/ papers/ documents placed before me by

*(Handwritten mark)*

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
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SYAMA PRASAD MOOKERJEE PORT  
12-12-20  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT



# 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. 1450

Of

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Order Sheet No.

14

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

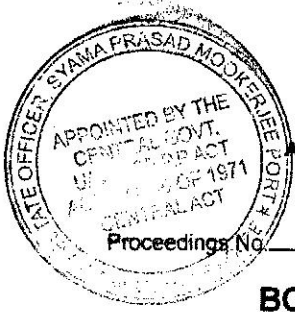
Shri Ram Chandra Prasad <sup>VS</sup>

14  
02-12-2020

SMP, Kolkata. It is SMP, Kolkata's allegation and ironically, the admitted position of the O.P. too vide his letter dated 05.05.1964, that there were six sitting occupants, who are but rank outsiders, have been enjoying the subject premises. Ample opportunities were provided to the O.P., to appear before this forum for making submissions, but the O.P. did not appear. Still for the ends of justice, the Notice of this Forum was affixed on the conspicuous part of the premises, as confirmed from the Report/s of the Process Server. The O.P. was neither found at the premises during service of the Notice/s nor cared to appear before this Forum at any point of time even after publication of a Notice in a local Hindi daily newspaper named 'Sanmarg' on 14.04.2018, even thereafter till passing of this Order. Considering all these aspects, I think it is a clear case of parting of possession to rank outsiders without any authority of law. The O.P. has clearly abandoned the SMP, Kolkata's land in favour of strangers who are found to be enjoying the Port property for a very long period. As regards unauthorised construction, SMP, Kolkata has placed on record certain sketch maps, filed under the cover of application dated 29.08.2014 prepared after inspection of the premises, from where it appears that O.P. has carried out some construction which was not approved by the Port authority.

Such a tenancy is to be determined immediately by service of appropriate Notice. As such, I do not find anything irregular or illegal on the part of SMP, Kolkata. In my view, SMP, Kolkata's Notices to Quit dated 06.12.1967 and the notice dated 26.09.2013 are very much\* pertinent and binding upon the parties in question, duly served on O.P. as per records. Thus, I have no hesitation in upholding the said Notice to Quit

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THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
Hd. Assnt.  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT



## Estate Officer, Kolkata Port Trust

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

1450

2014

Of

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### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Ram Chandra <sup>VS</sup> Prasad



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02-12-2020

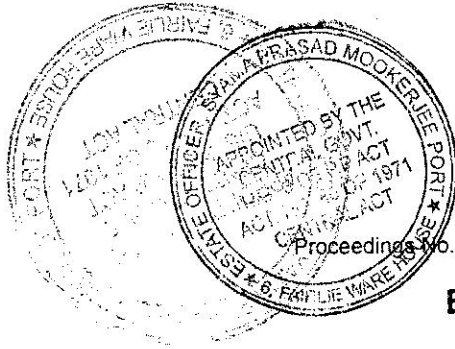
and declaring the occupation of the O.P. as "unauthorized" within the meaning of Sec. 2 (g) of the P.P. act, 1971.

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

- 1) That O.P. has failed to appear before this Forum and failed to file reply to the Show Cause Notice/s under the Act inspite of sufficient chances being given.
- 2) 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 rent and taxes, to the Port Authority.
- 3) That O.P. has violated the condition of tenancy under monthly term lease, as granted by the Port Authority by way of unauthorised construction and unauthorised parting of possession to rank outsiders.
- 4) That O.P./any other person on behalf of O.P. have failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 5) That O.P. or any other person/s asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation", inspite of sufficient chances being provided.

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
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PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
Head Office  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

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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. 1450

Of 2014

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### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS  
Shri Ram Chandra Prasad

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02.12.2020

- 6) That the notice to quit dated 06.12.1967 and further notice dated 26.09.2013 as served upon O.P. by the Port Authority are 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.
- 7) 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 to the Port Authority.

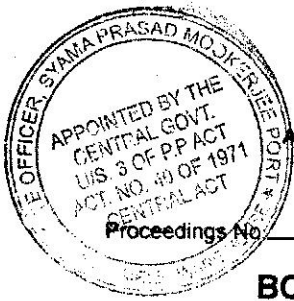
ACCORDINGLY, I sign the formal order of eviction u/s. 5 of the Act as per Rule made there-under, giving 15 days' time to O.P., and any person/s whoever may be in occupation, to vacate the premises. I make it clear that all person/s, whoever may be in occupation, are liable to be evicted by this order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

As regards SMP, Kolkata's claim for arrears of rent, mesne profit/ compensation/ damages and taxes, I am not inclined to assess the rents or damages at this stage as no Notice/s u/s 7 was issued by the Forum. As per law, O.P. is liable to pay the outstanding rents as well as the mesne profit/ compensation/ damages for unauthorized use and enjoyment of the property right upto the date of handing over of possession of the public

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

RV





# 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

Shri Ram Chandra <sup>VS</sup> Prasad

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premises to SMP, Kolkata. As such, the rents/ damages are to be assessed later, upon issuance of Notice/s u/s 7 of the Act by this Forum, at the appropriate time. SMP, Kolkata is directed to submit a report regarding its claim on account of rents, mesne profit/ compensation/ damages against O.P., indicating there-in, the details of the computation of such rents, mesne profit/ compensation/ damages with the rate of charges so claimed for the respective periods for my consideration in order to assess the rents, damages as per the Act and the Rules made thereunder.

I make it clear that in the event of failure on the part of O.P. to comply with this order as aforesaid; 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

(S. Sinha)

ESTATE OFFICER

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THIS ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

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