

REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY

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

REASONED ORDER NO. 16 DT (B.O.) 2021
PROCEEDINGS NO. 1107 OF 2011

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
Estate Bhagaloo Shaw and Another (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 **Estate Bhagaloo Shaw and Another, C/o Sri Surajmal Marwari of 106, Diamond Harbour Road, Kolkata-700023** is in unauthorized occupation of the Public Premises specified in the Schedule below :

REASONS

- 1) 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) That the Quit notice dated 28.06.1990 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.
- 3) That the O.P. was very much in arrears of licence fees, at the time of revocation of the licence by the Port Authority.
- 4) That O.P has violated the condition of license by erecting unauthorized construction on KoPT's land without having any authority under law.
- 5) That right from the date of expiry of the period as mentioned in the said notice to quit dated 28.06.1990, O.P. has lost its authority to occupy the Public Premises and O.P. is liable to pay damages for wrongful use and enjoyment of the Port Property upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

A

PLEASE SEE ON REVERSE

(2)

A copy of the reasoned order No. 16 dated 19/01/2022 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 **Estate Bhagaloo Shaw and Another, C/o Sri Surajmal Marwari of 106, Diamond Harbour Road, Kolkata-700023** 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 **Estate Bhagaloo Shaw and Another, C/o Sri Surajmal Marwari of 106, Diamond Harbour Road, Kolkata-700023** 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.

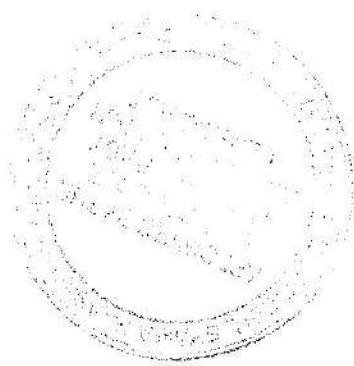
SCHEDULE

Plate No. D-217/1

All that piece or parcel of land msg.240.340 sq.m or thereabouts is situate at Circular Garden Reach Road, Thana- West Port Police Station, Calcutta, District 24 Parganas. It is bounded on the North by Circular Garden Reach Road, on the East by Trustees' Hide Road Institute, On the South by the Trustees' land occupied by Shama Charan Tewari and on the West by the Trustees' land used as passage.

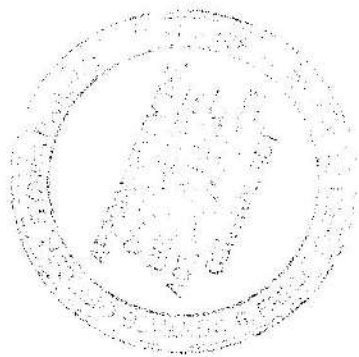
Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

Date- 19/01/2022)




Signature & Seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA FOR INFORMATION.



**REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY**

**ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT, KOLKATA
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PROCEEDINGS NO. 1107/D OF 2011
ORDER NO.16 DATED: 18.01.2021

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
Estate Bhagaloo Shaw and Another,
C/o Sri Surajmal Marwari
106, Diamond Harbour Road,
Kolkata-700023

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 08.08.2017 you are called upon to show cause on or before 05.09.2017 why an order requiring you to pay damages of Rs. 12,59,933.77 (Rupees Twelve Lakhs Fifty Nine Thousand Nine Hundred Thirty Three and paisa Seventy Seven 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 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 Unauthorised Occupants) Act 1971, I hereby order you to pay the sum of Rs. 12,59,933.77 (Rupees Twelve Lakhs Fifty Nine Thousand Nine Hundred Thirty Three and paisa Seventy Seven only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 17.07.1990 to 06.06.2017 (both days inclusive) to Kolkata Port Trust by 05.02.2021.

A

PLEASE SEE ON REVERS

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 @ 6.20 % per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

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 through the Collector.

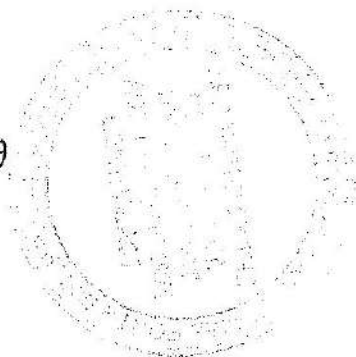
SCHEDULE

Plate No. D-217/1

All that piece or parcel of land msg.240.340 sq.m or thereabouts is situate at Circular Garden Reach Road, Thana- West Port Police Station, Calcutta, District 24 Parganas. It is bounded on the North by Circular Garden Reach Road, on the East by Trustees' Hide Road Institute, On the South by the Trustees' land occupied by Shama Charan Tewari and on the West by the Trustees' land used as passage.

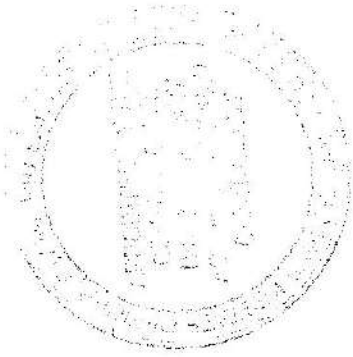
Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

Date 19/01/2021



A handwritten signature in black ink, appearing to be 'S. M. M.' or similar, written over a faint circular stamp.

Signature & Seal of the
Estate Officer.



**REGISTERED POST WITH A/D.
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AFFIXATION ON PROPERTY**

**ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT, KOLKATA
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(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
6, Fairlie Place Warehouse

Form " E "

PROCEEDINGS NO.1107/R OF 2011
ORDER NO. 16 DATED: 18.01.2021

Form of order under Sub-section (1) and (2A) of Section 7 of the Public
Premises (Eviction of Unauthorised Occupants) Act,1971.

To
Estate Bhagaloo Shaw and Another,
C/o Sri Surajmal Marwari
106, Diamond Harbour Road,
Kolkata-700023

WHEREAS you are in occupation of the public premises described in
the Schedule below. (Please see on reverse).

AND WHEREAS, by written notice dated 08.08.2017 you are called
upon to show cause on or before 05.09.2017 why an order requiring you
to pay a sum of Rs 1,45,187.65 (Rupees One Lakhs Forty Five Thousand
One Hundred Eighty Seven and paisa Sixty Five only) being the rent
payable together with compound interest in respect of the said premises
should not be made;

AND WHEREAS, I have considered your objections and/or evidence
produced before this Forum.

NOW, THEREFORE, in exercise of the powers conferred by sub-section
(1) of Section 7 of the Public Premises(Eviction of Unauthorised
Occupants) Act 1971, I hereby require you to pay the sum of Rs
1,45,187.65 (Rupees One Lakhs Forty Five Thousand One Hundred
Eighty Seven and paisa Sixty Five only) for the period 01.04.1984 to
16.07.1990 (both days inclusive) to SMP, Kolkata by 05.02.2021

A

PLEASE SEE ON REVERSE

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 @ 6.20 % per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

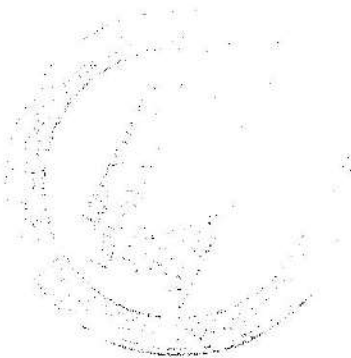
SCHEDULE

Plate No. D- 217/1

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

Dated: 19/01/2021



Signature and seal of the
Estate Officer

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 @ 6.20 % per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

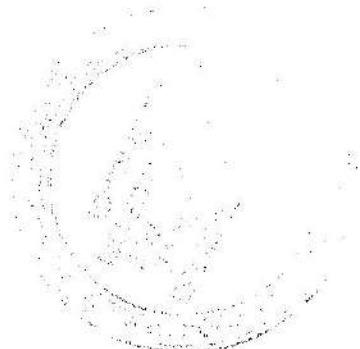
SCHEDULE

Plate No. D- 217/1

All that piece or parcel of land msg.240.340 sq.m or thereabouts is situate at Circular Garden Reach Road, Thana- West Port Police Station, Calcutta, District 24 Parganas. It is bounded on the North by Circular Garden Reach Road, on the East by Trustees' Hide Road Institute, On the South by the Trustees' land occupied by Shama Charan Tewari and on the West by the Trustees' land used as passage.

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

Dated: 19/01/2021



Signature and seal of the
Estate Officer

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. 1107, 1107/R-D Of 2011 Order Sheet No. 15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Bhagaloo Shaw ^{VS} k Laxmi Narayan Shaw

FINAL ORDER

16
18.01.2021

The instant proceedings No. 1107, 1107/R, 1107/D of 2011 arises out of the application bearing No. Lnd.4369/07/48 dated 13.04.2007 filed by the Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust], hereinafter referred to as KoPT, the applicant herein, praying for an order of eviction and recovery of rent, compensation/damages and other charges etc. along with accrued interest in respect of the public premises as defined in the Schedule of said application, against "Estate Bhagaloo Shaw and Another," 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 being land measuring 240.340 sq.mtrs. or thereabout situated at Circular Garden Reach Road, (under Plate D- 217/1) Thana-West Port Police Station, District-24 Parganas as a Licensee, on payment of monthly licence fees/rent on certain terms and conditions as embodied in KoPT's offer/letter for allotment addressed to O.P dated 17.08.1960. KoPT has submitted that while in possession of Port property as Licensee, the O.P has defaulted in payment of monthly Licence Fees/rent, damages and other charges thereon the details of which has given in 'Schedule-B' & 'C' of the KoPT's application dated 13.04.2007 along with application dated 13.06.2017.

In view of the aforementioned breaches committed by O.P. the said licence was determined by way of a Quit Notice dated 28.06.1990 and the O.P. was asked to vacate the premises on 16.07.1990 but O.P has failed and neglected to vacate/ hand over the possession of the premises after service of the said Quit Notice.

A

By Order of:

THE ESTATE OFFICER

SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER

PASSED BY THE ESTATE OFFICER

SYAMA PRASAD MOOKERJEE PORT

Head 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. 1107, 1107) R-D Of 2011 Order Sheet No. 16

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/s. Bhagaloo Shaw & Laxmi Narayan Shaw

15
18.01.2021

It appears that the original application was filed by KoPT against Sri Bhagaloo Shaw & Lachminarayan Shaw. However, it appears from the Order sheet, KoPT and O.P's communications/applications, etc. that the case has been recorded in the name of M/S Bhagaloo Shaw and Lachminarayan Shaw. It appears that a good number of hearings have taken place before passing of this Order and nobody has ever pointed out such discrepancies before this Forum. Now, as this Forum vide it's Order dated 10.10.2017 has directed to refer the Proceeding as "Estate Bhagaloo Shaw and Anr" and O.P has acknowledged their liability towards the subject occupation throughout the entire proceedings. Hence, it is clear to me that such discrepancy in the name of O.P., as mentioned in the Order sheets are merely a clerical error and did not prejudice the rights and liabilities of the parties to the present proceeding. In view of the above, it is therefore, directed that henceforth the name of O.P should be read as "Estate Bhagaloo Shaw and Another" for all the material purposes of this proceeding.

Considering the submission advanced by KoPT and the documents on record, Notice/s to Show Cause under section 4 and 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 all dated 08.08.2017(vide order No.07 dated 13.06.2017) were issued by this forum to O.P. The Notice/s were issued in terms of the said provisions of the Act calling upon the O.P. to appear before this forum in person or through authorized representative capable of answering all material questions in connection with the matter along with the evidence which the opposite party intends to produce in support of their case.

The said notice/s were served through Speed Post to the correct recorded address of O.P. at 106, Diamond Harbour

R

RECEIVED
18.01.2021
13/01/2021

Estate Officer, Kolkata Port Trust

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

1107, 1107 R-D Of 2011 Order Sheet No. 17

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Bhagaloo ^{VS} Shaw & Laxmi Narayan Shaw

15
18.01.2021

Road, Kolkata-700023. It appears from records that the Notice/s sent to the address of O.P. at 106, Diamond Harbour Road, Kolkata-700023 were returned back. The Notice/s have also been sent to the occupation of O.P. by hand delivery. It appears from the report of the Process Server dated 21.08.2017 that said notice/s have been served upon O.P personally and one Anand Jaiswal has received the same on behalf of O.P and affixation of the said notice/s were also made on the property under schedule on the same day at about 11.15 A.M. in compliance of the provisions of the Act.

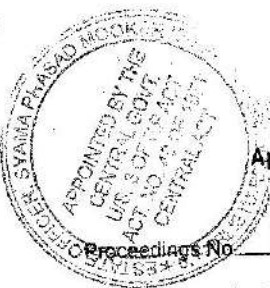
O.P entered appearance through his Ld' advocate and filed on 05.09.2017 his Reply/Written Objections along with Vokatatnama duly signed by Mahendra Shaw @ Mahendra Jaiswal, claiming to be the legal representative of O.P, followed by Letter/Petition, affidavit and certificate of death of Sri Bhagaloo Shaw dated 10.10.2017. KoPT also filed its comments/rejoinder on the said reply/written statement of O.P on 10.10.2017 and several other Letters/applications on 06.11.2017, 09.01.2018 and 25.09.2018 before the forum. Both the parties were heard extensively. Finally on 25.09.2018, when KoPT has failed to dispel the O.P's disputed legal heirship by producing any relevant documents, the matter was reserved for passing final order.

To sum up the allegations of KoPT against O.P, I find that main focal point of KoPT's allegations is non payment of licence fees/rent and taxes, however, from the minutes of joint inspection dated 29.06.2017 it is later on revealed that there was some unauthorised constructions on the subject premises.

Contention of O.P during the course of hearing and from submitted documents are summarised as follows :-

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By Order of
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
OFFICE OF THE LD. 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. 1107, 1107/R-D Of 2011 Order Sheet No. 18

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Bhagatoo ^{VS} Shau & Laxmi Narayan Shau

15
18/01/2021

- I. That the original tenant died much earlier leaving behind him his heirs/successors, legal representative named (Mahendra Jaiswal) who from time to time made the regular payments of the licence fees, rent and other charges since the death of the original tenant.
- II. The O.P never had any malafide intention of illegal occupation of the premises. The rent receipt/other receipts will disclose this fact. If inadvertently any dues are remained unpaid the O.P is ready to pay the same for the safeguard of the tenancy/occupancy. Any adverse order without going through the proper consideration, will cause irreparable loss to O.P.
- III. That even after service of notice for eviction in 1990, the authorities concerned of the Port Trust received and acknowledge the payment of dues.
- IV. That KoPT has admitted clearly the occupancy/tenancy to the O.P No.1 hence, he is not liable to be evicted without going through the entire aspect of the payments made from time to time.

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

Now while passing the final order, upon considering the deliberations of the parties and after carefully going through all the documents placed on record, I find that O.P's contention that the original tenant died much earlier leaving behind him his heirs/successors, legal representative named (Mahendra Jaiswal) who from time to time made the regular payments of the licence fees, rent and other charges since the death of the original

A

Estate Officer, Kolkata Port Trust

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

1107, 1107 R-D Of 2011 Order Sheet No. 19

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Bhagaboo ^{VS} Shaw & Laxmi Narayan Shaw

16
18.02.2021

tenant has much ground because said mahendra Jaiswal has produced the death certificate of original O.P, Transfer Certificate issued by School and a copy of affidavit sworn before the Metropolitan Magistrate, Calcutta wherefrom it appears that Mahendra Jaiswal is the legal heir of original O.P. Moreover during the course of hearing on 25.09.2018 forum made an earlier observation in this regard that when a person suo moto files an affidavit and undertakes to bear responsibility as a legal representative of original licensee, there should not be any prejudiced to be caused to KoPT. I find that KoPT has failed to produce any sufficient document in disproof of the fact that mahendra Jaiswal is not a legal representative of original licensee. Therefore this issue is decided against KoPT.

With regard to the issue of non payment of KoPT's licence fees/rent and taxes, O.P has admitted the dues on his part vide reply to the Show Cause notice/s as filed on 05.09.2017. It is the categorical submission of O.P who from time to time made the regular payments of the licence fees/rent and other charges since the death of the original tenant and the same have been accepted by KoPT. Moreover in the said reply to the Show cause and subsequently during the course of hearing dated 09.01.2018 O.P has prayed for liquidation of entire dues. Before this Forum, KoPT has also filed copies of several letters addressing the O.P (such as letter dated 02.11.1985, 04.12.1986 and 06.07.1989) etc. whereby KoPT repeatedly requested O.P for liquidation of their dues but inspite of receiving the copy of such letters, O.P apparently did not pay any heed to that matter. More so, KoPT has filed detailed Statement of Accounts, which clearly indicates the huge dues on the part of the O.P. There is no reason to disbelief such submission of the

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In Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
OFFICE OF THE LD. 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. 1107, 1107/R-D Of 2011 Order Sheet No. 20

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Bhagatos ^{VS} Shaw & Laxmi Narayan Shaw

16
18-01-2021

statutory authority like KoPT which kept in regular course of business. O.P's plea that he has been paying regularly the licence fees/rent taxes other miscellaneous charges or port Trust received and acknowledge the payment of dues does not seem to have any justification in this juncture because such statement do not come to the protection of O.P. at all. Thus this Forum holds that the charge of default in payment of licence fees/rent and taxes is definitely established.

As regards the issue of unauthorised construction, No reply to KoPT's allegation regarding unauthorized construction has been given from O.P's end in his reply to the Shaw Cause as because such issue was not specifically raised by KoPT in it's original application. However, the Minute of joint inspection dated 29.06.2017 and the Sketch plan being No.9847-D-III dated 04.07.2017 as highlighted in "red hatch" clearly reveals that there is some unauthorised constructions which are erected without taking any permission from KoPT.

On the issue of receipt of payment after Quit Notice or on the question of eviction without going through the entire aspect of the payments made from time to time from O.P, I must say that a licensee like O.P. is bound to comply with all the terms and conditions for grant of licence in terms of KoPT's offer letter dated 17.08.1960 and failure on the part of O.P. to comply with the fundamental condition for grant of such licence that is to say non-payment of monthly licence fee is definitely entitled the Port Authority to exercise its right to revoke the licence by due notice to O.P. A licensee like O.P. cannot claim its occupation as "subsisting tenancy" without making payment of monthly licence fees within due date. Once the tenancy comes to an end by determination of lease

A

By Order of:

THE ESTATE OFFICER

SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER

PASSED BY THE ESTATE OFFICER

SYAMA PRASAD MOOKERJEE PORT

(Signature)
Head Assistant

OFFICE OF THE LD. 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

1107, 1107) R-D Of 201) Order Sheet No. 21

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/s. Bhagaloo Shand & Laxmi Narayan Shand

16
18/01/2021

u/s.111 of the Transfer of Property Act, the right of the tenant to continue in possession of the premises comes to an end and for any period thereafter, for which he continues to occupy the premises, he becomes liable to pay damages for use and occupation at the rate at which the landlord would have let out the premises on being vacated by the tenant.

Undoubtedly, the tenancy under licence is governed by the principles/provisions of the Indian Easement Act and there is no scope for denial of the same. Though the status of a "licencee" is entirely different from the status of a "lessee", the principle established by the Hon'ble Apex Court of India in deciding any question about "damages" in case of a "lease" may be accepted as guiding principle for determining any question about damages in case of a "licence". Therefore, after issuance of Quit Notice whatever payment is made by O.P that should be treated as damages/compensation and plea taken by O.P above cannot protect his tenancy. Hence, I am convinced that there is no merit to the contentions made on behalf of O.P. on the plea of receipt of payment by KoPT after issuance of notice for revocation of licence. It is my considered view that the licence granted to O.P. was undoubtedly revoked by the Port Authority by due service of notice for revocation of licence and institution of proceedings against O.P. by KoPT is a clear manifestation of Port Authority's intention to get back possession of the premises.

Discussion against the forgoing reveal that as the notice to quit dated 10.08.2010 is validly issued and served on

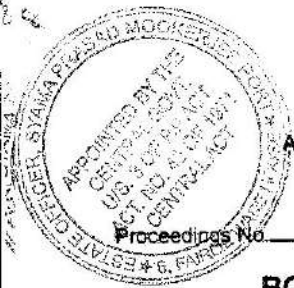


By Order of:

THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Head Assistant
OFFICE OF THE LD. 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. 1107, 1107 R-D Of 2011 Order Sheet No. 22

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/s. Bhagaloo Shau & Laxmi Narayan Shau

16
18.01.2021

O.P and the same is binding and very much enforceable, in the facts and circumstances of the case. It is a settled question of law that a licensee like O.P. cannot claim any legal right to hold the property after expiry of the period as mentioned in the notice to Quit, right of licensee to continue possession wholly depends on active willingness of land lord. Therefore, O.P's occupation after expiry of Quit Notice is wholly unauthorised.

Thus being satisfied as above, I am left with no other alternatives but to issue the order of eviction against O.P as prayed for on behalf of KoPT, on following grounds/reasons.

- 1) 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) That the Quit notice dated 28.06.1990 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.
- 3) That the O.P. was very much in arrears of licence fees, at the time of revocation of the licence by the Port Authority.
- 4) That O.P has violated the condition of license by erecting unauthorized construction on KoPT's land without having any authority under law.
- 5) That right from the date of expiry of the period as mentioned in the said notice to quit dated 28.06.1990, O.P. has lost its authority to occupy the Public Premises and O.P. is liable to pay damages for wrongful use and enjoyment of the Port Property upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

R

[Handwritten notes and signatures in the bottom left corner, including '18/01/2021' and other illegible text.]

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}
M/s. Bhagatoo Shau & Laxmi Narayan Shau.

16
18.07.2021

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

Regarding payment of rental dues to KoPT, I must say that Rs. 1,45,187.65/- as claimed by the Port Authority in relation to the Plate in question, is correctly payable by O.P. for the period 01.04.1984 to 16.07.1990 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 05.02.2021

The said rental dues shall attract compound interest @ 6.20 % 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.

During the course of hearing, 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 unauthorised occupation and in this regard a sum of Rs.12,59,933.77/- for the period 17.07.1990 to 06.06.2017 is due and recoverable from O.P. by the Port authority on account of compensation /Damages and O.P. must have to pay such dues to KoPT on or before -- 05.02.2021. The said damages shall attract compound

By Order of:

THE ESTATE OFFICER

SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER

ISSUED BY THE ESTATE OFFICER

SYAMA PRASAD MOOKERJEE PORT

Head Assistant

OFFICE OF THE ESTATE OFFICER

SYAMA PRASAD MOOKERJEE PORT

A



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

M/s. Bhagaloo ^{VS} Shand & Laxmi Narayan Shand.

16
18.01.2022

interest @ 6.20 % 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 orders u/s 7 of the Act.

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 possession of the same in accordance with Law, and as such the liability of O.P. to pay damages extends beyond 06.06.2017 as well, till such time the possession of the premises continues to be under the unauthorised occupation with the O.P. KoPT is directed to submit a statement comprising details of its calculation of damages after 06.06.2017, 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, Port Authority is entitled to proceed further for execution of this order in accordance with law. All concerned are directed to

(Signature)

Handwritten notes and stamps in the bottom left corner, including 'FILED IN...', 'CASE NO...', and 'STATE BANK OF INDIA'.

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

M/s. Bhagatoo ^{VS} Shari & Laxmi Narayan Shari

16
18.01.2021

act accordingly. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL



(A.K. Sarkar)
ESTATE OFFICER.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

17.01.2021
Hd. Assistant
OFFICE OF THE 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***