

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
Fairley Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 17 DT 27.01.2021
PROCEEDINGS NO. 1022/D OF 2009

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
Mather & Platt (India) Ltd.
(Now known as **M/s MPIL Corporation Ltd.**) OF
"THE INTERNATIONAL" 5th Floor,
16, New Marine Lines Cross Road, No 1,
Church Gate, Mumbai 400020 AND
Nilhat House, 8th Floor,
11, R.N. Mukherjee Road, Kolkata- 700 001 AND
Wallace House, Ground Floor,
4, Bankshall Street,
P.O. Box 188, Kolkata 700001 AND
c/o Narmada Gelatiners Ltd, 5th Floor, Flat No 2
Garstin Place, Kolkata 700001

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 15.01.2020 you were called upon to show- cause on/or before 30.01.2020 why an order requiring you to pay a sum of Rs. 35,37,899.49/- (Rupees Thirty Five Lakhs Thirty Seven Thousand Eight Hundred Ninety Nine and paise Forty Nine only) being damages payable together with compound interest for unauthorised use and occupation of the said premises, should not be made.

And whereas you have not made any objections or produced any evidence before the said date;

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. 35,37,899.49/- (Rupees Thirty Five Lakhs Thirty Seven Thousand Eight Hundred Ninety Nine and paise Forty Nine only) for the period from 01.12.2007 to 17.01.2012 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust, by

15.01.2021

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, 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) 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.

A copy of the reasoned order no. 17 dated 27.01.2021 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.

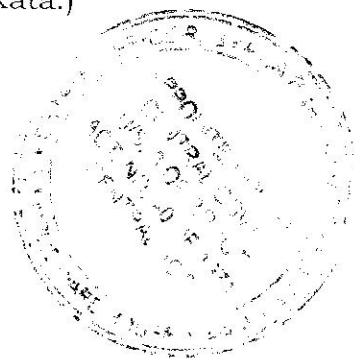
SCHEDULE

Plate no -D -52

The piece or parcel of land measuring about 3545.635 sqm or thereabouts is situate on the North side of Gopal Doctor Road, Thana- previously SPPS, now Watgunge P.S., Kolkata, District: South 24 Parganas, South, Registration District Alipore. It is bounded on the North partly by the land belonging to private owners, on the East partly by the Trustees' strip open land and partly by the land belonging to the private owners, on the South by the Trustees' strip of open land beyond which is Gopal Doctor Road and on the West partly by the Trustees' land covered by their Railways sidings and partly by the land belonging to private owners.

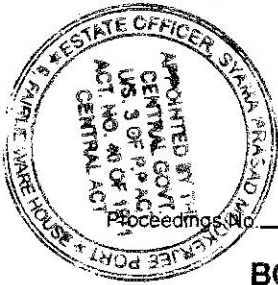
Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

Dated: 27.01.2021



**Signature and seal of the
Estate Officer.**

**COPY FORWARDED TO THE ESTATE MANAGER, KOLKATA PORT TRUST 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

1022/D Of 2009 Order Sheet No. 35

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Mather & Platt ^{VS} (India) Ltd.

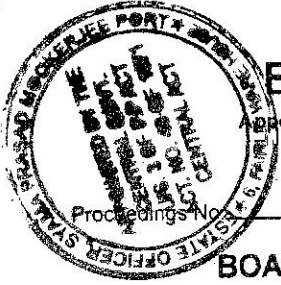
17
27.01.2012

FINAL ORDER

The instant Proceedings No. 1022/D of 2009 arises out of application dated 17.01.2012 filed by the **Kolkata Port Trust** (hereinafter referred to as **KoPT**), now known as **Syama Prasad Mookerjee Port, Kolkata**, the applicant herein, praying for order of payment of arrear rent, taxes, compensation etc. along with interest against **M/s Mather & Platt (India) Ltd** [now said to be known as 'M/s MPIL Corporation Ltd'], (hereinafter referred to as **O.P.**), under the relevant provisions of **Public Premises (Eviction of Unauthorised Occupants) Act 1971** (hereinafter referred to as '**the Act**'). The material facts of the case is summarised here under.

1. KoPT had granted lease of Land measuring 3545.635 sqm situated on the north side of Gopal Doctor Road, Dist. 24 Parganas under Occupation No. D-52 to the O.P. under a long term lease of 30 years w.e.f. 01.01.1987. O.P. was asked to vacate the premises in terms of KoPT's Notice to Quit dated 26.06.2006.
2. As the O.P. preferred to continue in occupation of the premises after expiry of the period as mentioned in the said notice of ejectment dated 26.06.2006, KoPT initiated proceedings under the Public Premises Act, 1971 before this Forum of Law praying for eviction as well as recovery of arrear rent, compensation etc. against the O.P. Accordingly, proceeding bearing no 1022, 1022/R and 1022/D was registered before this Forum. Thereafter, both the representatives of KoPT and O.P. were heard at length and finally, an order of eviction and recovery of dues etc. was passed against the O.P. by this Forum on 31.10.2011. By

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 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

10227 D

Of

2009

Order Sheet No.

36

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Mather ^{VS} x Platt (India) Ltd.

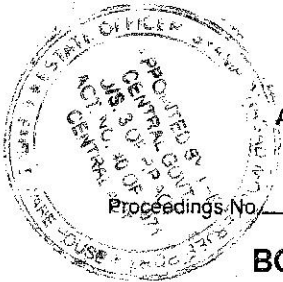
17

27.01.2021

the dint of the said Order, the occupation of O.P. has been declared as 'unauthorised' after expiry of the period as mentioned in the notice to quit dated 26.06.2006 and the O.P. has been made liable for payment of Damages/ Compensation/ Mesne Profit to KoPT upto the date of handing over clear, vacant and unencumbered possession to KoPT. The O.P. was directed to vacate the premises within a period of 15 days and the KoPT has been made entitled to claim mesne profit/ damages/ compensation from the O.P. for the unauthorised use and occupation of the port property in accordance with law upto the date of recovery of possession of the same. This Forum has adjudicated the mesne profit/ damage/ compensation payable by the O.P. to KoPT for the period from 31.01.2007 to 30.11.2007 vide the said Order dated 31.10.2011.

3. Thereafter, the possession of the subject premises was taken over by KoPT from the unauthorised occupant on 17.01.2012.
4. Thereafter, report has been filed by KoPT of their outstanding dues from the O.P. vide applications bearing No. Lnd.2643/II/12/368 dated 31.01.2012, Lnd. 2643/II/13/4224 dated 06.02.2013 and thereafter application no Lnd 2643/II/18/1987 dated 07.09.2018 relating to the arrear mesne profit/ compensation/ damage charges upto the 17.01.2012 i.e. the date of handing over possession of the premises.
5. Accordingly, this Forum of Law issued Notice u/s 7 of the P.P. Act to the O.P., on 15.01.2020 (vide Order No 14 dated 14.01.2020). The Notice has

27/01/2021



Estate Officer, Kolkata Port Trust

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

Proceedings No. 1022/D Of 2009 Order Sheet No. 37

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Mather & Platt (India) Ltd.

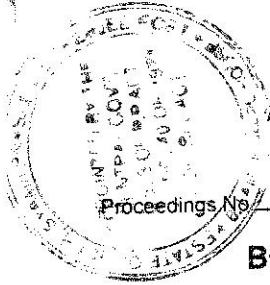
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27-01-2021

been sent to 4 (four) different recorded addresses of O.P. in Kolkata and Mumbai by 'Speed Post' in terms of the provisions of the Act and the Rules made thereunder. However, all the notices have been returned by the Postal Authorities with the remarks such as 'Left', 'No such company's sign Broad, letter box and name plate in this address hence ACNL as RTS,' Addressee Moved' and 'moved'. Attempt has also been made by this Forum to serve such notice upon the recorded addresses of O.P. at Kolkata by hand delivery. The report of the process server dated 27.01.2020 depicts that the O.P. was 'not found' at the recorded address of O.P. at Kolkata.

- 6. Finding no other alternative, direction was given to publish the notice in a Daily Newspaper having circulation in the locality and also at the KoPT's website to invite the attention of all concerned interested in the property in question (as per order No. 15 dated 30.01.2020). Accordingly, a notice was published in the English Daily 'The Times of India', Kolkata edition, on 04.02.2020. However, none appeared on behalf of O.P. or any other person interested in the subject proceeding before this Forum of law on the day fixed for hearing or anytime thereafter, till passing of this order.
- 7. In view of the above, I am satisfied with the notice to all concerned about the present adjudication relating to the public premises in question.

Now, while passing this Order, I have carefully considered the case in hand in view of the documents placed on record. During the course of hearing, my attention was drawn to KoPT's applications dated

In Order of
THE ESTATE OFFICER
SYAM PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAM PRASAD MOOKERJEE PORT
27/01/2021
OFFICE OF THE ESTATE OFFICER
SYAM 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

1022/D

Of 2009

Order Sheet No.

38

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

^{VS}
Mather & Platt (India) Ltd.

17
27.01.2022

17.01.2012, 31.01.2012, 06.02.2013, 07.09.2018, 20.11.2018, 07.02.2019 and the statements of account dated 06.02.2019 (filed under the cover of KoPT's application dated 07.02.2019), the statement of accounts dated 27.11.2019 (filed under the cover of KoPT's application dated 28.11.2019), the statement of accounts dated 23.12.2019 (filed under the cover of KoPT's application dated 24.12.2019) etc. It is noted that O.P. continued in possession of the public premises till 17.01.2012. It appears that KoPT has given intimation of taking over of possession of the subject premises on 17.01.2012 to the Watgunge Police Station vide letter dated 17.01.2012. For the occupation and enjoyment of a Public Premises one must have to pay requisite charges for occupation. "Damages"/ "Compensation" are like "mesne profit" that is to say the profit arising out of wrongful use and occupation of the property in question. I have no hesitation in mind to say that right from the date of termination of lease in question, O.P. has lost its authority to occupy the public premises, on the evaluation of factual aspect involved into this matter and O.P. is liable to pay "Damages"/ "Compensation" for such unauthorized use and occupation.

To come into such conclusion, I am fortified by the decision/observation of the Hon'ble Supreme Court in Civil Appeal No.7988 of 2004, decided on 10th December 2004, reported (2005)1 SCC 705, para-11 of the said judgment reads as follows-

Para:11-" under the general law, and in cases where the tenancy is governed only by the provisions of the Transfer of Property Act 1882, once the tenancy comes to an end by determination of lease u/s.111 of the Transfer of Property Act, the right of the tenant to

27/01/2022



Estate Officer, Kolkata Port Trust

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

10221D Of 2009 Order Sheet No. 39

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Mather & Platt (India) Ltd.

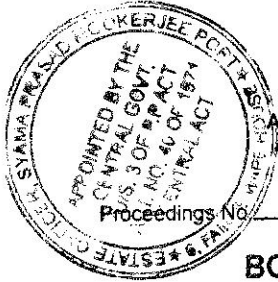
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27.01.2021

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.

In appears that the representative of KoPT states and submits that Port Authority never consented in continuing O.P's occupation into the public premises and never expressed any intention to accept O.P as tenant. Therefore, there cannot be any doubt that the O.P. was in unauthorized occupation of the premises, once the lease was terminated. The Port Authority has a definite legitimate claim to get its revenue involved into this matter as per the KoPT's Schedule of Rent Charges for the relevant period and O.P. cannot enjoy of its occupation without making payment of requisite charges as mentioned in the Schedule of Rent Charges. It has been held by the Hon'ble Apex Court of India that a person continuing in possession of the premises after termination, withdrawal or revocation of license/lease continues to occupy it as a trespasser or as a person who has no semblance of any right to continue in occupation of the premises. Such person by no stretch of imagination can be called a lessee. I am fortified by the Apex Court judgment reported in JT 2006 (4) Sc 277 (Sarup Singh Gupta -Vs- Jagdish Singh & Ors.) wherein it has been clearly observed that in the event of termination of lease the practice followed by Courts is to permit the landlord to receive each month by way of compensation for use and occupation of the premises, an amount equal to the monthly rent payable by the tenant. In my view, the case in hand is very much relevant for

RECEIVED BY THE ESTATE OFFICER (NO. 10) SYAMA PRASAD MUKHERJEE PORT
CERTIFIED COPY OF THE ORDER AS PASSED BY THE ESTATE OFFICER (NO. 10) SYAMA PRASAD MUKHERJEE PORT
DATE: 27/01/2021
OFFICE OF THE ESTATE OFFICER SYAMA PRASAD MUKHERJEE PORT

R



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. 10221 D Of 2009 Order Sheet No. 40

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Mather & Platt (India) Ltd.

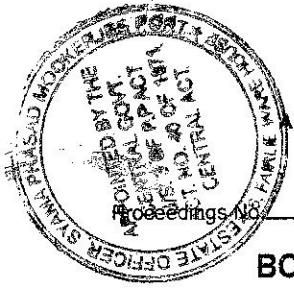
17
27.02.2021

the purpose of determination of damages upon the guiding principle as laid down by the Hon'ble Apex Court in the above case. In course of hearing, it is submitted on behalf of KoPT that the charges claimed on account of damages is on the basis of the KoPT's Schedule of Rent Charges as applicable for all the tenants/occupiers of the premises in a similarly placed situation and such Schedule of Rent Charges is notified rates of charges under provisions of the Major Port Trusts Act 1963. It is also submitted with argument that such notified rates of rent (Rent Schedule) has been upheld by the Hon'ble High Court Calcutta and the Hon'ble Apex Court as well and that any dispute/question relating to unreasonableness/arbitrariness with regard to enforceability of such notified rates of rent charges, is beyond the jurisdiction/scope of this forum of law. In my view, such claim of charges for damages by KoPT is based on sound reasoning and should be acceptable by this Forum of Law. As per law, when a contract has been broken, the party who suffers by such breach is entitled to receive, from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract to be likely to result from the breach of it. In view of the foregoing, I am of the considered view that the claim of the Port Authority regarding the damages cannot be said to be arbitrary or unreasonable.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MUKHERJEE ROAD
KOLKATA
A TRUE COPY OF THE ORDER
MADE BY THE ESTATE OFFICER
ON 27/02/2021
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MUKHERJEE ROAD

NOWHEREFORE, I think it is a fit case for issuance order for recovery of damages u/s 7 of the Act as prayed for on behalf of KoPT. I sign the order as per rule made under the Act, giving time upto 15.02.2021 for payment of damages of Rs. 35,37,899.49/- (Rupees

[Signature]



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

Mather & Platt (India) Ltd. ^{VS}

17
27-01-2012

Thirty Five Lakhs Thirty Seven Thousand Eight Hundred Ninety Nine and paise Forty Nine only) to KoPT by O.P. for the period 01.12.2007 to 17.01.2012. Such dues attracts 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.

I make it clear that in the event of failure on the part of O.P. to pay the amounts to KoPT as aforesaid, Port Authority is entitled to proceed further in accordance with Law.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

(A.K. Sarkar)
ESTATE OFFICER

By Order of:
THE ESTATE OFFICER
STANMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
STANMA PRASAD MOOKERJEE PORT
Office of the Estate Officer
STANMA PRASAD MOOKERJEE PORT

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