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

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

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

REASONED ORDER NO. 31 DT 22.02.2021  
PROCEEDINGS NO. 1680 OF 2018

**BOARD OF TRUSTEES OF THE PORT OF KOLKATA**  
**-Vs-**  
**M/s. Haldia Alloys & Ispat Pvt. Ltd. (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 **M/s. Haldia Alloys & Ispat Pvt. Ltd, of 23A, Netaji Subhas Road, 7<sup>th</sup> floor, Room no. 5, Kolkata 700001, AND 4<sup>th</sup>, Government Place North, Chamber no. 3H, Kolkata 700001, AND also Strand Road Opposite KoPT Head Office (Plate CG-289)** is in unauthorized occupation of the Public Premises specified in the Schedule below:

**REASONS**

1. That the license granted to you has expired in all sense of law.
2. That you have failed to produce anything regarding its authorization to occupy the premises after 02.08.2018.
3. That you have also failed to secure any fresh tenancy/grant from the Port Authority.
4. That no case has been made out on behalf of you as to how your occupation in the Public Premises could be termed as "authorised occupation" after expiry of license.
5. That you have failed to bear any witness or adduce any evidence in support of your contention regarding "authorised occupation" and your occupation has become unauthorized in view of Sec.2 (g) of the P.P. Act.
6. That right from the date of expiry of license i.e. 02.08.2018, you have lost your authority to occupy the Public Premises and you are 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.

Please see on reverse

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A copy of the reasoned order No. 31 dated 22.02.2021 is attached hereto which also forms a part of the reasons.

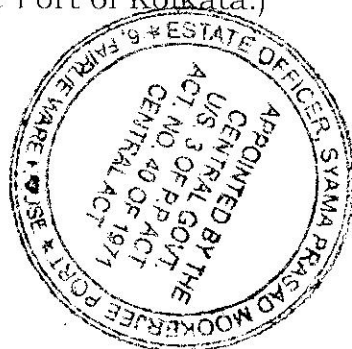
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **M/s. Haldia Alloys & Ispat Pvt. Ltd, of 23A, Netaji Subhas Road, 7<sup>th</sup> floor, Room no. 5, Kolkata 700001, AND 4<sup>th</sup>, Government Place North, Chamber no. 3H, Kolkata 700001, AND also Strand Road Opposite KoPT Head Office (Plate CG-289)** 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 **M/s. Haldia Alloys & Ispat Pvt. Ltd, of 23A, Netaji Subhas Road, 7<sup>th</sup> floor, Room no. 5, Kolkata 700001, AND 4<sup>th</sup>, Government Place North, Chamber no. 3H, Kolkata 700001, AND also Strand Road Opposite KoPT Head Office (Plate CG-289)** 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

KoPT building space msg. 140.148 sqm and ASBR covered space msg. 52.892 sqm at Strand Road opposite KoPT Head Office, in the presidency town of Kolkata under Plate no. CG-289. It is bounded on the North by Trustees' open land, on the South by the Trustees' land used as garage, on the East by Strand Road and on the West partly by Trustees' land used as garage and partly as Trustees' open land.

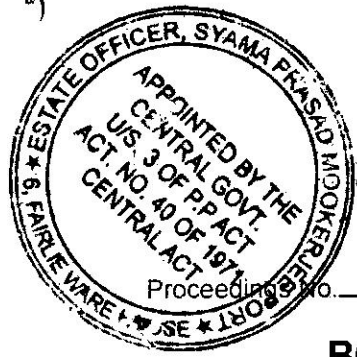
Trustee's means the Syama Prasad Mookerjee Port, Kolkata ( erstwhile the Board of Trustees for the Port of Kolkata.)

Dated: 22.02.2021



  
Signature & Seal of the  
Estate Officer.

**COPY FORWARDED TO THE ESTATE MANAGER, 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

Proceeding No. 1680, 1680/R Of 2018 Order Sheet No. 26

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

**VS**  
M/s. Haldia Alloys Ispat Pvt. Ltd.

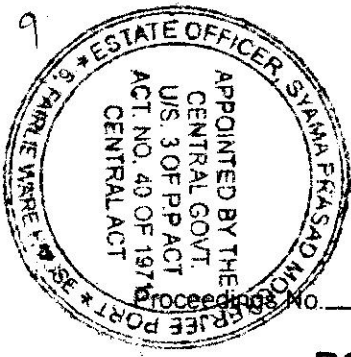
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22.02.2021

#### FINAL ORDER

The instant proceeding No 1680, 1680/R of 2018 arises out of the application bearing No. Lnd.5677/18/2006 dated 10.09.2018 filed by Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust, hereinafter referred to as '**SMP, Kolkata**']/ '**Port Authority**'], 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 etc. along with accrued interest in respect of the Public Premises as defined under Schedule- 'A' of said application, against **M/s Haldia Alloys & Ispat Pvt. Ltd.** (hereinafter referred to as **O.P.**). The facts of the case is summarised here under.

It is the case of SMP, Kolkata that building space measuring about 140.148 sqm and ASBR covered space measuring about 52.892 sqm at Strand Road opposite SMP, Kolkata Head Office, under **Plate No. CG-289**, was first allotted to the O.P. by the Port Authority on 09.11.2015 through tender process on 11-month license basis. The said 11-month license was renewed from 09.10.2016 to 08.09.2017. A tender for allotment of the public premises on long term lease basis was floated by SMP, Kolkata, wherein the O.P. emerged the successful bidder, but finally O.P. failed to make payments as per the terms of the offer. As such, the earnest money deposit of the O.P. was forfeited by SMP, Kolkata and a final extension of the license was granted from 09.09.2017 to 02.08.2018 with no option for further renewal or extension. SMP, Kolkata has claimed that Notices dated 02.08.2018 and 07.08.2018 were served on the O.P. requesting them to vacate the premises immediately, but no heed was paid by the O.P.

My predecessor Estate Officer has formed opinion to proceed against O.P. and issued show cause notice u/s 4 of the Act (for adjudication for the prayer for issuance of order of eviction



# 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. 1680, 1680 of 2018 Order Sheet No. 27

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

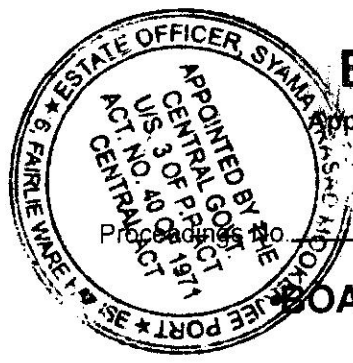
**VS**  
M/s. Haldia Alloys Ispat Pvt. Ltd.

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etc.) and show cause notice u/s 7 of the Act (for adjudication for prayer of recovery of license fees, interest etc.) both dated 27.11.2018.

The O.P. contested the matter and filed a Reply (styled as a letter) on 10.12.2018. Thereafter, reconciliation of accounts took place on 24.12.2018. On 07.01.2019 O.P. filed an application (addressed to Estate Manager, SMP, Kolkata, with copy to the Forum) submitting a banker's cheque for Rs 1,13,125/- to SMP, Kolkata. Based on O.P.'s prayer, my predecessor Estate Officer granted time to the O.P. to pursue settlement process with the SMP, Kolkata. Further, SMP, Kolkata vide application 19.08.2019 has intimated that the bankers' cheque submitted by the O.P. for Rs 1,13,125/- has been encashed by SMP, Kolkata on 09.01.2019. It appears that on 21.01.2019, representative of SMP, Kolkata submitted that no such settlement process is underway. Thereafter, on 09.07.2018 and 21.01.2019, O.P. made an appeal for grant of long term lease on annual rental basis. Upon consideration of such request of O.P., a fresh offer was issued by SMP, Kolkata vide offer letter no. Lnd 5677/19/888 dated 21.06.2019 for grant of long term lease of 30 years in respect of the public premises in question. In response to the said offer of SMP, Kolkata dated 20.06.2019, O.P. have issued two letters dated 18.07.2019 and 29.07.2019, seeking certain clarifications and praying for extension of time for 60 days for compliance of the said offer. Thereafter, SMP, Kolkata vide letter no 5677/19/1536 dated 07.08.2019 issued clarification in answer to the O.P.'s said letters dated 18.07.2019 and 29.07.2019. However, O.P. failed to accept the offer and make payments as per the terms of the said offer. Even the period of 90 days has expired in the meantime on 18.09.2019. Thereafter, SMP, Kolkata vide letter no 5677/20/1209 dated 26.05.2020 has withdrawn, cancelled the said offer and the earnest money deposit of the O.P. has been forfeited by SMP, Kolkata. Hence, SMP, Kolkata pressed for eviction of O.P. from the public premises in question. It is the specific submission of



# 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

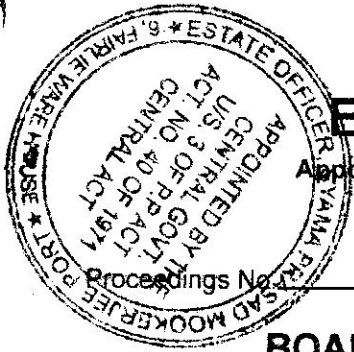
**VS**  
 M/s. Hardia Alloys Ispat Pvt. Ltd.

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SMP, Kolkata that O.P. has no authority under law to occupy the public premises on the expiry of the license period on 02.08.2018. Thereafter, after granting several hearings in the matter, the final order was reserved on 02.02.2021.

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 SMP, Kolkata's allegation of non-payment of license fees and taxes has been practically admitted by the O.P. Upon perusal of O.P.'s reply dated 10.12.2018, it is seen that O.P. has nowhere denied dues on its part. Moreover, during the reconciliation of accounts held on 24.12.2018, O.P. has accepted the dues on its part without any whisper or murmur. In fact, the O.P. has deposited Rs 1,13,125/- vide its letter dated 07.01.2019, which has, however, been encashed by SMP, Kolkata on 09.01.2019.

Therefore, the moot question now revolves around the point whether the occupation of the O.P. beyond 02.08.2018 could be said to be "authorized" or not. Clause (xix) of SMP, Kolkata's offer letter dated 08.06.2018 (extending the license from 09.09.2017 to 02.08.2018) makes it amply clear that further license after expiry of this license will not be granted and that after expiry of the license, the licensee would have to handover vacant, peaceful and unencumbered possession of the land on or before 02.08.2018. Further, SMP, Kolkata has made a fresh offer to O.P. for grant of 30-years lease, without any option of renewal, in respect of the public premises under occupation of O.P. vide its letter dated 21.06.2019 and the O.P. in turn, without accepting the offer of SMP, Kolkata, issued two letters dated 18.07.2019 and 29.07.2019, asking clarifications and praying for extension of time for 60 days for compliance of the said offer. It is very much apparent from the records of the case that the O.P. failed to accept the offer and make payments as per the terms of the said offer even after the clarifications answered by SMP, Kolkata vide letter no



# 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. Halda VS  
Alloys & Spat Pvt. Ltd.*

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5677/19/1536 dated 07.08.2019 and the period of 90 days has expired. Finally, SMP, Kolkata vide letter no 5677/20/1209 dated 26.05.2020 has withdrawn the said offer dated 21.06.2019. Needless to mention that with such offer by SMP, Kolkata and non-acceptance thereof by the O.P., no new contractual relationship has come into being between the parties. The basic ingredient of a lease is acceptance of the transfer by the transferee in consideration of a price paid or promised. In my view, the said condition is not at all satisfied in the instant case as the O.P. has not accepted the transfer on the terms offered by SMP, Kolkata.

Be that as it may, the SMP, Kolkata authorities have clearly communicated their intention to finally terminate the license on 02.08.2018 without any doubt or confusion. As such, mere "protest" by the O.P. while enjoying the license to its entirety, carries no strength of law. The Indian Easements Act, 1882 grants no protection to a licensee whose license has expired by lapse of time. As such, the O.P. cannot continue to enjoy the public premises for any period it chooses. In other words, a licensee like the O.P. cannot compel the landlord to recognise itself as a licensee, after the license has expired. Here, I find that the SMP, Kolkata authorities has time and again made its intention clear, to obtain vacant possession of the public premises at once. I have gone through the letters dated 02.08.2018 and 07.08.2018 issued by the Port Authority, and they are unambiguous and univocal.

During course of time, I have allowed ample opportunity to O.P. to defend itself, but O.P. has failed to come up with any reasonable submissions as to why its occupation should be treated as "authorised".

Discussions against the foregoing clearly reveal that the occupation of the O.P. beyond 02.08.2018 is nothing but "unauthorized" in terms of the Sec. 2 (g) of the P.P. Act, 1971. As per Section 2 (g) of the Act the "unauthorized occupation",

# 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. Haldia Alloys Ispat Pvt Ltd*

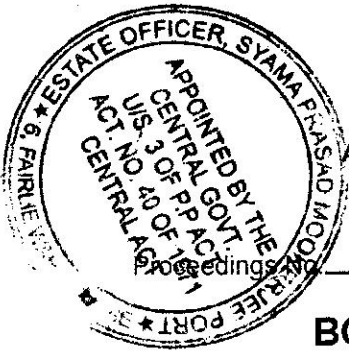
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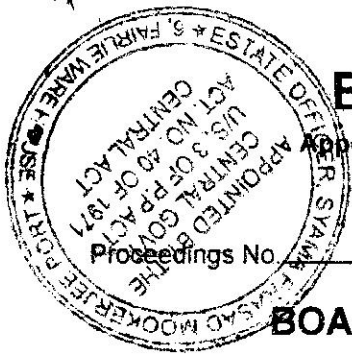
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in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever. The tenancy granted to O.P. was undoubtedly determined by the Port Authority by due service of notice to quit and institution of proceedings against O.P. by SMP, Kolkata is a clear manifestation of Port Authority's intention to get back possession of the premises. As per law O.P. is bound to deliver up vacant and peaceful possession of the public premises to SMP, Kolkata after expiry of the license period, which O.P. has clearly failed to comply. As such, the case is decided in favour of SMP, Kolkata. I have no hesitation to observe that O.P.'s act in continuing occupation is unauthorized and O.P. is liable to pay damages for unauthorized use and occupation of the Port property in question upto the date of delivering vacant, unencumbered and peaceful possession to SMP, Kolkata. With this observation, I must reiterate that the ejectment notice/s, demanding possession from O.P. as stated above have been validly served upon O.P. in the facts and circumstances of the case and such notice/s are valid, lawful and binding upon the parties.

NOW THEREFORE, I think it is a fit case for allowing SMP, Kolkata's prayer for eviction against O.P. u/s 5 of the Act for the following grounds/reasons :

1. That the license granted to O.P. has expired in all sense of law.
2. That O.P. has failed to produce anything regarding its authorization to occupy the premises after 02.08.2018.
3. That O.P. has also failed to secure any fresh tenancy/grant from the Port Authority.





# Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises  
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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Haldia <sup>VS</sup> Alloys Ispat Pvt. Ltd.

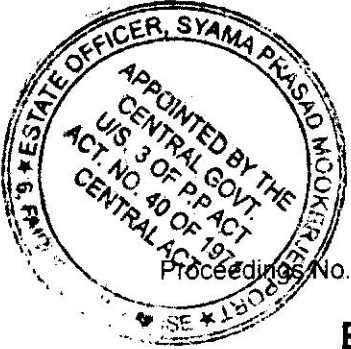
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22.02.2021

4. That no case has been made out on behalf of O.P. as to how its occupation in the Public Premises could be termed as "authorised occupation" after expiry of license.
5. That O.P. has failed to bear any witness or adduce any evidence in support of their contention regarding "authorised occupation" and O.P's occupation has become unauthorized in view of Sec.2 (g) of the P.P. Act.
6. That right from the date of expiry of license i.e. 02.08.2018, 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.

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 Law up to the date of 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 could 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 SMP, Kolkata has made out an arguable claim vide application dated 19.08.2019 against O.P., regarding the rent/ license fees to be paid by O.P. SMP, Kolkata is directed to submit a statement comprising details of its calculation of arrear rent/ license fees indicating there-in, the details of the rate of such charges, and the period of the





# 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. Haldia <sup>VS</sup> Alloys Ispat Pvt. Ltd.


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damages, together with the basis on which such charges are claimed against O.P., for my consideration for the purpose of assessment of rent/ license fees as per Rule made under the Act, within 7 (seven) days of service of the Order upon SMP, Kolkata .

Further, I am not inclined to assess the damages at this stage when possession of the premises is still with the O.P. As per law, O.P. is liable to pay damages for unauthorized use and enjoyment of the property right upto the date of handing over of possession of the public premises to SMP, Kolkata. As such, the damages are to be assessed later, upon issuance of appropriate notice/s under the Act by this Forum. SMP, Kolkata is directed to submit a comprehensive report regarding its claim on account of damages against O.P., indicating there-in, the details of the computation of such damages with the rate of charges so claimed for the respective periods (including the date of taking over of possession) for my consideration in order to assess the 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

  
(Sayan Sinha)  
ESTATE OFFICER

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