

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

REASONED ORDER NO. 51 DT 26.02.2021  
PROCEEDINGS NO. 586 OF 2004

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-  
Estate Kalipada Sett & Others (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 Kalipada Sett & Others, C/O Late Kamakahya Charan Sett, 67/47,  
Strand Road, Kolkata- 700007 AND ALSO OF 67/46, Strand Road,  
Calcuta-700007** is in unauthorized occupation of the Public Premises specified  
in the Schedule below :

**REASONS**

1. That this Forum of Law is well within its jurisdiction to adjudicate upon the matters relating to eviction and recovery of arrear dues/damages etc. as prayed for on behalf of KoPT.
2. That the Show Cause Notice/s as issued by this Forum to O.P are valid binding and lawful.
3. That O.P has failed to liquidate KoPT's dues/charges even in terms of the Hon'ble High Court's order dated 12.02.2007 by 36 monthly instalments etc. as specified therein inspite of demand from KoPT's end.
4. That O.P. has violated the condition of monthly lease as granted by the Port Authority by way of not making payment of rental dues and taxes to KoPT, for a prolonged period of time.
5. The O.P or any other person/occupant has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation".
6. That the notice to quit dated 14.05.1977 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P.'s occupation and that of any other occupant of the premises has become unauthorised in view of Sec.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 up to the date of handing over the clear, vacant and unencumbered possession to the port authority.

PLEASE SEE ON REVERSE

(2)

A copy of the reasoned order No. 51 dated 26.02.2021 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 **Estate Kalipada Sett & Others, C/O Late Kamakahya Charan Sett, 67/47, Strand Road, Kolkata- 700007 AND ALSO OF 67/46, Strand Road, Calcuta-700007** 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 Kalipada Sett & Others, C/O Late Kamakahya Charan Sett, 67/47, Strand Road, Kolkata- 700007 AND ALSO OF 67/46, Strand Road, Calcuta-700007** 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.

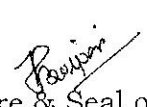
#### SCHEDULE

**Plate No.SB-105**

All that the said piece or parcel of land measuring 126.162 Sq. mtrs or thereabouts is situate on the north side of the CIT Road leading from Strand Road at Jagannath Ghat in the presidency town of Calcutta. The said piece or parcel of land is bounded on the north by Cross Road No.6 leading from Strand Road on the east by the said Trustees' land occupied by Jagannath Prasad Gupta and others, on the south by the said C.I.T Road and on the west by the said Trustees' land occupied by Estate Pannalal Nandy.

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

Date- 01.03.2021

  
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  
(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)  
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\*\*\*\*\*

Court Room At the 1<sup>st</sup> Floor  
6, Fairlie Place Warehouse

**Form "E"**

PROCEEDINGS NO.586/R OF 2004  
ORDER NO.51 DATED: 26-02-2021

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

To  
Estate Kalipada Sett & Others,  
C/O Late Kamakahya Charan Sett,  
67/47, Strand Road, Kolkata- 700007  
AND ALSO OF  
67/46, Strand Road,  
Calcuta-700007

WHEREAS you are in occupation of the public premises described in  
the Schedule below.

AND WHEREAS, by written notice dated 18.03.2013 you are called  
upon to show cause on/or before 17.04.2013 why an order requiring you  
to pay a sum of Rs 44,878.86 (Rupees Forty Four Thousand Eight  
hundred Seventy Eight and paisa Eighty Six only) being the rents  
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  
44,878.86 (Rupees Forty Four Thousand Eight hundred Seventy Eight  
and paisa Eighty Six only) for the period 01.04.1954 to 31.10.1975 (both  
days inclusive) to Kolkata Port Trust by 15.03.2021.

PLEASE SEE ON REVERSE

: 2 :

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.

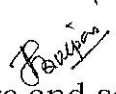
### SCHEDULE

**Plate No.SB-105**

All that the said piece or parcel of land measuring 126.162 Sq. mtrs or thereabouts is situate on the north side of the CIT Road leading from Strand Road at Jagannath Ghat in the presidency town of Calcutta. The said piece or parcel of land is bounded on the north by Cross Road No.6 leading from Strand Road on the east by the said Trustees' land occupied by Jagannath Prasad Gupta and others, on the south by the said C.I.T Road and on the west by the said Trustees' land occupied by Estate Pannalal Nandy.

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

Dated: 01.03.2021.

  
Signature and seal of the  
Estate Officer

COPY FORWARDED TO THE ESTATE MANAGER, SMP, 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. 586 & 586/R of 2004 Order Sheet No. 42

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*Sri Kalipada Sett & others.* **VS** *(SB-105)*

### FINAL ORDER

The matter is taken up today for final disposal. The factual aspect involved in this matter is required to be put forward in a nutshell in order to link up the chain of events leading to this proceedings. It is the case of Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust], hereinafter referred to as KoPT, the Applicant herein, that land msg. 126.162 Sq.m or thereabouts situated at Jagannath Ghat, P.S Jorabagan, in the presidency town of Kolkata, comprised under occupation Plate No. SB-105 was allotted to Estate Kalipada Sett & Ors, O.P. herein, on monthly term Lease, on certain terms and conditions and O.P has violated the condition of such tenancy by way of not making payment of rental dues along with taxes and accrued interest thereon. It is argued on behalf of KoPT that after determination of such lease by way of Quit notice dated 14.05.1977 read with vacation notice being No.L.M.5/32/II dated 22.07.1987 O.P has no authority under law to occupy the public premises after expiry of the period as mentioned in the said notice to Quit and O.P is liable to pay damages for unauthorised enjoyment of the Port property in question.

It appears that the original application was filed by KoPT against Sri Kalipada Sett & Ors. and during the course of hearing, the representative of O.P has claimed about the death of said Kalipada Sett however, they failed to produce any document in support of their claim. Now from the verification as filed by the representative of O.P it appears that Sri Chinmoy Sett is the Son of 'Late Kalipada Sett'. Hence, on the basis of such verification it can be assumed that such O.P is dead. In view of the above, it is therefore, directed that henceforth the name of O.P should be read as "Estate Kalipada Sett and Ors"

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26.02.2021

*YD*

# 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

*Sri Kalipada* <sup>VS</sup> *Sett & others.*

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26.02.2013

instead of "Sri Kalipada Sett & Ors" for all the material purposes of this proceeding and such change would not anyway affect the rights and liabilities of the parties to the present 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 18.03.2013 (vide Order No.04 dated 19.12.2012) 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 sent through Speed Post/hand delivery to the recorded addresses of O.P. at 67/47, Strand Road, Calcutta-700007 and also at 67/46, Strand Road, Calcutta-700007. It appears from the record that the Notice/s sent through speed post were not returned back. However, the report of Process Server dated 25.03.2013 depicts that said notice/s were served upon O.P personally and the same has been received by Sri Chinmoy Sett on behalf of O.P on 25.03.2013 and affixation was also done on the same day at about 2.15 P.M over the subject premises as per the mandate of the P.P Act.

*g/v*

On the scheduled date of appearance and filing of reply to the Show Cause i.e on 17.04.2013, One Sri Chinmoy Sett claiming himself as a son of O.P appear and prayed for reconciliation of Account Statements in order to

# Estate Officer, Kolkata Port Trust

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*Sri Kalipada Sett & others.*

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liquidate the dues on the part of O.P. It is seen from the record that answering O.P had initially contested the matter himself and later on through his Ld' advocate by filing his reply/written objection to the Show Cause dated 27.04.2018 duly signed by him, followed by Vokalatnama, written notes of arguments dated 24.08.2018, 07.09.2018 and Letter/Petition filed on dated 04.10.2018. Thereafter, KoPT also filed their rejoinder to such reply on 01.08.2018. I have duly considered the respective applications of both the parties and after due consideration of those submissions /arguments, I find that following issues have come up for my adjudication/decision:

- I) Whether the proceedings under P.P. Act is maintainable or not;
- II) Whether the Show Cause Notice issued upon O.P. under P.P Act is maintainable or not;
- III) Whether the claim of KoPT is justified or not;
- IV) Whether O.P. has defaulted in making payment of rental dues to KoPT, or not;
- V) Whether the plea taken by O.P. about waiver of the notice to quit by the KoPT, has got any merit or not,
- VI) Whether KoPT's notice dated 14.05.1977 as issued to O.P., demanding possession from O.P. is valid and lawful or not;
- VII) Whether O.P's occupation has become unauthorised in terms of Sec.2(g) of the P.P. Act and whether O.P. is liable to pay damages for wrongful occupation and enjoyment of the Port Property to KoPT or not;

*JK*

# 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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Issue No. I and II are taken up together, as the issues are related with each other. I must say that the properties owned and controlled by the Port Authority has been declared as "public premises" by the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and Section-15 of the Act puts a complete bar on Court's jurisdiction to entertain any matter relating to eviction of unauthorized occupants from the public premises and recovery of rental dues and/or damages, etc. KoPT has come up with an application for declaration of representatives of O.P's status as unauthorized occupant in to the public premises with the prayer for order of eviction, recovery of compensation etc against O.P. on the ground of termination of authority to occupy the premises as earlier granted to O.P. in respect of the premises in question. So long the property of the Port Authority is coming under the purview of "public premises" as defined under the Act, adjudication process by serving Show Cause Notice/s u/s 4 & 7 of the Act is very much maintainable and there cannot be any question about the maintainability of proceedings before this Forum of Law. In fact, proceedings before this Forum of Law is not statutorily barred unless there is any specific order of stay of such proceedings by any competent court of law. To take this view, I am fortified by an unreported judgment of the Hon'ble High Court, Calcutta delivered by Hon'ble Mr. Justice Jyotirmay Bhattacharya on 11.03.2010 in Civil Revisional Jurisdiction (Appellate Side) being C.O. No. 3690 of 2009 ( M/s Reform Flour Mills Pvt. Ltd. -Vs- Board of Trustees' of the Port of Calcutta) wherein it has been observed specifically that the Estate Officer shall have jurisdiction to proceed with the matter on merit even there is an interim order of status-quo of any nature in respect of

*SR*



## Estate Officer, Kolkata Port Trust

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possession of any public premises in favour of anybody by the Writ Court. Relevant portion of the said order is reproduced below:

"In essence the jurisdiction of the Estate Officer in initiating the said proceedings and/or continuance thereof is under challenge. *In fact, the jurisdiction of the Estate Officer either to initiate such proceedings or to continue the same is not statutorily barred.* As such, the proceedings cannot be held to be vitiated due to inherent lack of jurisdiction of the Estate Officer. The bar of jurisdiction, in fact, was questioned because of the interim order of injunction passed in the aforesaid proceedings".

Hon'ble Division Bench of Calcutta High Court had the occasion to decide the jurisdiction of the Estate Officer under P.P. Act in Civil Appellate Jurisdiction being MAT No.2847 of 2007 (The Board of Trustees of the Port of Kolkata and Anr -vs- Vijay Kumar Arya & Ors.) reported in Calcutta Weekly Note 2009 CWN (Vol.113)-P188 The relevant portion of the judgment (Para-24) reads as follows:-

*"The legal issue that has arisen is as to the extent of Estate Officer's authority under the said Act of 1971. While it is an attractive argument that it is only upon an occupier at any public premises being found as an unauthorized occupant would he be subject to the Estate Officer's jurisdiction for the purpose of eviction, the intent and purport of the said Act and the weight of legal authority that already bears on the subject would require such argument to be repelled. Though the state in any capacity cannot be arbitrary and its decisions have always to be tested against Article 14 of the Constitution, it is generally subjected to substantive law in the same*

# Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises  
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*manner as a private party would be in a similar circumstances. That is to say, just because the state is a Landlord or the state is a creditor, it is not burdened with any onerous covenants unless the Constitution or a particular statute so ordains".*

In the light of the discussion above it can be said that KoPT has every legal right to initiate this Proceeding before this Forum and Show Cause Notice/s under Section 4 & 7 are not misconceived, vexatious and harassing, therefore, O.P cannot challenge the both. Hence, the issues are decided in favour of KoPT.

Issue No. III and IV are required to be discussed analogously as the issues are related with O.P's contention on justifiability of the claim of KoPT. As per Division Bench of the Hon'ble Calcutta High Court's order dated 12.02.2007 in A.P.O. No.367 of 2006 arising out of Writ Petitions moved by the Port Tenant Welfare Association to which O.P. is claiming to be a member of such Association, O.P. is under legal obligation to pay all the dues/charges as payable to KoPT in terms of KoPT's Schedule of Rent Charges for the time being in force by 36 Monthly installments together with interest at the rate of 6% per annum. Needless to mention that O.P. has failed to comply with the order of the Hon'ble High Court, Calcutta regarding liquidation of KoPT's dues/charges and KoPT has come up with the applications for eviction of O.P. from the Public Premises etc. in terms of the liberty as provided in the said order passed by the Division Bench of Calcutta High Court. In my view, O.P. being a member of the Port Tenant Welfare Association was protected by the order of the Hon'ble High Court only upon compliance of the said order and failure on the part of O.P. to comply with the order disentitled them to take

*sl.*

# Estate Officer, Kolkata Port Trust

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any protection of the said order. In such a situation, O.P. is under legal obligation to pay the dues/charges as claimed by KoPT. On the issue of nonpayment of rent and taxes, I must say that O.P's claim in this regard is unreasonable because O.P has admitted the dues on their part vide reply to the Show Cause notice/s as filed on 27.04.2018. It is the categorical submission of O.P in terms of demand notice/s given by KoPT that O.P has liquidated all the arrear dues as claimed by KoPT and has been paying monthly rent/ occupational charges regularly without any default and KoPT is accepting the same without any protest. Moreover during the course of hearing dated 17.04.2013, 08.05.2013 and subsequently in the reply/written objection to the Show cause, O.P has prayed for reconciliation of such dues. Before this Forum, KoPT has filed an updated Statement of Accounts as generated on 04.03.2019, which clearly indicates the huge dues on the part of the O.P. Although during the course of hearing O.P had made some sporadic payments but never succeeded in complete and full discharge of such dues taxes and interest due to KoPT. The information of such unpaid dues have been handed over to O.P vide rejoinder/comments dated 01.08.2018. There is no reason to disbelief such submission of the statutory authority. Moreover, O.P's plea that he has been making payment of monthly rent regularly without any default or there are no dues on account of current monthly rent/occupational charges since the O.P has made payment up to date as per the direction of Estate Officer etc. does not seem to have any justification in this juncture because such statement do not come to the protection of O.P. at all. In my considered view, the Port Authority has a definite legitimate claim to get its revenue involved into the Port Property in question as per

*sl*

# Estate Officer, Kolkata Port Trust

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the KoPT's Schedule of Rent Charges for the relevant period and O.P. cannot deny such payment of requisite charges as mentioned in the Schedule of Rent Charges. Further it appears from the record that at the time of issuing Quit Notice breach of non-payment was very much prevalent therefore, O.P cannot bypass his liability of payment of rent on the basis of his present plea. It is a settled law that during the course of hearing if anything is received by KoPT from O.P that should be treated as occupational charges not as rent. Thus this Forum holds that the charge of default in payment of rent and taxes is definitely established. Further O.P's allegation as regards the three time rent charges in my view, not relevant because enhancement and/or imposition of monthly charges for occupation into the Port Property is governed by the provisions of the Major Port Trusts Act, 1963 on the basis of schedule of rent charges as time to time notified in the Official Gazette under Authority of Law and O.P. must have constructive notice in respect of publication of such notification as per law like all tenant/occupier of Port Premises. In fact nobody can deny the existence and enforceability of such notification under law.

KoPT's claim on account of interest is required to be adjudicated seriously as the issue involves mixed question of fact and law as well. It is my considered view that payment of interest is a natural fall out and one must have to pay interest in case of default in making payment of the principal amount due to be payable. For occupation and enjoyment of Port property, the charges leviable upon the tenants/occupiers are based on the Schedule of Rent Charges as applicable for a tenant/occupier in respect of respective zone as indicated in such Schedule of Rent Charges. Here in this instant matter O.P cannot deny such liability of payment

*sd.*

## Estate Officer, Kolkata Port Trust

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of interest as he has failed to pay the principal amount due to be payable by him more so this forum has no power in the matter of waiver of interest for which O.P has to pray before proper Authority of KoPT. As such, I have no hesitation to decide the issue in favour of KoPT and I have no bar to accept the claim of KoPT on account of Interest accrued for delayed payment.

Issue No. V, VI and VII are also taken up together, as the issues are related with each other. O.P contended in their reply that the Notice to Quit dated 14.05.1977 issued by KoPT is infructuous as because KoPT allowed the O.P to continue their business on the subject premises upon payment of rent but in my view, mere acceptance of rent during pendency of the eviction proceedings does not confer any better right to O.P and it does not amount to waiver of notice to quit. As per law, in order to constitute a waiver of notice to quit/s, O.P. must have to prove that KoPT by accepting rent had intended to treat the lease as subsisting. In absence of any such intention on the part of KoPT being proved, mere acceptance of an amount tendered by O.P. during pendency of the proceedings cannot be said to be a "waiver" on the part of KoPT. In the present case in hand KoPT actively prosecuted the proceedings for ejection against O.P. and as such it cannot be an accepted proposition that the notice to quit is infructuous by any sense of law. Further, I must say that Quit notice dated 14.05.1977 read with vacation notice dated 22.07.1987 as issued by KoPT is very much valid, enforceable and in accordance with law. As per Sec 2(g) of the P.P Act, 1971, the "unauthorized occupation" in relation to any public premises, means the occupation by any person of the public premises without authority

# Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises  
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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. In my view said provision is squarely attracted in this matter. In view of the discussions above, the issues are decided firmly in favour of KoPT. I find that this is a fit case for passing order of eviction against O.P and hence, being satisfied as above I hereby, passing Order of eviction under Section 5 of the Act on following grounds:

1. That this Forum of Law is well within its jurisdiction to adjudicate upon the matters relating to eviction and recovery of arrear dues/damages etc. as prayed for on behalf of KoPT.
2. That the Show Cause Notice/s as issued by this Forum to O.P are valid binding and lawful.
3. That O.P has failed to liquidate KoPT's dues/charges even in terms of the Hon'ble High Court's order dated 12.02.2007 by 36 monthly instalments etc. as specified therein inspite of demand from KoPT's end.
4. That O.P. has violated the condition of monthly lease as granted by the Port Authority by way of not making payment of rental dues and taxes to KoPT, for a prolonged period of time.
5. The O.P or any other person/occupant has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation".
6. That the notice to quit dated 14.05.1977 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P.'s occupation and that of any other occupant of the premises has

*AN.*

# Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises  
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become unauthorised in view of Sec.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 up to the date of handing over the 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. KoPT is directed to submit a comprehensive status report of the Public Premises in question on inspection of the property after expiry of the 15 days as aforesaid so that necessary action could be taken for execution of the order of eviction u/s. 5 of the Act as per Rule made under the Act.

It is my considered view that a sum of Rs.44,878.86 for the period 01.04.1954 to 31.10.1975 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of rental dues and O.P. must have to pay the rental dues to KoPT on or before 15-03-2021. Such dues 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 incurrance of liability, till the liquidation of the same, as per the adjustment of

*gmk.*

# 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. 586 & 586/R Of 2004 Order Sheet No. 53

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*Sri Kalipada Saha & others.* <sup>VS</sup> (SB-105)

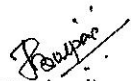
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26.02.2021

payments, if any made so far by O.P., in terms of KoPT's books of accounts.

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 the unauthorised occupation. I make it clear that KoPT is entitled to claim damages against O.P. for unauthorised 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 as the possession of the premises is still lying unauthorisedly with the O.P. KoPT is directed to submit a statement comprising details of its calculation of damages, 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 act accordingly.

GIVEN UNDER MY HAND AND SEAL

  
(J.P. Boipai)  
ESTATE OFFICER

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