

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. 1198/R Of 2011 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Bharat ^{VS} ~~Enter~~ Electronics.

15
13-05-2019

FINAL ORDER

The instant proceedings 1198/R of 2011 arose out of an application dated 14.12.2005 filed by KoPT, Applicant herein, claiming rental dues alongwith interest from M/s Bharat Electronics (Proprietor: Bharat Ch. Bag), the O.P. herein, under relevant provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. It is the contention of KoPT that the O.P. failed to liquidate the rental dues for a prolonged period. It is also submitted by KoPT that owing to such prolonged non-payment, the monthly lease was determined vide Notice to Quit dated 06.01.2005 and finally possession was taken over by KoPT from O.P. on 01.02.2005. Accordingly, KoPT has prayed for realization of dues upto 31.01.2005.

This Forum issued formal Notice u/s 7 of the Act on 10.01.2018, on the O.P., asking to show cause why order regarding payment of the arrears of rent alongwith interest should not be made.

It reveals from record that O.P. did not appear before this Forum at any point of time. As per Report of the Process Server, the O.P. was not found at the recorded address. The Notice sent through registered post was however not returned back. Under such a situation, as mandated under the law, Notice was published in daily newspaper "The Times of India" dated 16.05.2018 and the said Notice was also displayed in the official website of KoPT for information to all concerned.

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VS

M/s. Bharat Electronics.

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13-05-2019

But still no one interested in the proceedings turned up before this Forum on 07.06.2018 when the matter was finally heard. It appears to me that the O.P. is not at all interested in contesting the proceedings. Under such a situation, there was no option but to proceed ex-parte against the O.P. Accordingly, on 07.06.2018 after hearing the arguments of KoPT I reserved the final order.

I have carefully considered the submissions of KoPT and the documents produced before me. It is seen that KoPT wrote letters to the O.P., such as letters dated 02.04.2004, 13.05.2004 followed by a Final Notice dated 07.09.2004, whereby KoPT repeatedly requested the O.P. to immediately liquidate the rental dues. The only communication of the O.P. which has been placed before me is a letter dated 19.05.2004 signed by Shri Bharat Ch. Bag as proprietor of O.P. It is seen from said letter that O.P. has merely denied and disputed the claim of the Port Authority without writing a single line as to the nature of the dispute. In my view, mere denial of KoPT's claim is not sufficient to escape the rigours of law. I am given to understand during the proceedings that the claim of KoPT is based on relevant Notifications of the Tariff Authority for Major Ports (TAMP) in the Official Gazette which are uniformly applicable on all occupiers of port property including O.P. and hence mere denial on the part of the O.P. is not sufficient defence in law. As such, I find no reason to disbelieve the claim of KoPT, in the facts and

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VS
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13-05-2019

circumstances of the case. I find that KoPT categorically mentioned about default of payment of rent and taxes in its Notice to Quit dated 06.01.2005 and O.P. has failed to justify why it should be held otherwise. As such, I have no hesitation to decide the case against the O.P.

NOW THEREFORE, I hereby assess the arrears of rental dues payable by the O.P. for its occupation of the public premises in question, for the period 01.07.2000 to 31.01.2005 as Rs 4,56,891/- (principal amount). The O.P. is directed to pay the said amount to KoPT by 31.05.2019. Such dues attract simple interest @ 18% per annum till 06.04.2011 and thereafter @14.25% per annum on the above sum from the date of incurrance of liability, till the liquidation of the same, as per the adjustment of payments, made so far by O.P., in terms of KoPT's books of accounts. I sign the formal order u/s 7 (1) of the Act.

I make it clear that in the event of failure on the part of O.P. to comply with this Order, the 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

(A K SARKAR)
ESTATE OFFICER

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



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o/c

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

ESTATE OFFICER, KOLKATA PORT TRUST

(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)

Public Premises (Eviction of Unauthorised Occupants) Act 1971

OFFICE OF THE ESTATE OFFICER

15, STRAND ROAD (4TH FLOOR) KOLKATA-700001

Form " E "

PROCEEDINGS NO.1198/R OF 2011
ORDER NO. 15. DATED: 13.05.2019

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

To

**M/s Bharat Electronics
(Proprietor: Bharat Ch. Bag)
51B, Mahim Halder Street
Kolkata 700026**

44152

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

AND WHEREAS, by written notice dated 10.01.2018 you were
called upon to show cause on/or before 25.01.2018 why an order
requiring you to pay a sum of Rs. 4,56,891/- (Rupees Four Lakhs
Fifty Six Thousand Eight Hundred and Ninety One only) being the
rent payable together with compound interest in respect of the said
premises should not be made;

And whereas you have failed to appear before the undersigned
and/or produce any evidence in your support.

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. 4,56,891/- (Rupees Four Lakhs Fifty Six Thousand
Eight Hundred and Ninety One only) for the period 01.07.2000 to
31.01.2005 (both days inclusive) to Kolkata Port Trust by
31.05.2019.

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PLEASE SEE ON REVERSE

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: 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 simple interest at the rate of 18% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Official Gazette/s.

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

The said godown space msg. 282.43sq.m. or thereabouts, situated at East side of Chetla Station Yard, Thana-Chetla Police Station (Previously under New Alipore Police Station), Dist:24 Parganas (South) and Registration District-Alipore. It is bounded on the North by the Trustees' PF and the Trustees' Railway Tracks, on the South by Trustees' platform and then by the Trustees' Road, on the East by the C.I. Shed godown and on the West by the Trustees' shed leased to Chamdanmull Rajjada, Proprietor of Electrical Elements Co.Ltd.

Trustees' means the Board of Trustees of the Port of Kolkata.

Dated: 13.05.2019



Signature and seal of the
Estate Officer



Estate Officer, Kolkata Port Trust

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(Eviction of Unauthorised Occupants) Act 1971

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Bharat ^{VS} *Electronics*

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19.01.2021



Matter is taken up on requisition. Perused Syama Prasad Mookerjee Port's application furnishing the address of the concerned Collectorate for the realisation of the adjudged dues against M/s Bharat Electronics (Proprietor: Bharat Ch. Bag).

I sign the Certificate u/s 14 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 today. Department is directed to serve certified copy of this Order as well as the Certificate (in FORM- I) issued under the provisions of Section 14 of the Act upon the Collector having Office at **Thackeray Road, Alipore Police Line, Alipore, Kolkata, West Bengal- 700 027** through 'Speed Post/Registered Post'. Department is also directed to serve certified copy of this Order and a copy of the Certificate (in FORM- I) upon the Estate Manager, SMP, Kolkata, who is directed to pursue the matter with the said Collectorate for realisation of the dues of SMP, Kolkata as adjudicated upon by this Forum of Law vide Order no. 15 dated 13.05.2019 from M/s Bharat Electronics (Proprietor: Bharat Ch. Bag) 51B, Mohim Halder Street, Kolkata- 700 026 in accordance with law.

All concerned are directed to act accordingly.


(Nirmalya Biswas)
ESTATE OFFICER



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ofc

FORM - I

SPEED POST WITH A/D.

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 Unauthorised Occupants) Act, 1971
OFFICE OF THE ESTATE OFFICER
6, Fairlie Place, Strand Warehouse
(1st Floor)
KOLKATA - 700 001

Court Room At the 1st Floor
6, Fairlie Place, Strand Warehouse,
Strand Road, Kolkata- 700 001.

ORDER NO. 19 DT
PROCEEDINGS NO. 1198/R of 2011

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-

Bharat Electronics

[Certificate u/s.14 of the Public Premises (Eviction of Unauthorized Occupants) Act 1971, from the Estate Officer to the Collector].

The Collector,
Thackeray Road,
Alipore Police Line,
Alipore, Kolkata,
West Bengal- 700 027

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This is to certify that an amount of Rs. 4,56,891/- (Rupees Four Lakhs Fifty Six Thousand Eight Hundred and Ninety one only) for the period of 01.07.2000 to 31.01.2005 (both day inclusive) as Rent and is due to Syama Prasad Mookerjee Port having its Head Office at 15, Strand Road, Kolkata-700001, P.S. Hare Street (a Statutory Authority) from M/s Bharat Electronics (Proprietor: Bharat Ch. Bag) of 51B, Mohim Halder Street, Kolkata- 700 026 in respect of unauthorized use and occupation of the Kolkata Port Trust's godown space measuring about 282.43 sqm. or thereabouts, situated at East Side of Chetla Station Yard, Thana Chetla Police Station (previously under New Alipore Police Station), Dist: 24 Paraganas (South) and Registration District-Alipore. It is bounded on the North by the Trustees' PF and Trustees Railway Tracks, on South by Trustees' platform and then by the Trustees' Road, on the East by the C.I. Shed godown and on the West by the Trustees' shed leased to Chamdanmull Raijada, Proprietor of Electrical Elements Co. Ltd. comprised under Plate No. DB-222 on account of arrear Rent, which sum shall carry interest @ 18% per annum upto 06.04.2011 and thereafter @ 14.25% per annum till its final payment in accordance with Kolkata Port Trust's Notification published in Calcutta Gazette.

In pursuance of Section 14 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I, Sri Nirmalya Biswas, Estate Officer, request you to proceed to recover the same as arrears of land revenue.

Date 20.01.2011


Signature & Seal of the
Estate Officer