

o/c



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. 14 DT 13.08.2021
PROCEEDINGS NO. 1757 of 2019

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/s Atul Ch. Paul & Tarini Ch. Dey Ltd.(O.P.)

10613

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 Atul Ch. Paul & Tarini Ch. Dey Ltd., 67/41, Strand Road, Kolkata-700006** is in unauthorized occupation of the Public Premises specified in the Schedule below :

REASONS

1. That O.P or any other person interested in the property has failed to file any reply to the Show Cause Notice/s U/S 4 & 7 of the Act inspite of sufficient chances being provided to them.
2. That O.P has defaulted in making payment of rental dues to SMP, Kolkata and parted with possession of the Public premises unauthorisedly.
3. That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
4. That O.P has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 28.06.2012.
5. That O.P's occupation has become unauthorised in view of Sec 2(g) of the Act and O.P is liable to pay damages for wrongful use and enjoyment of the Port property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

PLEASE SEE ON REVERSE



(2)

A copy of the reasoned order No. 14 dated 13.08.2021 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 Atul Ch. Paul & Tarini Ch. Dey Ltd., 67/41, Strand Road, Kolkata-700006** 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 Atul Ch. Paul & Tarini Ch. Dey Ltd., 67/41, Strand Road, Kolkata-700006** 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-40

The said piece or parcel of land msg.117.058 sq.m. or thereabouts is situated on the West side of Strand Bank Road between Cross Road Nos.10 & 11 at Kulpighat, Kolkata, Thana- Jorabagan, District - Kolkata. It is bounded on the North by the Trustees land allotted to Khemka & others, on the South partly by the Trustees' land allotted to Manmatha Nath Mukherjee and partly by the Trustees land allotted to Gouri Sankar Tewari & others, on the East by the Strand Road and on the West by the Trustees land allotted to Gouri Sankar Tewari & others.

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

Date- 13.08.2021

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)
KOLKATA - 700 001

Court Room At the 1st Floor
6, Fairlie Place Warehouse
Kolkata-700001.

Form "E"

PROCEEDINGS NO.1757/R OF 2019
ORDER NO. 14 DATED: 13.08.2021

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 Atul Ch. Paul & Tarini Ch. Dey Ltd.
67/41, Strand Road,
Kolkata-700006.

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

AND WHEREAS, by written notice dated 21.12.2020 you are called upon to
show cause on or before 11.01.2021 why an order requiring you to pay a sum
of Rs 2,03,190.63 (Rupees Two Lakhs Three Thousand One hundred Ninety
and paise sixty three only) being the rent payable together with compound
interest in respect 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 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 2,03,190.63 (Rupees Two
Lakhs Three Thousand One hundred Ninety and paise sixty three only) for the
period 28.02.1997 to 31.07.2012 (both days inclusive) to SMP, Kolkata by
27.08.2021

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-40

The said piece or parcel of land msg.117.058 sq.m. or thereabouts is situated on the West side of Strand Bank Road between Cross Road Nos.10 & 11 at Kulpighat, Kolkata, Thana- Jorabagan, District - Kolkata. It is bounded on the North by the Trustees land allotted to Khemka & others, on the South partly by the Trustees' land allotted to Manmatha Nath Mukherjee and partly by the Trustees land allotted to Gouri Sankar Tewari & others, on the East by the Strand Road and on the West by the Trustees land allotted to Gouri Sankar Tewari & others.

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

Dated: 13.08.2021


Signature and 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 Unauthorised Occupants) Act 1971
OFFICE OF THE ESTATE OFFICER
6, Fairlie Place (1st FLOOR) KOLKATA-700001

Court Room At the 1st Floor
of Kolkata Port Trust's
Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO. 1757/D OF 2019
ORDER NO. 14 DATED : 13.08.2021

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

M/s Atul Ch. Paul & Tarini Ch. Dey Ltd.
67/41, Strand Road,
Kolkata-700006.

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 21.12.2020 you are called upon to show cause on or before 11.01.2021 why an order requiring you to pay damages of Rs.16,02,609/- (Rupees Sixteen Lakhs Two Thousand six hundred nine only) 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.16,02,609/- (Rupees Sixteen Lakhs Two Thousand six hundred nine only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.08.2012 to 06.09.2019 (both days inclusive) to SMP, Kolkata by 27-08-2021

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 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. SB-40

The said piece or parcel of land msg.117.058 sq.m. or thereabouts is situated on the West side of Strand Bank Road between Cross Road Nos.10 & 11 at Kulpighat, Kolkata, Thana- Jorabagan, District - Kolkata. It is bounded on the North by the Trustees land allotted to Khemka & others, on the South partly by the Trustees' land allotted to Manmatha Nath Mukherjee and partly by the Trustees land allotted to Gouri Sankar Tewari & others, on the East by the Strand Road and on the West by the Trustees land allotted to Gouri Sankar Tewari & others.

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

Date 13.08.2021

Signature & 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. 1757, 1757/R, 1757/D of 2019 Order Sheet No. 15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Atul Ch. Paul & Tarini Ch. Dey Ltd. ^{VS}

14
13.08.2021

FINAL ORDER

The matter is taken up today for final disposal. It is the case of Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust], hereinafter referred to as SMP, Kolkata, Applicant herein, that a month to month lease was granted to M/S Atul Ch. Paul & Tarini Ch. Dey Ltd (O.P), on certain terms and conditions in respect of public premises being land msg. about 117.058 Sq.m situated on the West side of Strand Bank Road between Cross Road Nos.10 & 11 at Kulpighat, Kolkata, Dist- Kolkata comprised under Plate No.SB-40 and O.P violated the condition of such tenancy by way of not making payment of rental dues to SMP, Kolkata. It is also the case of SMP, Kolkata that O.P has erected unauthorized construction and parted with possession of the said public premises in question without having any authority under law and also has failed to remove the breaches despite repeated request from SMP, Kolkata. It is further argued on behalf of SMP, Kolkata that O.P has no authority under law to occupy the said public premises after expiry of the period as mentioned in the notice to quit dated 28.06.2012 and O.P is liable to pay damages for unauthorised enjoyment of the Port property in question.

This Forum formed its opinion to proceed against O.P under the relevant provisions of the Act and issued Show Cause Notice/s U/S 4 of the Act (for adjudication of the prayer for order of eviction etc.) and Show Cause Notice U/S-7(for adjudication of the prayer for recovery of arrear rental dues and damages etc.) both dated 21.12.2020 (vide Order

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
13.08.2021
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. 1757/1757/R, 1757/D of 2019 Order Sheet No. 14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Atul Ch. Paul & Farini Ch. Dey Ltd. VS

14
13.08.2021

No. 08 dated 21.12.2020) as per rule made under the Act.

It appears from the record that such Notice/s have been sent to O.P both by hand and Speed Post as per addresses available on record. Although the Postal Service to O.P was returned back to the Forum but the report of the Process Server dated 29.12.2020 depicts that the said notice/s was served upon O.P personally and affixation was also made on the subject premises on the same day at about 12: 40P.M as per the mandate of the P.P Act.

On the day fixed for appearance and filing of reply to the Show Cause by the O.P., one Sri Rishabh Dutta Gupta expressing himself as the Ld. Advocates for the O.P. appeared before this Forum and filed his Vokatatnama to contest the matter . He subsequently prayed time to file his reply to the Show Cause on behalf of O.P. Considering his submission, forum allowed him opportunity to file such reply on next date of hearing however, on 01.03.2021, without filing his reply to the Show Cause, Advocate of O.P gain prayed time before the Forum and to give chances to O.P as per the Principles of Natural justice, the Forum directed the department to serve the order dated 15.03.2021 further upon the O.P both by Speed Post and hand delivery. As usual the Order sent through Speed Post was returned back with a mark 'Co not known' but it is seen from the Report of the Process Server dated 06.04.2021 that O.P not only refused to take such order but also did not allow to affix such Order on the subject

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
13.08.2021
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. 1757, 1757/R, 1757/D of 2019 Order Sheet No. 17

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Atul Ch. Paul & Tazini Ch. Dey Ltd.

14

13.08.2021

premises and also threatened with dire consequences.

As none appeared on behalf of O.P or any other person interested in the property inspite of being well acquainted with fact and as there is no reply to the Show Cause Notice/s both u/s 4 & 7 of the Act inspite of repeated chances, on 12.04.2021 the final Order was reserved in the matter. Now this Forum has decided to adjudicate the matter ex-parte.

As no one from O.P's side appears and no reply to the Show Cause Notice u/s 4 & 7 of the Act has been filed as yet, I have no bar to accept the claim of SMP, Kolkata on account of unauthorised occupation of O.P into the Public Premises in question. I think that it is a fit case for issuing Order of eviction u/s 5 of the Act on the following grounds:-

- 1) That O.P or any other person interested in the property has failed to file any reply to the Show Cause Notice/s U/S 4 & 7 of the Act inspite of sufficient chances being provided to them.
- 2) That O.P has defaulted in making payment of rental dues to SMP, Kolkata and parted with possession of the Public premises unauthorisedly.
- 3) That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 4) That O.P has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 28.06.2012.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
13.08.2021
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Signature]

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. 1757, 1757/R, 1757/D Of 2019 Order Sheet No. 18

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Atul Ch. Paul & Tarini Ch. Dey Ltd. VS

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13.08.2021

5) That O.P's occupation has become unauthorised in view of Sec 2(g) of the Act and O.P is liable to pay damages for wrongful use and enjoyment of the Port property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

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.

It is my considered view that a sum of Rs.2,03,190.63 (Rupees Two Lakhs Three Thousand One hundred Ninety and paise sixty three only) for the period 28.02.1997 to 31.07.2012 (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 such dues to SMP, Kolkata on or before..... 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 payments, if any made so far by O.P., in terms of SMP, Kolkata's books of accounts.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
TRUST
KOLKATA
CERTIFIED TRUE COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
TRUST
KOLKATA
13.08.2021
Hd. Assistant
OFFICE OF THE LD. EST.
SYAMA PRASAD MOOKERJEE

[Handwritten signature]



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. 1757/1757/R, 1757/D of 2019 Order Sheet No. 19

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Atul ch. Paul & Tarini ch. Dey Ltd. ^{VS}

14
13.08.2021

Likewise, I find that SMP, Kolkata has made out an arguable claim against O.P., founded with sound reasoning, regarding the damages/compensation to be paid for unauthorised occupation. As such, I must say that Rs.16,02,609/- (Rupees Sixteen Lakhs Two Thousand six hundred nine only) as claimed by the Port Authority as damages in relation to the subject premises in question, is correctly payable by O.P. for the period 01.08.2012 to 06.09.2019 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to SMP, Kolkata by 27.08.2021. The said damages 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 SMP, Kolkata's books of accounts. I sign the formal orders u/s 7 of the Act.

I make it clear that SMP, Kolkata 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 06.09.2019 as well, till such time the possession of the premises continues to be under the unauthorised occupation with the O.P. SMP, Kolkata is directed to submit a statement comprising details of its calculation of damages after 06.09.2019, indicating there-in, the details of the rate of such charges,

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSES BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
13.08.2021
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. 1757, 1757/R, 1757/D of 2019 Order Sheet No. 20

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Atul Ch. Paul & Tarini Ch. Dey Ltd.
^{VS}

14
13.08.2021

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



(Rahul Mukherjee)
ESTATE OFFICER.

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

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
TRUST
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

f sde
13.08.2021

