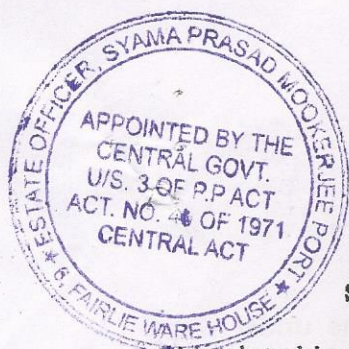


REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY



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. 23 DT 07.10.2021

PROCEEDINGS NO. 1563 OF 2017

By Order of :

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

-Vs-

Sri Prahalad Chandra Agarwala and Sri Umrao Prasad Agarwala (O.P.)

TRUE COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

F O R M - "B"

Head Assistant

OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

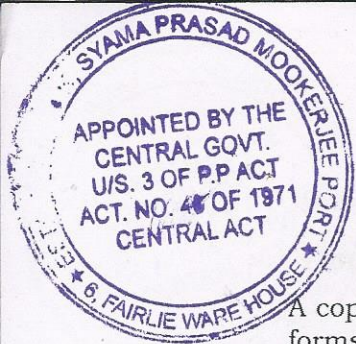
**ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC
PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971**

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **Sri Prahalad Chandra Agarwala and Sri Umrao Prasad Agarwala, Jagannath Ghat, P-2, Strand Bank Road, Kolkata-700007** is in unauthorized occupation of the Public Premises specified in the Schedule below :

REASONS

- 1) That O.P. has violated the condition of such tenancy by way of remaining on possession of the subject premises after expiry of such long term lease on 28.02.2001.
- 2) 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.
- 3) That O.P has violated the condition of such tenancy by way of parting with possession of the subject premises to Morijwala Enterprise.
- 4) That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 5) 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 30.03.2015.
- 6) 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. 23 dated 07.10.2021 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 **Sri Prahalad Chandra Agarwala and Sri Umrao Prasad Agarwala, Jagannath Ghat, P-2, Strand Bank Road, Kolkata-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 **Sri Prahalad Chandra Agarwala and Sri Umrao Prasad Agarwala, Jagannath Ghat, P-2, Strand Bank Road, Kolkata-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-46/1/1)

The said piece or parcel of land Msg.49.424 Sq.m or thereabouts is situated at Jagannath Ghat, Thana: North Port Police Station, Registration District: Kolkata. It is bounded on the North partly by Trustees' open land and alongside Trustees' land occupied by Sri Chandrabali Singh & others, On the East by Circular Railway, On the South by the Trustees' vacant land and On the West by Strand Bank Road.

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

Date-


Signature & Seal of the
Estate Officer.

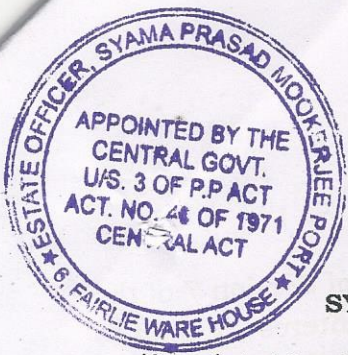
By Order of :

ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Head Assistant

OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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. 1563/D OF 2017
ORDER NO. 23 DATED :

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

Sri Prahalad Chandra Agarwala and
Sri Umrao Prasad Agarwala,
Jagannath Ghat,
P-2, Strand Bank Road,
Kolkata-700007.

By Order of :
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Assistant
OFFICE OF THE I.D. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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 09.12.2020 you are called upon to show cause on or before 23.12.2020 why an order requiring you to pay damages of Rs. 21,61,636.80/- (Rupees Twenty One Lakhs Sixty One Thousand Six Hundred Thirty Six and paise Eighty 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. 21,61,636.80/- (Rupees Twenty One Lakhs Sixty One Thousand Six Hundred Thirty Six and paise Eighty only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from March, 2001 to July, 2020 (both days inclusive) to SMP, Kolkata by 25.10.2021.

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-46/1/1)

The said piece or parcel of land Msg.49.424 Sq.m or thereabouts is situated at Jagannath Ghat, Thana: North Port Police Station, Registration District: Kolkata. It is bounded on the North partly by Trustees' open land and alongside Trustees' land occupied by Sri Chandrabali Singh & others, On the East by Circular Railway, On the South by the Trustees' vacant land and On the West by Strand Bank Road.

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

By Order of:

ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

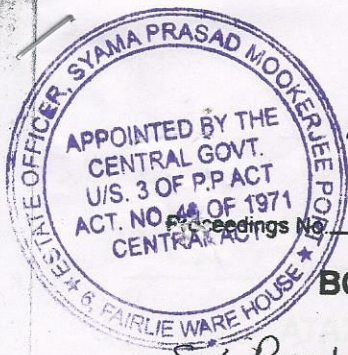
Head Assistant

OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Date 08.10.2021

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.

1563, 1563/D

of

2017

Order Sheet No.

22

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Sri Prahalad Chandra Agarwala & Sri Umrao Prasad Agarwala.

23

07.10.2021

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 long term lease for a period of 10 years was granted to Sri **Prahalad Chandra Agarwala and Sri Umrao Prasad Agarwala** (O.P), on certain terms and conditions in, respect of public premises being land msg. about 49.424 Sq.m situated at Jagannath Ghat, Thana- North Port Police Station, comprised under (Plate No.SB-46/1/1).

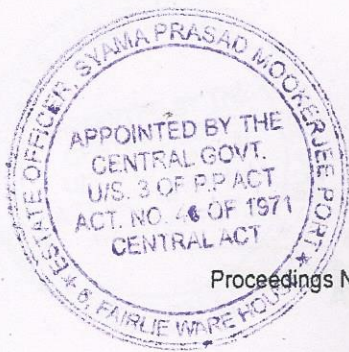
SMP, Kolkata has submitted that O.P violated the condition of such tenancy by way of remaining on the possession of the subject premises after expiry of such lease on 28.02.2001, by way of defaulting in payment of monthly compensation charges along with accrued interest thereon and also by way of parting with possession of the said premises to Morijwala Enterprise.

It is the case of SMP, Kolkata that in view of the aforesaid breaches committed by the O.P, SMP, Kolkata had issued notice to quit being No. Lnd. 5/90/II/15/3933 dated 30.03.2015 asking the O.P. to hand over clear, vacant, peaceful and unencumbered possession of the property to SMP, Kolkata on 30.04.2015. But O.P. has failed and neglected to vacate/ hand over the possession of such premises to SMP, Kolkata after service of the said Notice to Quit.

Now it is 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 30.03.2015 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 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 damages etc.) both dated 09.12.2020 (vide Order No. 12 dated 09.12.2020 as per rule made under the Act.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
08.10.2021
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. 1563/1563/D of 2017 Order Sheet No. 23

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Sri Prahalad Chandra Agarwala ^{VS} Sri Umrao Prasad Agarwala

23
07.10.2021

On the scheduled date of appearance and filing of reply to the Show Cause i.e on 23.12.2020 O.P. did not appear before the Forum for giving reply to the Show Cause. However, the record depicts that such Notice had been sent to O.P both by hand and Speed Post as per addresses available on record.

When the Postal Services to the recorded addresses of O.P returned undelivered with the endorsement of Postal Department as "insufficient address" and the Process Server has also failed to locate the address of O.P(as per their Report dated 17.02.2021), the Forum vide its order dated 23.12.2020 gave a direction to SMP, Kolkata for filing other alternative addresses of O.P. However, SMP, Kolkata has failed to file such alternative addresses of O.P.

It appears that in spite of such efforts being made, the appearance of O.P could not be procured in order to contest the claim of SMP, Kolkata by usual course of business followed by this Forum and such efforts remain futile. Accordingly a decision was taken to publish a Notice in a widely circulated News Paper for a notice to all concerned about the pendency of the instant proceeding in order to give further chance to O.P to appear before the Forum and to represent their case. Such Notice was published in the classified column of Times of India (Kolkata) on 09.04.2021 fixing the ultimate date of O.P's appearance on 28.04.2021. But all the efforts went into vain as the O.P failed to appear before the Forum despite publication of such Notice in the News Paper.

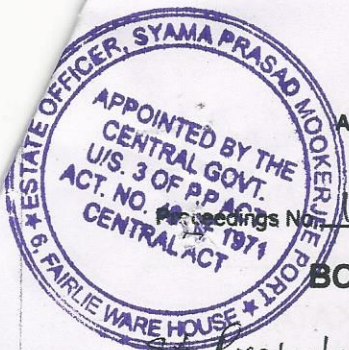
Now in view of the spirit laid down in the Public Premises Act, 1971 for speedy and summary disposal of the case and further considering the continuous non appearance of O.P in spite of sufficient opportunities being given and after exhaustion of all available means of service, this Forum finds no need to keep the matter pending and final Order was reserved in the matter on 28.04.2021. 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

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
08.10.2021
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT.

[Handwritten signature]

[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

1563, 1563/D Of 2017 Order Sheet No. 24

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Sri. Prahalad Chandro Agarwala & Sri Umrao Prasad Agarwala

23

07.10.2021

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. has violated the condition of such tenancy by way of remaining on possession of the subject premises after expiry of such long term lease on 28.02.2001.
- 2) 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.
- 3) That O.P has violated the condition of such tenancy by way of parting with possession of the subject premises to Morijwala Enterprise.
- 4) That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 5) 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 30.03.2015.
- 6) 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 unauthorised 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. 21,61,636.80 (Rupees Twenty One Lakhs Sixty One Thousand Six Hundred Thirty Six and paise Eighty only) for the respective Plate in question for the period March, 2001 to July, 2020 (both days inclusive) is due and recoverable

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
08.10.2021
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. 1563, 1563/D Of 2017 Order Sheet No. _____

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Sri Prahalad Chandra Agarwala ^{VS} Sri. Umrao Prasad Agarwal

23
07.10.2021

from O.P. by the Port authority on account of damages and O.P. must have to pay such dues to SMP, Kolkata on or before 25.10.2021 (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 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 make it clear that SMP, Kolkata is entitled to claim further 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 July, 2020 as well, till such time the possession of the premises continues to be under the unauthorized occupation with the O.P. SMP, Kolkata is directed to submit a statement comprising details of its calculation of damages after July, 2020, 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

(Kausikkumar Manna)
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
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
08.10.2021
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT