



OK

**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. 1749/D OF 2019
ORDER NO. 09 DATED : 25.01.2022

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

**Estate Indrajit Yadav,
represented by: Smt. Usha Yadav(wife),
Smt. Anjula Yadav(Elder daughter),
Smt. Anamika Yadav(Younger Daughter),
Shri Awanish Yadav (Elder son),
Shri Vivek Yadav(Younger Son)
All the legal heirs of Late Indrajit Yadav,
1,Old Goragacha Road,
Kolkata-700088**

1573

1574

1576

1575

1577

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 01.10.2021 you are called upon to show cause on or before 21.10.2021 why an order requiring you to pay damages of Rs. 1,35,713/- (Rupees One Lakh thirty five thousand seven hundred thirteen only) for Plate No.D-306/5/B together with [compound interest] for unauthorised use and occupation of the said premises, should not be made;

AND WHEREAS, I have considered your objections and/or the evidence produced by you;

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. 1,35,713/- (Rupees One Lakh thirty five thousand seven hundred thirteen only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.12.2017 to 31.05.2020 (both days inclusive) to SMP, Kolkata by 07.02.2022

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.D-306/5/B

Trustees' Land Msg.52.676 Sq.mtrs. at Sonapur Road, in the presidency town of Kolkata under Plate No.D-306/5/B. It is bounded on the North by the Trustees' Garagacha Road, On the East by junction of Trustees' Garagacha Road, On the South by the Trustees' Hoboken Road and on the West by Trustees' Pump house & Over head Tank. Trustees' means the Syama Prasad Mookerjee Port, Kolkata (Erstwhile the Board of Trustees' for the Port of Kolkata).

Date 28.01.2022



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.1749/R OF 2019
ORDER NO. 09 DATED: 25-01-2022

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

To
Estate Indrajit Yadav,
represented by: Smt. Usha Yadav(wife),
Smt. AnjulaYadav(Elder daughter),
Smt. Anamika Yadav(Younger Daughter),
Shri Awanish Yadav (Elder son),
Shri Vivek Yadav(Younger Son)
All the legal heirs of Late Indrajit Yadav,
1,Old Goragacha Road,
Kolkata-700088

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

AND WHEREAS, by written notice dated 01.10.2021 you are called upon to
show cause on or before 21.10.2021 why an order requiring you to pay a sum
of Rs.11,86,380.57 (Rupees Eleven Lakh eighty six thousand three hundred
eighty and paise fifty seven only) for Plate No.D-306/5/B being the rent
payable together with compound interest in respect of the said premises should
not be made;

AND WHEREAS, I have considered your objections and/or the evidence
produced by you;

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.11,86,380.57 (Rupees Eleven
Lakh eighty six thousand three hundred eighty and paise fifty seven only) for
Plate No.D-306/5/B for the period 01.10.1997 to 30.11.2017(both days
inclusive) to SMP, Kolkata by 07.02.2022

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.D-306/5/B

Trustees' Land Msg.52.676 Sq.mtrs. at Sonapur Road, in the presidency town of Kolkata under Plate No.D-306/5/B. It is bounded on the North by the Trustees' Garagacha Road, On the East by junction of Trustees' Garagacha Road, On the South by the Trustees' Hoboken Road and on the West by Trustees' Pump house & Over head Tank. Trustees' means the Syama Prasad Mookerjee Port, Kolkata (Erstwhile the Board of Trustees' for the Port of Kolkata).

Dated: 28.01.2022



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 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. 09 DT 25.10.2022
PROCEEDINGS NO. 1749 OF 2019

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-

Estate Indrajit Yadav, represented by: Smt. Usha Yadav(wife), Smt. Anjula Yadav (Elder daughter), Smt. Anamika Yadav(Younger Daughter), Shri Awanish Yadav (Elder son), Shri Vivek Yadav(Younger Son) All the legal heirs of Late Indrajit Yadav (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 Indrajit Yadav, represented by: Smt. Usha Yadav(wife), Smt. Anjula Yadav (Elder daughter), Smt. Anamika Yadav(Younger Daughter), Shri Awanish Yadav (Elder son), Shri Vivek Yadav(Younger Son) All the legal heirs of Late Indrajit Yadav, 1, Old Goragacha Road, Kolkata-700088** is in unauthorized occupation of the Public Premises specified in the Schedule below :

REASONS

1. That in gross violation to the condition of tenancy under monthly term lease, O.P. has failed and neglected to pay the rental dues to SMP, Kolkata.
2. That O.P has parted with possession of the subject premises to third parties without having any authority of Law.
3. That the plea taken by O.P. regarding non-receipt of quit notice dated 25.10.2017 as issued by the Port Authority has got no merit on evaluation of the factual aspect involved in this matter.
4. That the notice to quit dated 25.10.2017 as issued by the Port Authority to O.P. is valid, lawful and binding upon the parties.
5. That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".

Ar

PLEASE SEE ON REVERSE

(2)

A copy of the reasoned order No. 09 dated 25.01.2022 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 Indrajit Yadav, represented by: Smt. Usha Yadav(wife), Smt. Anjula Yadav (Elder daughter), Smt. Anamika Yadav(Younger Daughter), Shri Awanish Yadav (Elder son), Shri Vivek Yadav(Younger Son) All the legal heirs of Late Indrajit Yadav, 1, Old Goragacha Road, Kolkata-700088** 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 Indrajit Yadav, represented by: Smt. Usha Yadav(wife), Smt. Anjula Yadav (Elder daughter), Smt. Anamika Yadav(Younger Daughter), Shri Awanish Yadav (Elder son), Shri Vivek Yadav(Younger Son) All the legal heirs of Late Indrajit Yadav, 1, Old Goragacha Road, Kolkata-700088** 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.D-306/5/B

Trustees' Land Msg.52.676 Sq.mtrs. at Sonapur Road, in the presidency town of Kolkata under Plate No.D-306/5/B. It is bounded on the North by the Trustees' Garagacha Road, On the East by junction of Trustees' Garagacha Road, On the South by the Trustees' Hoboken Road and on the West by Trustees' Pump house & Over head Tank. Trustees' means the Syama Prasad Mookerjee Port, Kolkata (Erstwhile the Board of Trustees' for the Port of Kolkata).

Date-28.01.2022


Signature & Seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA FOR INFORMATION.



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

1749, 1749/R of 2019 Order Sheet No. 9

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Estate Indrajit Yadav ^{VS} **Represented by Smt. Usha Yadav & Smt. Anjula Yadav & Others**

9
25.01.2022

FINAL ORDER

The instant proceedings No. 1749, 1749/R, 1749/D of 2019 arises out of the application bearing No. Lnd.4358/II/18/7 dated 06.04.2018 filed by Syama Prasad Mookerjee Port, Kolkata (erstwhile Kolkata Port Trust), Applicant herein, praying for order of eviction and recovery of arrear rent, taxes, compensation along with interest against **Estate Indrajit Yadav, represented by : Smt. Usha Yadav(wife), Smt. Anjula Yadav(Elder daughter), Smt. Anamika Yadav(Younger daughter), Shri Awanish Yadav (Elder son), Shri Vivek Yadav(Younger son), all the legal heirs of Late Indrajit Yadav**, O.P. herein, under relevant provision of the Public Premises (Eviction of Unauthorised Occupants) Act 1971. The facts of the case is summarised here under.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.01.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Indrajit Yadav and Raj Deo Roy both have come into occupation of the Port property being Land measuring 52.676 sq. mtrs or thereabout situated at Sonapur Road (under Plate Nos D-306/5/B & D-306/5/C (way leave), in the presidency town of Kolkata, as monthly lessee with effect from 01.11.1976 on payment of monthly rent & taxes on certain terms and conditions. Thereafter, such tenancy was transferred by SMP, Kolkata solely in the name of said Indrajit Yadav w.e.f 01.01.1980 and after his demise the said public premises was mutated in the name of O.P. vide letter No. Lnd.4358/II/14/2250 dated 29.10.2014. It is submitted by SMP, Kolkata that while in possession of the Port property as lessee, O.P. defaulted in payment of monthly rent, taxes and also accrued interest thereon, made encroachment of SMP, Kolkata's land msg. 51.89 sq.m and also changed the



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

1749, 1749/R of 2019 Order Sheet No. 10

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

Estate Indrajit Yadav, Represented by Smt. Usha Yadav, Smt. Anjula Yadav & Others

9
25.01.2022

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.01.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

purpose of such lease without taking any permission from SMP, Kolkata.

In view of the breaches not being remedied despite final notice being No. Lnd.4358/II/17/579 dated 05.04.2017 given to O.P., SMP, Kolkata had issued Notice to Quit being No. Lnd.4358/II/17/3308 dated 25.10.2017 determining the lease and asking the O.P. to quit, vacate and deliver up peaceful possession of the public premises on 01.12.2017.

It is the case of SMP, Kolkata that even after issuance of the notice to quit dated 25.10.2017, O.P. failed and neglected to hand over possession of the public premises to SMP, Kolkata. Rather, O.P. has been continuing to occupy the said port premises wrongfully and in unauthorised manner for which SMP, Kolkata is entitled to have the O.P. evicted from the public premises and O.P. is liable to pay arrear rent/compensation charges and also accrued interest till O.P. delivers up the vacant possession.

Considering the submission advanced by SMP, Kolkata 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 01.10.2021 (vide Order No.03 dated 30.09.2021) 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 as well as hand delivery to the recorded addresses of O.P. at 1, Old Goragacha Road, Kolkata-700088. It appears from



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceeding No. 1749, 1749/R of 2019 Order Sheet No. 11

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

Estate Indrajit Yadav, Represented by Smt Usha Yadav, Smt. Anjula Yadav
O-Chess

9

28.01.2022

records that the Notice/s sent through Speed post were not returned back and the notice/s sent by hand were also not served due to possible absence of O.P. However, due affixation was made on the subject premises as per the mandate of the P.P Act.

On the scheduled dated of appearance and filing of reply to the Show Cause i.e on 21.10.2021, O.P. appeared and filed three number of replies to the Show Cause Notice/s challenging the allegation of SMP, Kolkata and verbally expressed before the Forum about their willingness to liquidate the dues of SMP, Kolkata along with their wishes to remove all other breaches except the charge of unauthorised encroachment. Thereafter, SMP, Kolkata filed its rejoinder on the same day stating that 7 nos of unauthorised sitting occupants are occupying the subject premises and as much as Rs.22,20,258.57 is payable by O.P. Hearing the submission of both parties, Forum directed O.P. to liquidate their dues and remove all other breaches within 15 days from the date of such hearing and to submit a report accordingly. Thereafter on 02.12.2021 without complying the order of the Forum, O.P. filed two applications one against the rejoinder of SMP, Kolkata and another for praying installment to pay the dues of SMP, Kolkata. Filing the objection against the rejoinder of SMP, Kolkata, O.P. prayed reconciliation of their arrear dues with SMP, Kolkata. O.P further submits that SMP, Kolkata cannot claim compensation charges @3xSoR from O.P. and no change of purpose has ever been made by O.P. It is due to the non issuance rent bill by SMP, Kolkata, for which O.P. has failed to pay the rent in due time. Forum gave further opportunity to O.P. for removal of such breaches on 18.11.2021 as per the principles of natural justice but O.P. has failed to comply such Order and finally on 09.12.2021 when O.P. submits

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.01.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

1749, 1749/R Of 2019 Order Sheet No. 12

TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

Estate Indrajit Yadav, Represented by Smt. Usha Yadav, Smt. Anjula Yadav & Others

9

25.01.2022

that none of the unauthorised occupants have been removed and no payments have been made by them, the instant matter was reserve for passing final order.

After careful consideration of all relevant papers/documents as brought before me in course of hearing and after due consideration of all the submissions/ arguments made on behalf of the parties, I find that following issues have come up for my adjudication :-

- I. Whether O.P. has defaulted in making payment of rental dues to SMP, Kolkata, or not;
- II. Whether O.P's contention that "three times compensation charges is not justified" has got any merit or not;
- III. Whether O.P has made encroachment upon SMP, Kolkata's land or not;
- IV. Whether O.P has changed the purposes of instant lease or not;
- V. Whether the plea taken by O.P. regarding "non-service of notice" to Quit upon O.P. dated 25.10.2017 has got any merit for determination of the points at issue or not;
- VI. Whether SMP, Kolkata's notice dated 25.10.2017 as issued to O.P., demanding possession from O.P. is valid and lawful or not;

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.01.2022
OFFICER



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1749, 1749/R Of 2019 Order Sheet No. 13

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

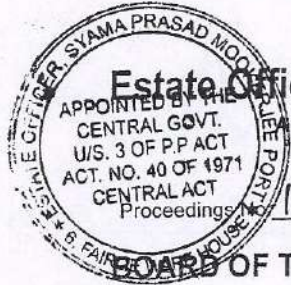
Estate Indrajit yadav, Represented by, smt. Usha yadav, smt. Anjula yadav & others

9
25.01.2022

VII. Whether O.P.'s occupation could be termed as "unauthorised occupation" in view of Sec.2 (g) of the P.P. Act and whether O.P. is liable to pay damages to SMP, Kolkata during the period of its unauthorised occupation or not.

As regards the **issue no. I** i.e on the issue of nonpayment of SMP, Kolkata's rent and taxes, O.P has admitted the dues on its part vide reply to the Show Cause notice/s as filed on 21.10.2021 and also vide their comment/application against the rejoinder of SMP, Kolkata as filed on 02.12.2021. It is the categorical submission of O.P in terms of demand notice/s given by SMP, Kolkata that they are ready and agreed to pay the dues subject to reconciliation of the amount and adjustment of the value of the draft amount which was submitted earlier. Moreover in the said comment /application dated 02.12.2021 O.P has prayed for reconciliation of such dues. Before this Forum, SMP, Kolkata has also filed copies of letters addressing the O.P (such as letter dated 29.10.2014, and 05.04.2017) etc. whereby SMP, Kolkata repeatedly requested O.P for liquidation of their dues but inspite of receiving the copy of such letters, O.P apparently did not pay any heed to that matter. More so, SMP, Kolkata has filed detailed Statement of dues, which clearly indicates the huge dues on the part of the O.P. There is no reason to disbelief such submission of the statutory authority like SMP, Kolkata. Moreover, O.P's plea that are ready to pay or agreed to make payment does not seem to have any justification in this juncture because such statement do not come to the protection of O.P. at all. Further, I may add that this Forum, in pursuance of Section 114 T.P 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
28.01.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

1749, 1749/R Of 2019 Order Sheet No. 14

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

Estate Indrajit Yadav, Represented by: Smt. Usha Yadav, Smt. Anjula Yadav & others.

9

25.01.2022

has given opportunity to O.P to liquidate the dues of SMP, Kolkata but O.P never succeeded in complete and full discharge of such dues taxes and interest. Thus this Forum holds that the charge of default in payment of rent and taxes is definitely established.

As regards the **issue no. II** i.e. On the issue of three times rent charges, O.P. has claimed in their Application dated 02.12.2021 that "charging compensation by SMP, Kolkata @ 3 x SoR by SMP, Kolkata for the period 01.12.2017 to 30.09.2021 from O.P is unjustified" because no eviction notice as alleged was served upon O.P., however, I must say that notice was served through Registered Post with A/D, under Certificate of Posting and through hand service at the recorded address of O.P. at that point of time. Keeping in view of the fact that notice dated 25.10.2017 was served in the recorded address of Estate Indrajit Yadav, represented by the legal heirs of Late Indrajit Yadav as recorded in the file of papers concerning the tenancy O.P. as maintained in the Estate Division of SMP, Kolkata, I am inclined to accept that notice was served properly by SMP, Kolkata. Moreover, a notice served in official course of business cannot be ignored by mere statement against sufficiency of serving such notice. Further I must say that as per law, when any occupant enjoys possession without accepting the offer, the party whose interest is hampered by such unauthorised occupation is entitled to receive, from the party who is occupying unauthorisedly, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from any breach, or which parties knew, when they made the contract to be likely to result from the breach of it. As regards the three times rate of compensation in respect

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.01.2022
OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

1749, 1749/R of 2019 Order Sheet No. 15

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

Estak Indrajit Yadav, Represented by, smt. Usha Yadav, Smt. Anjula Yadav *et al*

9
25/01/2022

of unauthorised occupation, the order dated 03.09.2012 passed by Hon'ble Justice Dipankar Datta in WP no. 748 of 2012 (M/s Chowdhury Industries Corporation Pvt. Ltd. versus Union of India & others) is very relevant. The said Order reads as follows:

“
It is undisputed that there has been no renewal of the lease prior to its expiry or even thereafter. There is also no fresh grant of lease. The petitioner has been occupying the property of the Port Trust unauthorisedly and, therefore, the Port Trust is well within its right to claim rent at three times the normal rent in terms of the decision of the TAMP, which has not been challenged in this writ petition.

Furthermore, enhancement to the extent of three times the normal rent for persons in unauthorised occupation of Port Trust property does not appear to be utterly unreasonable and arbitrary warranting interference of the Writ Court.

.....”
Moreover, O.P has failed to remedy the breaches as per quit notice dated 25.10.2017, such being the case, O.P. is debarred from taking the plea of exorbitant rent rent/charges. In fact, the question of compensation charges @ 3x SoR for occupation or any question about abnormally high rate of rent cannot be entertained by this Forum as the charges for occupation of Port Property is fixed up by Tariff Authority of Major Ports by their notification published under authority of law in accordance with the provisions of the Major Port Trusts Act, 1963 as time to time amended. The issue is thus decided accordingly in favour of the Port Authority.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.01.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

749, 1749/R of 2019 Order Sheet No. 16

OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

Estate Indrajit Yadav, Represented by: Smt. Usha Yadav, Smt. Anjeela Yadav

9
25.01.2022

Issue no.III & IV, i.e. the issue of encroachment & change of purpose of such lease both are taken up together, as the issues are related with each other.O.P. vide their reply to the Show Cause dated 21.10.2021 denying the allegation of SMP, Kolkata merely claimed that such allegations are false because they are occupying the alleged land measuring about 52.676 sq.m as allotted to their predecessor and they have not encroached any land of SMP, Kolkata and never changed the purpose of said lease i.e nature of business. However, on both the issues, I have not gone into the merit of SMP, Kolkata's allegations because except the contents of the final notice dated 05.04.2017 SMP, Kolkata has not submitted any relevant documents in support of their allegations. Therefore, I am not at all inspired by the submission of SMP, Kolkata.

Further, during the course of hearing on 02.11.2021, SMP, Kolkata vide their rejoinder/application as filed on 21.10.2021 along with some photographs claimed that the subject premises is presently occupied by 7nos. of unauthorised sitting occupants such allegation of SMP, Kolkata was admitted by O.P. during the course of hearing. As the induction of a third party without the approval of SMP, Kolkata is against the spirit of tenancy O.P. cannot deny the claim of SMP, Kolkata in this regard.

On the question of non-service of quit notice dated 25.10.2017 under **issue No. V**, I have considered the matter seriously. There is no dispute or objection from O.P's side regarding status of O.P's tenancy under monthly term lease. Now the question arises how far 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
28.01.2022
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Handwritten signature]



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1749, 1749/R, of 2019 Order Sheet No. 17

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

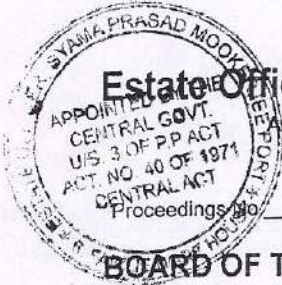
Estate Indrajit Yadav, Represented by, Smt Usha Yadav, Smt Anjula Yadav & others
VS

9
25.01.2022

question of non-receipt of notice deserves merit in the facts and circumstances of the case.

It is claimed by SMP, Kolkata that notice was served through Registered Post with A/D, under Certificate of Posting and through hand service at the recorded address of O.P. at that point of time. Keeping in view of the fact that notice dated 25.10.2017 was served in the recorded address of Estate Indrajit Yadav, represented by the legal heirs of Late Indrajit Yadav as recorded in the file of papers concerning the tenancy O.P. as maintained in the Estate Division of SMP, Kolkata, I am inclined to accept that notice was served properly by SMP, Kolkata. Moreover, a notice served in official course of business cannot be ignored by mere statement against sufficiency of serving such notice. This takes me to the question whether a monthly term lessee like O.P. can continue in occupation without getting rent demand for payment of monthly charges or not in the facts and circumstances of the case and whether O.P. can claim grant of lease or allotment in respect of the property in question as a matter of right. As a matter of fact, the monthly term lease could be considered as continuing on month to month basis strictly in accordance with the conduct of the parties. To constitute such conduct regarding consent on the part of SMP, Kolkata for continuance in occupation by O.P., SMP, Kolkata was preferring monthly rent demand note to O.P. and O.P. was paying such demand from SMP, Kolkata and never raised any dispute against such demand. It means O.P.'s occupation in the Port property prior to the expiry of the period as mentioned in the notice to quit dated 25.10.2017 was on the basis of valid grant or consent from SMP, Kolkata's side. Let me hasten to conclude that occupation in the Public Premises without paying requisite charges for

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.01.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

1749, 1749/R, of 2019 Order Sheet No. 18

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

Estate Indrani Yadav, Represented by, Smt Usha Yadav, Smt Anjula Yadav & Others

9
25.01.2022

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.01.2022
Hd. of Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

such occupation is opposed to Public Policy and no one can claim its occupation as "authorised occupation" without paying requisite charges for the same. As per Transfer of Property Act, a lessee is under legal obligation to hand over possession of the property to its landlord /lessor in its original condition after determination of tenancy under lease. It is a settled question of law that a lessee like O.P. cannot claim any legal right to hold the property after expiry of the period as mentioned in the notice to quit, unless O.P. is succeeded in making a case of "Tenant Holding Over". No attempt has been made out on behalf of O.P. to satisfy this Forum of Law about any consent on the part of SMP, Kolkata in occupying the public premises unconditionally in order to fulfil the essential ingredient of holding over. Rather it is a case of SMP, Kolkata that by notice dated 25.10.2017, O.P. was directed to hand over possession. I have examined the representative of SMP, Kolkata who has identified the notice demanding possession from O.P. A letter /notice issued in official course of business has definitely got an evidentiary value unless there is material, sufficient to contradict the case of SMP, Kolkata on the basis of such letter/notice. In such a situation, it is very difficult to accept the contention of O.P. regarding non-receipt of any notice, demanding possession from SMP, Kolkata's side. It is a very strange case that O.P. being occupier/user of the premises continuously failed to enquire about non-receipt of rent bills for a considerably long period in respect of the premises which is inexplicable (nothing but a complete failure on the part of O.P.) and could be termed as gross violation of the normal Rules of conduct of an occupier/user of the Port property.

The consequences upon failure to obtain regular rent bill from SMP, Kolkata's side entails legal implication about



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceeding No. 1749, 1749/R. Of 2019 Order Sheet No. 19

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

Actse Indragit yadav, Represented by, Smt Usha Yadav, Smt Angula Yadav or others

9
25.01.2022

the status of O.P. which cannot be avoided by O.P. I am consciously of the view that SMP, Kolkata never recognized O.P. as a lawful user/tenant in respect of the property in question after expiry of the period as mentioned in the notice to quit dated 25.10.2017 in question. However, filing of application before this Forum of Law with the prayer to evict O.P. from the public premises is sufficient to establish SMP, Kolkata's intention to get back possession of the public premises from O.P. and in my view mere statement from O.P's end regarding non-receipt of the notice for handing over of possession is nothing but an afterthought. As per Section 2 (g) of the P. P. Act the "unauthorized occupation", 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. As per Transfer of Property Act, a lease of immovable property determines either by efflux of time limited thereby or by implied surrender or on expiration of notice to determine the lease or to quit or of intention to quit, the property leased, duly given by one party to another. It is a settled question of law that O.P. cannot claim any legal right to hold the property after expiry of the period as mentioned in the notice to quit, without any valid grant or allotment from SMP, Kolkata's side. I am firm in holding that possession of O.P. in the public premises in question is nothing but wrongful occupation and O.P. cannot dictate the terms and conditions of Port Authority for grant of lease/allotment of the property in any manner whatsoever. In fact no

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.01.2022
Head Assistant
OFFICE OF THE I.D. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

1749, 1749/R, of 2019 Order Sheet No. 20

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

Estate Indranil Yadav, Represented by Smt. Usha Yadav, Smt. Anupama Yadav & others

9

25.01.2022

case has been made out by O.P. as to how O.P.'s occupation could be termed as continuing on month to month basis without receiving regular rent demand from SMP, Kolkata, as issuance of monthly rent demand and payment of the same in turn is the pre-condition or I should rather say paramount condition for continuance of occupation in the Port property as monthly term lessee. Hence the issue is decided against O.P.

Issues No. VI & VII are clubbed together for convenient discussion as the issues are related with each other. In view of the discussion against the foregoing paragraphs, I do not find any alternative but to hold that the notice dated 25.10.2017 as issued by the Port Authority, demanding possession from O.P. is valid, lawful and binding upon the parties.

The properties of the SMP, Kolkata (erstwhile Kolkata Port Trust) are coming under the purview of "public premises" as defined under the Act. Now the question arises as to how a person becomes unauthorized occupant into such public premises. As per Section 2 (g) of the Act the "unauthorized occupation", 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. As per Transfer of Property Act, a lease of immovable property determines either by efflux of time limited thereby or by implied surrender or on expiration of notice to determine the lease or to quit or of intention to quit, the property leased, duly given by one party to another. Here the tenancy under monthly term lease in

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
KOLKATA
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.01.2022
Head Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises
(Eviction of Unauthorised Occupants) Act 1971

Proceeding No. 1749, 1749/R. of 2019 Order Sheet No. 21

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

Estate Pradmanjit Yadav, Represented by, Sant Uday Yadav, Sant Anjula Yadav
or others

9

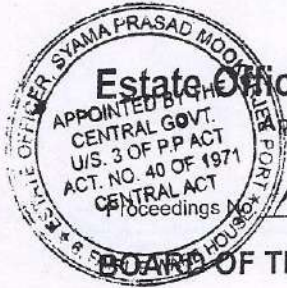
25.01.2022

respect of the Public Premises in question was continuing on month to month basis (admittedly there is no dispute over the status of tenancy under monthly term lease as stated by SMP, Kolkata) and Port Authority by service of notice dated 25.10.2017 has intended to determine the tenancy and did not recognize O.P. as tenant by way of not issuing rent demand. There is no material to prove O.P.'s intention to pay the dues/charges to SMP, Kolkata. As such, I have no bar to accept SMP, Kolkata's contentions regarding determination of tenancy by due service of quit notice as aforesaid on evaluation of the facts and circumstances of the case. "Damages" are like "mesne profit" that is to say the profit arising out of wrongful use and occupation of the property in question. I have no hesitation in mind to say that after expiry of the period as mentioned in the said notice to quit, O.P. has lost their authority to occupy the public premises, on the evaluation of factual aspect involved into this matter and is liable to pay damages for such unauthorized use and occupation. To come into such conclusion, I am fortified by the decision/observation of the Hon'ble Supreme Court in Civil Appeal No.7988 of 2004, decided on 10th December 2004, reported (2005)1 SCC 705, para-11 of the said judgment which reads as follows.

Para:11-" under the general law, and in cases where the tenancy is governed only by the provisions of the Transfer of Property Act 1882, once the tenancy comes to an end by determination of lease u/s.111 of the Transfer of Property Act, the right of the tenant to continue in possession of the premises comes to an end and for any period thereafter, for which he continues to occupy the premises, he becomes liable to pay damages for use and occupation at the rate at which the landlord would have let out the premises on being vacated by the tenant.

By Order of :
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
S.S.K.
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
25.01.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Sh



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

1749, 1749/R, of 2019 Order Sheet No. 22

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

Estate Indrajit Yadav, Represented by Smt Usha Yadav, Smt Anjula Yadav & Others.

9
25.01.2022

.....
.....
....."

undoubtedly, the tenancy under lease is governed by the provisions of the Transfer of Property Act 1882 and there is no scope for denial of the same.

In course of hearing, the representative of SMP, Kolkata states and submits that Port Authority never consented in continuing occupation into the public premises and never expressed any intention to accept O.P. as tenant. It is contended that SMP, Kolkata's intention to get back possession is evident from the conduct of the Port Authority and O.P. cannot claim its occupation as "authorized" without receiving any rent demand note. The question of "Holding Over" cannot arise in the instant case as the Port Authority never consented to the occupation of O.P.

In the instant case there was no consent on the part of the Port Authority either by way of accepting rent from or by any other mode, expressing the assent for continuance in such occupation after expiry of the period as mentioned in the notice to vacate the premises. The Port Authority has a definite legitimate claim to get its revenue involved into this matter as per the SMP, Kolkata's Schedule of Rent Charges for the relevant period and O.P. cannot claim continuance of its occupation without making payment of requisite charges as mentioned in the Schedule of Rent Charges. To take this view, I am fortified by the Apex Court judgment report in JT 2006 (4) Sc 277 (Sarup Singh Gupta -vs- Jagdish Singh &Ors.) wherein it has been clearly observed that in the event of termination of lease, the practice followed by Courts is to permit landlord to

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
S.S.V.
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.01.2022
Head of Office
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1749, 1749/R, of 2019 Order Sheet No. 23

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Estate Pradipit Yadav, represented by Smt. Usha Yadav, Smt. Anpula Yadav
others

9
25.01.2022

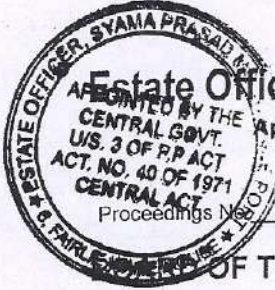
receive each month by way of compensation for use and occupation of the premises, an amount equal to the monthly rent payable by the tenant. As per law, when a contract has been broken, the party who suffers by such breach is entitled to receive, from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract to be likely to result from the breach of it. Moreover, 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 period as mentioned in the notice to Quit in its original condition. As such, the issue is decided in favour of SMP, Kolkata. I have no hesitation to observe that O.P's act in continuing occupation is unauthorized and 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 quit notice, demanding possession from O.P. as stated above have been validly served upon the O.P in the facts and circumstances of the case and such notice is valid, lawful and binding upon the parties. In view of the discussions above, the issues are decided firmly in favour of SMP, Kolkata.

NOW THEREFORE, it is a fit case for allowing SMP, Kolkata's prayer for order of eviction u/s 5 of the Act on the following grounds/reasons :

1. That in gross violation to the condition of tenancy under monthly term lease, O.P. has failed and neglected to pay the rental dues to SMP, Kolkata.

Ar

By Order of :
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.01.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1749, 1749/R, Of 2019 Order Sheet No. 24

OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Estate Indrapit Yadav, Represented by, Smt Usha Yadav, Smt Anpula Yadav or others

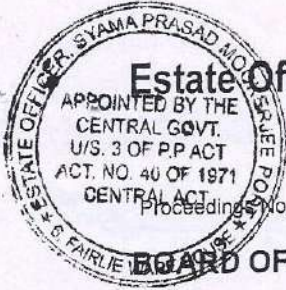
9
25.01.2022

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.01.2022
OFFICE OF THE
SYAMA PRASAD MOOKERJEE PORT

2. That O.P has parted with possession of the subject premises to third parties without having any authority of Law.
3. That the plea taken by O.P. regarding non-receipt of quit notice dated 25.10.2017 as issued by the Port Authority has got no merit on evaluation of the factual aspect involved in this matter.
4. That the notice to quit dated 25.10.2017 as issued by the Port Authority to O.P. is valid, lawful and binding upon the parties.
5. That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".

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.

It is my considered view that a sum of Rs.11,86,380.57 (Rupees Eleven lakh eighty six thousand three hundred eighty and paise fifty seven only) for the period 01.10.1997 to 30.11.2017 (both days inclusive) is due and recoverable from O.P. by the Port authority on



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises
(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1749, 1749/R, of 2019 Order Sheet No. 25

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
Estate Indrajit Yadav, Represented by Smt Usha Yadav, Smt Anjali Yadav & others.

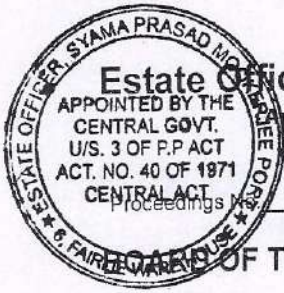
9
25.01.2022

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.01.2022
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

account of rental dues and O.P. must have to pay the rental 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 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.

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. 1,35,713/- (Rupees one lakh thirty five thousand seven hundred thirteen 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 01.12.2017 to 31.05.2020 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to SMP, Kolkata by 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 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



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

1749, 1749/R, of 2019 Order Sheet No. 26

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Estate Indragit Yadav, Represented by, Smt Usha Yadav, Smt Anshulaj Yadav & others,

9
25-01-2022

liability of O.P. to pay damages extends beyond 31.05.2020 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 31.05.2020, 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

(A. K Das)

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
28-01-2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT