

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
6, Fairley Place Warehouse Kolkata- 700 001.

REASONED ORDER NO.04 DT 18.07.2024
PROCEEDINGS NO. 2017 OF 2023

SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(ERSTWHILE BOARD OF TRUSTEES OF THE PORT OF KOLKATA)

-Vs-

Tarababu Prosad (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

2335
2336

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **Tarababu Prosad, 1, Strand Road, Chandpal Ghat (Pan Shop), Kolkata-700001** And also at **Ramkristopur Ferry Ghat, Ramkristopur, Howrah** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

1. That O.P. has failed to submit any reply to the Show Cause Notice u/s 4 & 7 of the Act in spite of repeated chances.
2. That O.P. has failed to appear before this Forum of Law and has failed to bear any witness or adduce any evidence in support of its authorized occupation into the Public Premises in spite of sufficient chances.
3. That O.P. has defaulted in making payment of rental dues to SMPK in gross violation of the condition of tenancy under monthly licence as granted by the Port Authority.
4. That O.P. has erected unauthorized construction upon the subject land, and also changed the purpose of the tenancy in violation of the terms and condition of the monthly licence.
5. That O.P. has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the notice of revocation of licence dated 24.03.2023 as issued from the Port Authority.
6. That occupation of O.P. (including the occupation of anybody asserting any right through O.P.) has become unauthorised in view of Sec. 2(g) of the P.P. Act.
7. That O.P. is liable to pay damages for its 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.

By Order of
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
19.07.24
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

PLEASE SEE ON REVERSE

(2)

A copy of the reasoned order No. 04 dated 18.07.2024 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 **Tarababu Prosad, 1, Strand Road, Chandpal Ghat (Pan Shop), Kolkata-700001 And also at Ramkristopur Ferry Ghat, Ramkristopur, Howrah** 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 **Tarababu Prosad, 1, Strand Road, Chandpal Ghat (Pan Shop), Kolkata-700001 And also at Ramkristopur Ferry Ghat, Ramkristopur, Howrah** 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.HB-41

Public Premises being room space measuring about 20.07 sq.mts under Plate No.HB-41 situated at Ramkristopur Ferry Ghat, Ramkristopur Howrah, P.S.-Howrah, District-Howrah. It is bounded on the North by SMPK land leased to Gobinda Barui, on the East by River Hooghly, on the West by Grand Foreshore road and on the South by Ramkristopur Ferry Ghat.

Dated: 19.07.2024,

Alandy
Signature & Seal of
Estate Officer.

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 LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

COPY FORWARDED TO THE ESTATE MANAGER, SYAMA PRASAD MOOKERJEE PORT, 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. 2017/R OF 2023
ORDER NO. 04 DATED: 18.07.2024.

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

To
Tarababu Prosad.
1, Strand Road,
Chandpal Ghat(Pan Shop),
Kolkata-700001
And also at
Ramkristopur Ferry Ghat,
Ramkristopur
Howrah.

By Order of
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
18.07.24
Head Assisted
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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

AND WHEREAS, by written notice dated 03.07.2023 you are called upon to
show cause on or before 13.07.2023 why an order requiring you to pay a sum
of Rs.1,32,872/- (Rupees One lakh thirty two thousand eight hundred seventy
two 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.1,32,872/- (Rupees One lakh
thirty two thousand eight hundred seventy two only) for the period 30.04.1999
to 04.04.2023 (both days inclusive) to SMP, Kolkata by 01.08.2024

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 @ 7.50* % per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

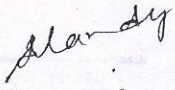
In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

SCHEDULE

Plate No.HB-41

Public Premises being room space measuring about 20.07 sq.mts under Plate No.HB-41 situated at Ramkristopur Ferry Ghat, Ramkristopur Howrah, P.S.-Howrah, District-Howrah. It is bounded on the North by SMPK land leased to Gobinda Barui, on the East by River Hooghly, on the West by Grand Foreshore road and on the South by Ramkristopur Ferry Ghat.

Dated: 19.07.2024.


Signature and seal of the
Estate Officer

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

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 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. 2017, 2017/R of 2023 Order Sheet No. 06

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
TARABABU PROSAD

FINAL ORDER

The record is put up before the undersigned on being assigned by the Department. It is seen that the instant matter was heard by my predecessor Estate Officer and he was pleased to reserve the Final Order on 13.07.2023 after completion of the hearing. It is also seen that as per the order dated 08.06.2023 passed by my predecessor Estate Officer, the Show Cause Notice was already affixed on the conspicuous part of the subject premises and in response to such Show Cause Notice no one have ever appeared before this Forum to contest the instant matter. I think no fruitful purpose will be served if further date of hearing is fixed. Therefore, considering the available documents and materials on record, I am delivering this order today.

It is the case of Syama Prasad Mookerjee Port, Kolkata (Erstwhile Kolkata Port Trust/KoPT), hereinafter referred to as 'SMPK', the Applicant herein, that **Tarababu Prosad (O.P)** came into occupation of the Public Premises in question being land msg. about 20.07 Sq.m at Ramkristopur Ferry Ghat, Ramkristopur, Howrah comprised under occupation/Plate No. HB-41 as a monthly licensee for the purpose of commercial use and O.P violated the condition of tenancy under licence by way of not paying licence fees/rental dues etc. Moreover, O.P. has erected unauthorized construction on the subject premises and also changed the purpose of such tenancy as alleged on behalf of SMPK. It is argued by SMPK that O.P. has no authority under law to occupy the public premises after service of revocation of licence notice dated 24.03.2023, demanding possession. It is argued that SMPK has duly determined the tenancy under licence by due service of revocation of licence notice and has duly exercised its right to re-enter into possession on 5th April 2023.

This Forum issued Show Cause Notice u/s 4 of the Act (for adjudication of the prayer for recovery of possession etc. of the Public Premises). Show Cause Notice u/s 7 of the Act was also issued to O.P. (for adjudication of the prayer for recovery of arrear rental dues, damages etc.). All the Show Cause Notice/s u/s 4 & 7 of the Act were issued as per Rule made under the Act and all dated 03.07.2023 (vide Order No.02 dated 08.06.2023). O.P. was asked to Show Cause on or before 13.07.2023.

04
18.07.2024

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 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. 2017, 2017/R of 2023 Order Sheet No. 07

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
TARABABU PRASAD

04
18.07.2024

It reveals from record that such Notice/s have been sent to O.P both by hand and Speed Post as per addresses available on record and Postal Service to both the addresses of O.P returned undelivered to the Forum with two different remarks such as "Addressee deceased" and "insufficient address" respectively. I have duly considered the report of the Process Server dated 06.07.2023 regarding personal service/Affixation of Notice u/s 4 & 7 of the Act on the Public Premises. I am satisfied with the service of notice to all concerned interested into the property. In my view, sufficient chances have been given to all concerned to represent their case and O.P. has failed to submit its reply to the Show Cause Notice u/s 4 & 7 of the Act all dated 03.07.2023 in spite of sufficient chances. As no one appeared on behalf of O.P. or on behalf of any person/s interested into the property in spite of several dates scheduled for hearing and no reply to the Show Cause Notice/s has been filed as yet, I am left with no other alternative but to issue order of eviction u/s 5 of the Act to O.P. and to all person/s whoever may be in occupation on the following grounds/reasons:

1. That O.P. has failed to submit any reply to the Show Cause Notice u/s 4 & 7 of the Act in spite of repeated chances.
2. That O.P. has failed to appear before this Forum of Law and has failed to bear any witness or adduce any evidence in support of its authorized occupation into the Public Premises in spite of sufficient chances.
3. That O.P. has defaulted in making payment of rental dues to SMPK in gross violation of the condition of tenancy under monthly licence as granted by the Port Authority.
4. That O.P has erected unauthorized construction upon the subject land and also changed the purpose of the tenancy in violation of the terms and condition of the monthly licence.
5. That O.P. has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the notice of revocation of licence dated 24.03.2023 as issued from 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
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. 2017, 2017/R of 2023 Order Sheet No. 08

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
TARABABU PRASAD

- 04
78.07.2024
6. That occupation of O.P. (including the occupation of anybody asserting any right through O.P.) has become unauthorised in view of Sec. 2(g) of the P.P. Act.
 7. That O.P. is liable to pay damages for its 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.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 unauthorised use and enjoyment of the property against O.P. 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.1,32,872/- (Rupees One Lakh Thirty two thousand eight hundred seventy two only) for the period from 30.04.1999 to 04.04.2023 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of rental dues and O.P. must have to pay the rental dues to SMPK on or before 01.08.2024 Such dues attract compound interest @ 7.50* % 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 SMPK's books of accounts.

I find that SMPK has made out an arguable claim against O.P., founded with sound reasoning, regarding the damages/compensation to be paid for the unauthorised occupation. I make it clear that SMPK is entitled to claim damages against O.P. for unauthorised use and occupation of the public premises right upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law as the possession of the premises is still lying unauthorisedly with the O.P. SMPK is directed to submit a statement comprising details of its calculation of damages, indicating there-in,

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
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PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
19.7.24
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. 2017, 2017/R of 2023 Order Sheet No. 09

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

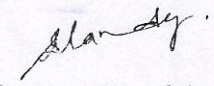
VS
TARABABU PRASAD

04
18.07.2024

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


(Swarup Nandy)
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
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
18.07.2024