

Scanned copy.  
on 29.11.2019.

**REGISTERED POST WITH A/D.  
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AFFIXATION ON PROPERTY**

**THE ESTATE OFFICER, KOLKATA PORT TRUST**  
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)  
**Public Premises (Eviction of Unauthorized Occupant) Act 1971**  
**OFFICE OF THE ESTATE OFFICER**  
6, Fairley Place (1st Floor)  
**KOLKATA - 700 001**  
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Court Room At the 1<sup>st</sup> Floor  
of Kolkata Port Trust's  
Fairlie Warehouse  
6, Fairley Place, Kolkata- 700 001.

**REASONED ORDER NO.17 DT 29.11.2019,**  
**PROCEEDINGS NO. 1297 OF 2012**

**BOARD OF TRUSTEES OF THE PORT OF KOLKATA**  
**-Vs-**  
**The Garrison Engineer (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  
**The Garrison Engineer, M.E.O. Calcutta Circle, AC/4, Belvedere Estate,  
Alipore, Kolkata-700027 And 13, Camac Street, (6<sup>th</sup> Floor) Kolkata- 700017**  
is in unauthorized occupation of the Public Premises specified in the Schedule  
below:

**REASONS**

1. That O.P. has failed to file reply to the Show Cause Notice u/s 4 and 7 of the Act inspite of repeated chances.
2. That O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation" inspite of several opportunities.
3. That O.P. continued to occupy the public premises unauthorisedly beyond 21.12.1989 in gross violation of the condition of long term lease for 30 years which expired on 21.12.1989 as was granted to O.P. in the year 22.12.1959 by the Port Authority.
4. That O.P. has repeatedly failed to concur and accept the offer letter being No. 4353/II dated 29.12.1989 from KoPT allowing a fresh long term lease on certain terms and conditions.

**PLEASE SEE ON REVERSE**

5. That O.P's occupation has become unauthorised in view of Sec.2(g) of the P.P. 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 of the property to the Port Authority.

A copy of the reasoned order No. 17 dated 20.11.2019 is attached hereto which also forms a part of the reasons.

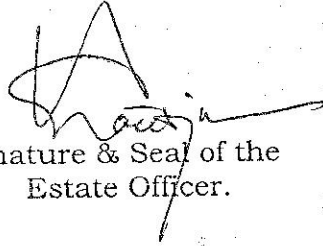
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **The Garrison Engineer, M.E.O. Calcutta Circle, AC/4, Belvedere Estate, Alipore, Kolkata-700027 And 13, Camac Street,(6<sup>th</sup> Floor) Kolkata- 700017** 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 **The Garrison Engineer, M.E.O. Calcutta Circle, AC/4, Belvedere Estate, Alipore, Kolkata-700027 And 13, Camac Street,(6<sup>th</sup> Floor) Kolkata- 700017** 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

Piece or parcel of land msg. about 3720.76 sq.m (under Plate No.D-343/2) which is situated at Transport Depot Road, Thana- Taratala Police Station, Kolkata, Dist: 24Parganas(South), Registration District-Alipore. It is bounded on the North partly by the Trustees' land and building and partly by Transport Depot Road, on the East partly by the Trustees' open land and partly by the Transport Depot Road, on the South partly by Trustees open land and building and partly by Trustees' Transport Depot Garage and on the West by the Trustees' open land and buildings.

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

Date- 29.11.2019.

  
Signature & Seal of the  
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER, KOLKATA  
PORT TRUST FOR INFORMATION.

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THE ESTATE OFFICER, KOLKATA PORT TRUST  
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)  
Public Premises (Eviction of Unauthorized Occupant) Act 1971  
OFFICE OF THE ESTATE OFFICER  
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Court Room At the 1<sup>st</sup> Floor  
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Fairlie Warehouse  
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PROCEEDINGS NO.1297/D OF 2012  
ORDER NO 17 DATED: 29.11.2019.

**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  
**The Garrison Engineer,  
M.E.O. Calcutta Circle,  
AC/4, Belvedere Estate,  
Kolkata -700027.**

And  
**13, Camac Street, (6<sup>th</sup> Floor)  
Kolkata- 700017.**

Whereas I, the undersigned, am satisfied that you were in unauthorised occupation of the public premises mentioned in the Schedule below:

And whereas by written notice dated 31.01.2019 you are called upon to show cause on/or before 27.02.2019 why an order requiring you to pay damages of **Rs.2,11,96,419.38** (Rupees Two Crore Eleven Lakhs Ninety Six Thousand Four Hundred Nineteen and paise thirty eight only) for **Plate No.D-343/2** 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.2,11,96,419.38** (Rupees Two Crore eleven lakhs ninety six thousand four hundred nineteen and paise thirty eight only) for **Plate No.D-343/2** as damages on account of your unauthorised occupation of the premises for the period from 22.12.1989 to 08.01.2019 to Kolkata Port Trust by 10.12.2019. In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act,

PLEASE SEE ON REVERSE

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest at the rate of 15% per annum upto 18.09.1996 and thereafter @ 18% per annum till 06.04.2011 and thereafter @14.25% per annum on the above sum with effect from the date of incurrance of liability, till its final payment in accordance with Notification Published in Official Gazette/s.


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**

Piece or parcel of land msg. about 3720.76 sq.m (under Plate No.D-343/2) which is situated at Transport Depot Road, Thana- Taratala Police Station, Kolkata, Dist: 24Parganas(South), Registration District- Alipore. It is bounded on the North partly by the Trustees' land and building and partly by Transport Depot Road, on the East partly by the Trustees' open land and partly by the Transport Depot Road, on the South partly by Trustees open land and building and partly by Trustees' Transport Depot Garage and on the West by the Trustees' open land and buildings.

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

Date 29.11.2019.

  
Signature & Seal of the  
Estate Officer.

**COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER,  
KOLKATA PORT TRUST 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. 1297 A/1297/D Of 2012 Order Sheet No. -16-

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

*The Garrison Engineer.*

### FINAL ORDER

The matter is taken up today for final disposal. Relevant facts are required to be put forward in a nutshell in order to understand the chain of events leading to the proceedings. It is the case of Kolkata Port Trust (KoPT), applicant, herein, that land Msg. 3720.76 Sq.m. situated at Transport Depot Road, Thana- Taratala, South 24 Parganas, comprised under Plate No. D-343/2 was allotted to The Garrison Engineer Military Estate Officer, Kolkata Circle (O.P.) on a long term basis for 30 years w.e.f. 22.12.1959 without any option of renewal which expired on 21.12.1989. A fresh long term lease on certain terms and conditions was offered to O.P. but the said offer was never accepted by them who continued to occupy the subject premises unauthorisedly. The cause of action of the instant proceeding arose after expiry of the long term lease dated 21.12.1989. It is argued that O.P. had no authority under law to occupy the Public Premises after expiry of the period as mentioned in the notice to quit dated 25.01.2006 (bearing the signature/endorsement of acknowledgement of one Habildar, D.S. Rai, NC& Directorate on 22.06.2006 on behalf of O.P.) and that O.P. is liable to pay damages for wrongful enjoyment of Port Property. It is also the case of KoPT that O.P. did not accept the terms and conditions of the offer for granting further lease by KoPT after the expiry of the earlier long term lease which expired on 21.12.1989. In this context, KoPT further submits that in view of the request for granting a further long term lease by O.P., a fresh offer was made by KoPT, which was not accepted by O.P. even after a lapse of two months. Accordingly, KoPT expressed its reservation to grant any fresh long term lease to O.P., asking it to vacate the subject public property, vide its letter dated 09.03.1990

Thereafter, KoPT filed application being No. Lnd. 4353/II/06/7715 dated 27.11.2006 for recovery of possession and recovery of damages/compensation for the continuous overstay at the subject premises unauthorisedly. After considering relevant papers/documents, as submitted on behalf of KoPT, this Forum of Law formed its opinion to proceed against O.P.

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1-12-29.11.19.

# 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. 1297 & 1297/D Of 2012 Order Sheet No. -17-

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*The Garrison Engineer.*

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under the relevant provisions of the Act and issued Show Cause Notice u/s 4 of the Act for (for adjudication of the prayer for issuance for order of eviction etc.) and Show Cause Notice u/s 7 of the Act (for adjudication of the prayer for recovery of damages etc.) both dated 31.01.2019.

It reveals from the report of the process server dated 12.02.2019, that the Notice u/s 4 and 7 was affixed at the subject premises but none was found at the recorded address. It is further seen from the Process Server's report dated 08.03.2019 when another attempt was made to serve the Notice/s, that O.P. refused to take service of the notice/s. On 13.03.2019, a direction was issued for publication of notice in a local daily newspaper regarding fixation of date of hearing etc. on 17.04.2019 at 12 noon and uploading of the notice on Kolkata Port's Official website for wide dissemination. Consequent upon publication of notice in English Daily "The Telegraph" on 26.03.2019 and display of the notice inviting attention of all concerned in KoPT's website, nobody appeared on behalf of O.P. to represent the matter on the date of hearing fixed on 17.04.2019. As such, I do not find any justification to proceed with the matter endlessly by fixing another date of hearing etc. In fact, I am satisfied with the service of notice to all concerned with the publication of notice in daily newspaper, as per practice and procedure followed under the Acts and Rules made there-under.

As there is no reply to the Show Cause Notice to the O.P. u/s 4 & 7 of the Act, inspite of provision of sufficient opportunities and I have not been furnished with any contrary documents/ evidences which may lead to doubting the basic contention of KoPT's case against O.P., I am left with no other options but to issue an order of eviction u/s 5 of the Act against O.P, as prayed for on behalf of KoPT, on the following grounds/reasons:

1. That O.P. has failed to file reply to the Show Cause Notice u/s 4 and 7 of the Act inspite of repeated chances.
2. That O.P. has failed to bear any witness or adduce any evidence in support of its occupation as



# 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. 1297 & 1297/D Of 2012 Order Sheet No. -18-

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*The Garrison Engineer* VS

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"authorised occupation" inspite of several opportunities.

3. That O.P. continued to occupy the public premises unauthorisedly beyond 21.12.1989 in gross violation of the condition of long term lease for 30 years which expired on 21.12.1989 as was granted to O.P. in the year 22.12.1959 by the Port Authority.
4. That O.P. has repeatedly failed to concur and accept the offer letter being No. 4353/II dated 29.12.1989 from KoPT allowing a fresh long term lease on certain terms and conditions.
5. That O.P.'s occupation has become unauthorised in view of Sec.2(g) of the P.P. 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 of the property 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 unauthorized use and enjoyment of the property against O.P., in accordance with Law upto the date of recovery of possession of the same. KoPT 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.

In my opinion KoPT's claim for damages from 22.12.1989 to 08.01.2019 for Rs. 2,11,96,419.38 (Two Crore Eleven Lakhs Ninety Six Thousand Four Hundred and Nineteen and paise Thirty Eight) (excluding interest for delayed payment) for wrongful occupation may be payable by O.P. As it is gathered during the course of hearing, the charges so claimed by KoPT are on the basis of the

*[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. 1297 X 1297 / D Of \_\_\_\_\_ Order Sheet No. -19-

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*The Garrison Engineer.* VS

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29.11.19.

Schedule of Rent Charges published under the Authority of Law as per provisions of the Major Port Trusts Act 1963. During the hearing, I find that KoPT has made out an arguable claim against O.P., founded with sound reasoning and buttressed by documents. I make it clear that Kolkata Port Trust is entitled to claim damages against O.P. for unauthorized use and occupation of the public premises upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law and KoPT is entitled to claim interest upon dues/charges right from the date of incurrance of liability by O.P. as per KoPT's Rule. NOW THEREFORE, I hereby assess the damages payable by the O.P. for wrongful and unauthorised occupation of the public premises in question, for the period 22.12.1989 to 08.01.2019 as Rs. 2,11,96,419.38 /- (Two Crore Eleven Lakhs Ninety Six Thousand Four Hundred and Nineteen and paise Thirty Eight) (Principal amount). In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest at the rate of 15% per annum upto 18.09.1996 and thereafter @ 18% per annum till 06.04.2011 and thereafter @14.25% per annum on the above sum with effect from the date of incurrance of liability, till its final payment in accordance with Notification Published in Official Gazette/s.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

  
(K.CHATTERJEE)  
ESTATE OFFICER

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