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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
Fairley Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 18 DT 06.09.2021.
PROCEEDINGS NO. 1694 OF 2019

**BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
Shri Ram Prosad Singh & Shri Guru Prosad Singh**

F O R M - "B"

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

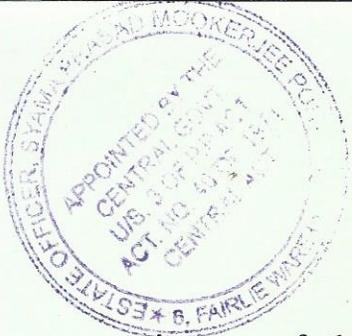
WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **Shri Ram Prosad Singh & Shri Guru Prosad Singh of 356/3, Upper Chitpur Road, Kolkata- 700 006 And ALSO AT 67/27, Strand Road, Cross Road No. 13, Nimtala, Kolkata- 700 006** is in unauthorized occupation of the Public Premises specified in the Schedule below:

R E A S O N S

- 1) That O.P. has failed to appear before this Forum and failed to file reply to the Show Cause Notice/s under the Act inspite of sufficient chances being given.
- 2) That O.P. has violated the conditions of tenancy under month to month lease, as granted by the Port Authority, by way of unauthorised construction and unauthorised parting of possession to rank outsiders.
- 3) That O.P./any other person on behalf of O.P. have failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 4) That O.P. or any other person/s asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation", inspite of sufficient chances being provided.
- 5) That the notice to quit dated 03.03.2014 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P's occupation, and that of any other occupant of the premises, has become unauthorised in view of Section 2(g) of the P.P Act.
- 6) That O.P. is liable to pay mesne profit/compensation/ damages for wrongful use and occupation of the Public Premises upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

Sud

Please see on reverse



:2:

A copy of the reasoned order No. 18 dated 06.09.2021 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 **Shri Ram Prosad Singh & Shri Guru Prosad Singh of 356/3, Upper Chitpur Road, Kolkata- 700 006 And ALSO AT 67/27, Strand Road, Cross Road No. 13, Nimtala, Kolkata- 700 006** 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 **Shri Ram Prosad Singh & Shri Guru Prosad Singh of 356/3, Upper Chitpur Road, Kolkata- 700 006 And ALSO AT 67/27, Strand Road, Cross Road No. 13, Nimtala, Kolkata- 700 006** 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 241

The said Piece or parcel of land Msg. 119.195 Sq.m or thereabouts is situated on the South side of Cross Road No. 13 at Nimtollah, Kolkata, Thana : Jorabagan, District : Kolkata. It is bounded on the North by the Cross No.13, on the South by the Trustees' land occupied by Hare Kissen Singh, on the East by the Trustees' land occupied by Iswar Prasad Singh and on the West by the Trustees' land occupied by Ram Kissen Singh.

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

Dated: 08.09.2021.

Signature & Seal of the
Estate Officer.

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)
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Court Room At the 1st Floor
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REASONED ORDER NO. 18 DT 06.09.2021
PROCEEDINGS NO. 1694/D OF 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
Shri Ram Prosad Singh &
Shri Guru Prosad Singh,
356/3, Upper Chitpur Road,
Kolkata- 700 006.
And ALSO AT
67/27, Strand Road,
Cross Road No. 13, Nimtala,
Kolkata- 700 006.

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

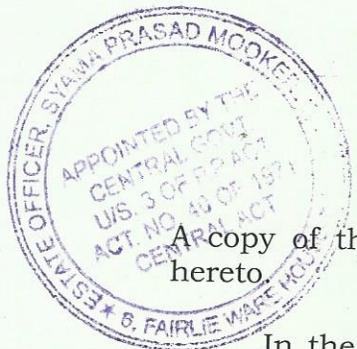
And whereas by written notice dated 28.03.2019 you were called upon to show- cause on/or before 22.04.2019 why an order requiring you to pay a sum of Rs 11,52,736/- (Rupees Eleven Lakhs Fifty Two Thousand Seven Hundred Thirty Six Only) being damages payable together with compound interest for unauthorised 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 11,52,736/- (Rupees Eleven Lakhs Fifty Two Thousand Seven Hundred Thirty Six Only) for the period from 01.02.2015 to 06.03.2019 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust, by 20.09.2021.

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, 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) 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.

Please see on reverse



:2:

A copy of the reasoned order no. 18 dated 06.09.2021 is attached hereto

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.

SCHEDULE

Plate no - SB 241

The said Piece or parcel of land Msg. 119.195 Sq.m or thereabouts is situated on the South side of Cross Road No. 13 at Nimtollah, Kolkata, Thana : Jorabagan, District : Kolkata. It is bounded on the North by the Cross No.13, on the South by the Trustees' land occupied by Hare Kissen Singh, on the East by the Trustees' land occupied by Iswar Prasad Singh and on the West by the Trustees' land occupied by Ram Kissen Singh.

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

Dated: 08.09.2021.

Signature and seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, KOLKATA PORT TRUST FOR INFORMATION.

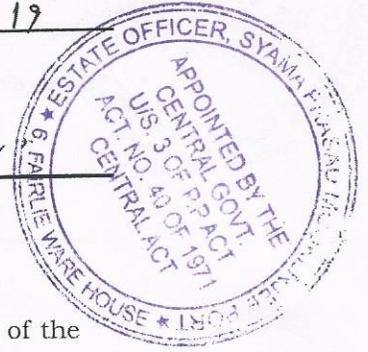
Estate Officer, Kolkata Port Trust

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

Proceedings No. 1694/D Of 2019 Order Sheet No. 19

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Sri Ram Prasad Singh ^{VS} Sri Guru Prasad Singh



FINAL ORDER

18
06.09.2021.

The instant proceedings No. 1694 of 2019 arises out of the application bearing No. Lnd.7/37/16/2464 dated 20.10.2016 filed by the Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust, hereinafter referred to as '**SMP, Kolkata**'], the applicant herein, praying for an order of eviction, recovery of compensation/ mesne profit/ damage dues etc. along with accrued interest thereon in respect of the subject premises, against **Shri Ram Prasad Singh & Shri Guru Prasad Singh**, (hereinafter referred to as **O.P.**), under relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as '**the Act**').

The fact of the case in a nutshell is that the O.P. came into occupation of the port property being piece or parcel of land measuring 119.195 sqm or thereabouts (under occupation Plate No. SB 241) on a month to month Lease on the south side of Cross Road No 13 at Nimtollah, Kolkata, morefully described in the Schedule 'A' of SMP, Kolkata's application dated 20.10.2016. It is the case of SMP, Kolkata that the O.P. has erected unauthorised construction at the premises and unauthorisedly parted with the possession of the premises to the rank outsider in gross violation of the terms and conditions of the tenancy and failed to remove the breaches despite repeated requests from SMP, Kolkata. It is the case of SMP, Kolkata that the tenancy with the O.P. was determined w.e.f. 31.03.2014 in terms of the Notice to Quit dated 03.03.2014. It is the case of SMP, Kolkata that the O.P. has failed and neglected to vacate/ hand over the possession of the premises after service of the Notice to Quit. SMP, Kolkata has made out a case that O.P. has no right to occupy the premises after the termination of the lease in question upon service of a quit notice dated 03.03.2014. SMP, Kolkata has made out a claim that 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
Head Assistant
07.09.2021
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Sud



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. 1694/D Of 2019 Order Sheet No. 21

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Sri Ram Prasad Singh ^{VS} Sri Anur Prasad Singh

18
06.09.2021

O.P. is liable to pay mesne profit/compensation/ damages for their unauthorised use and occupation of the port property in question after issuance of the Notice to Quit dated 03.03.2014 till the date of recovery of possession of the port property by SMP, Kolkata.

This Forum of Law formed its opinion to proceed against the O.P. under the relevant provisions of the Act of 1971 and issued show cause notices under Section 4 of the Act dated 22.01.2019 (for adjudication of the prayer of eviction) and Show Cause Notice under 7 of the Act dated 23.03.2019 (for adjudication of the prayer for recovery of mesne profit/compensation/ damages etc) as per the Rules made under the Act.

By Order of
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORIGINAL
DATED 06.09.2021
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

It appears that both the Notices issued under section 4 and 7 were sent through the 'Speed Post' to the recorded addresses of O.P. at '356/3, Upper Chitpur Road, Kolkata-700 006' and '67/27, Strand Road, Cross Road No 13, Nimtala, Kolkata- 700 006'. However, the notices were returned undelivered by the Postal Department with the remark 'left'. Be that as it may, it is reported by the 'Process Server' of this Department, vide his report dated 07.02.2019, that the door of the premises was closed at the time of his visit on 07.02.2019 at the subject premises. It is, however, stated by the Process Server in his report dated 07.02.2019, that the Notice issued u/s 4 was affixed on the property in question, as per the mandate of the Act. Thereafter, attempts were made to serve the Notice u/s 4 of the Act upon the O.P. in terms of the Orders dated 21.02.2019 and 07.03.2019. Then it was reported by the 'Process Server' vide his report dated 12.03.2019 that the O.P. had "refused" to take service of the Notice issued by this Forum. Similarly, attempt was made to serve the Notice issued u/s 7 of the Act to the O.P. through the 'Process

Sud

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. 1694/D Of 2019 Order Sheet No. 21



BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Sri Ram Prasad Singh ^{VS} Sri Anur Prasad Singh.

18

06.09.2021

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT TRUST
KOLKATA
CERTIFIED COPY OF THE ORDER
PASSES BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT TRUST
KOLKATA
20.07.2021
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT TRUST
KOLKATA

Server' in addition to the postal service. It appears from the report of 'Process Server' dated 01.04.2019 that O.P. refused to take delivery of the Notice issued u/s 7 of the Act on 01.04.2019. However, the Notice issued u/s 7 was affixed on the property in question, as per the mandate of the Act. Thereafter, several attempts were made to serve the Orders of this Forum upon O.P. through 'Speed Post' but failed to fetch any result. Then the possibility of O.P. having an alternative/ additional address was explored by this Forum and SMP, Kolkata was directed to provide the alternative address, if any, of O.P. vide Order dated 03.12.2020. In compliance of the Order, SMP, Kolkata filed an application dated 16.12.2020 stating the alternative address of O.P. at Patna, Bihar. However, the address provided was not full or complete as it had no PIN Code for effecting proper service. Nonetheless, this Forum continued with its effort to serve the Orders/ Notices of this Forum upon the recorded address of O.P. for their due appearance, contest in the matter, but every time it was returned with the remark of Postal Department 'Not Known'. It appears that inspite of such efforts being made, the appearance of O.P. could not be procured and such efforts remained futile. Accordingly, a decision was taken to publish a notice in a widely circulated newspaper for a notice to all concerned about the pendency of the instant proceeding in order to give further chance to the O.P. to appear before this Forum and to represent their case. Such notice was published in 'The Times of India (Kolkata edition)' on 20.03.2021 fixing the date for the O.P's appearance, filing reply to Show Cause on 01.04.2021, but such effort went into vain as none appeared from O.P's side and as such, I am inclined to proceed ex-parte against the O.P. In my view, as per the Rules framed under the Act of 1971, affixation on the subject property is due service of Notice on the O.P. as well as on anybody else interested in the property in question.

Sudh

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. 1694/D Of 2019 Order Sheet No. 22

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Sri Ram Prasad Singh ^{VS} Sri Gurn Prasad Singh

18

06.09.2021

In my view, several attempts were made to procure the attendance of O.P., but O.P. did not appear. Still for the ends of justice, the Notice of this Forum was affixed on the conspicuous part of the premises, as confirmed from said Report/s of the Process Server. On 2 (two) occasions it was reported that the O.P. refused to take service of the Notices. The O.P. did not care to appear before this Forum at any point of time even after publication of a Notice in an English daily newspaper named 'Times of India' or even thereafter till passing of this Order.

I have carefully considered all the documents placed before me. I find that the contentions of SMP, Kolkata regarding the breach made by O.P. by unauthorisedly parting with the possession to the rank outsiders, erection of construction unauthorisedly appears to have merit. As regards the allegations, I have gone through the copy of letter dated 28.05.2012 placed before me by SMP, Kolkata. It appears that in terms of the said letter, SMP Kolkata gave a Final Notice to the O.P. dated 28.05.2012 for the said breaches. It further appears that SMP, Kolkata lodged a complaint dated 09/10.05.2012 before the Jorabagan Police Station requesting for an urgent action for stoppage of such unauthorised construction work made by O.P. SMP, Kolkata has also placed on record sketch map dated 13.05.2013, from where it appears that O.P. has carried out some construction which was not approved by the Port authority. As regards the allegations of non-payment by O.P., I find that SMP, Kolkata has produced detailed statement of accounts dated 20.10.2016 in respect of the said occupation. It appears from the said statements of accounts that since February/ March, 2015 no payments, whatsoever, was made by O.P. in respect of the subject occupation under plate no SB 241. In my view, such

By Order of
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT TRUST
CERTIFIED COPY OF THE
ORDER PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT TRUST
06.09.2021
Head Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Smt

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. 1694/D Of 2019 Order Sheet No. 23



BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Sri Ram Prasad Singh ^{VS} Sri Gurn Prasad Singh

18

06-09-2021

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

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

J. 07-09-2021
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT TRUST

statement maintained by the statutory authority in the usual course of business has definite evidentiary value, unless challenged with fortified documents/evidences etc, ready to bear the test of legal scrutiny. During the course of hearing, I am given to understand by the Port Authority that the mesne profit/compensation/ damages charged from time to time is based on the rates notified by the Tariff Authority for Major Ports (TAMP) in the Official Gazette, which is binding on all users of the port property. Non-payment of dues by O.P. for years together is very much prominent and established, as discussed above.

Such a tenancy is to be determined immediately by service of appropriate notice. As such, in my view, SMP, Kolkata's Notices to Quit dated 03.03.2014 is very much pertinent and binding upon the parties in question, duly served on O.P. as per records. Thus, I have no hesitation in upholding the said Notice to Quit and declaring the occupation of the O.P. as "unauthorized" within the meaning of Sec. 2 (g) of the P.P. act, 1971.

In view of the circumstances, being satisfied as above, I am left with no other alternative but to issue the Order of Eviction against O.P., as prayed for on behalf of SMP, Kolkata, on the following grounds/reasons:-

- 1) That O.P. has failed to appear before this Forum and failed to file reply to the Show Cause Notice/s under the Act inspite of sufficient chances being given.
- 2) That O.P. has violated the conditions of tenancy under month to month lease, as granted by the Port Authority, by way of unauthorised construction and unauthorised parting of possession to rank outsiders.
- 3) That O.P./any other person on behalf of O.P. have failed to make out any case in support of its

Sud

Estate Officer, Kolkata Port Trust

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

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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18
06.09.2021

execution of the order of eviction u/s 5 of the Act, 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 as aforesaid; Port Authority is entitled to proceed further for recovery of possession in accordance with law.

As regards SMP, Kolkata's claim for mesne profit/ compensation/ damages and taxes, I am firm in holding that as per law, O.P. is liable to pay the mesne profit/ compensation/ damages for unauthorized use and enjoyment of the property right upto the date of handing over of possession of the public premises to SMP, Kolkata. As no one from O.P's side appears and no reply to the Show Cause Notice u/s 7 of the Act has been filed as yet, I have no bar to accept the claim of SMP, Kolkata on account of damages/compensation/ mesne profit etc. In fact, I have nothing to disbelief in respect of SMP, Kolkata's claim against O.P. as per statement of accounts maintained regularly in SMP, Kolkata's office in regular course of business.

It is my considered view that a sum of Rs 11,52,736/- (Rupees Eleven Lakhs Fifty Two Thousand Seven Hundred Thirty Six Only) for the period from 01.02.2015 to 06.03.2019 is due and recoverable from O.P. by the Port authority on account of damages/compensation/ mesne profit and O.P. must have to pay such dues to SMP, Kolkata on or before 20.09.2021. Such dues attracts 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,

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
07.09.2021

Sub



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. 1694/D Of 2019 Order Sheet No. 26

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

(303-241)

Sri Ram Prasad Singh ^{VS} Sri Gnew Prasad Singh

18
06-09-2021

if any made so far by O.P., in terms of SMP, Kolkata's books of accounts. The formal order u/s 7 of the Act is signed accordingly.

Department is directed to draw up formal order as per Rule u/s 7 of the Act.

I make it clear that in the event of failure on the part of O.P. to pay the dues/charges as aforesaid; SMP, Kolkata is at liberty to recover the dues etc. in accordance with law.

All concerned are directed to act accordingly.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
J D 07.09.2021
Head Assistant
OFFICE OF THE I.D. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

GIVEN UNDER MY HAND AND SEAL

(S. Mitra)
ESTATE OFFICER

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