

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 Unauthorised Occupants) Act 1971  
OFFICE OF THE ESTATE OFFICER  
6, Fairlie Place (1st FLOOR) KOLKATA-700001  
\*\*\*\*\*

Court Room at the 1st Floor  
Of SMPK's  
Fairlie Warehouse  
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.260/D OF 1998  
ORDER NO. 57 DATED: 14.06.2023

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

**K.R Steel Union Ltd,**  
**Everest House, 10<sup>th</sup> Floor,**  
**46C, Chowringhee Road**  
**Kolkata-700027**

**4692**

**AND**  
**Belvedere Court,**  
**11 & 13, Alipore Road,**  
**Kolkata-700027**

**4693**

**AND ALSO AT**  
**16D, Industrial Area,**  
**Kalyani-741235.**

**4694**

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
MADE BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
R 215.06.23  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

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 20.05.2022 you are called upon to show cause on or before 03.06.2022 why an order requiring you to pay damages of Rs.1,09,92,550/- (Rupees One Crore nine lakhs ninety two thousand five hundred fifty only) 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.1,09,92,550/- (Rupees One Crore nine lakhs ninety two thousand five hundred fifty only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 30.04.1980 to 28.12.2011(both days inclusive) to SMPK by 28.06.2023.

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 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.GR-23

The said piece and parcel of land msg.4603.45 Sq.m or thereabouts is situate at 'J' Block, Sonai within Police Station: South Port, Dist: 24 Parganas(South). It is bounded on the north by the Trustees' strip of open land beyond which is their drain on the south by the Trustees' open land on the east partly by the Trustees' strip of open land and partly by their strip of open land reserved as margin of safety alongside their Railway siding and on the west by the Trustees' strip of open land reserved as margin of safety alongside their railway siding.

Date 15.06.2023.

Signature & Seal of the  
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  
15.06.2023  
Asstt. Assistant  
OFFICE OF THE LD. ESTATE OFFICER,  
SYAMA PRASAD MOOKERJEE PORT

COPY FORWARDED TO THE ESTATE MANAGER, SYAMA PRASAD MOOKERJEE PORT,  
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

260/D of 1998 Order Sheet No. 34

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

K. R. STEEL UNION LTD.

## FINAL ORDER

The matter is taken up today for final disposal. The factual aspect involved in this matter is required to be put forward in a nutshell, in order to link up the chain of events leading to this proceedings. It is the case of Syama Prasad Mookerjee Port, Kolkata (Erstwhile Kolkata Port Trust/KoPT), hereinafter referred to as 'SMPK', the applicant herein, that **K.R Steel Union Ltd**, hereinafter referred to as 'O.P.' herein, came into occupation of Port property being land msg. about 4063.45 sq.m situated at J Block, Sonai comprised under occupation No. GR-23 as monthly licensee initially for a period of 6 (six) months which was further extended periodically till 31<sup>st</sup> March, 1980 and O.P. violated the condition of such tenancy under licence by unauthorisedly remaining on the premises after expiry of such licence period. It reveals from record that possession of the subject Public Premises in question was taken over by the Port Authority on 28.12.2011 and SMPK has since come up with prayer for realization of arrear damages/compensation charges against O.P. This Forum of Law formed its opinion to proceed against O.P. and issued Show Cause Notice u/s 7 of the Act dated 20.05.2022 (for adjudication of the prayer for realization of damages for wrongful occupation) and O.P. was asked to file reply to the Show Cause on or before 03.06.2022.

It appears that the original application was filed by SMPK against "**K.R Steel Union Pvt. Ltd.**" However, it appears from some of the communications of O.P. that O.P. has changed their name from "**K.R Steel Union Pvt. Ltd**" to "**K.R Steel Union Ltd**". It appears that a good number of hearings have taken place before passing of this Order and nobody has ever pointed out any discrepancies before this Forum. Further, **K.R Steel Union Ltd** has acknowledged their liability towards the subject occupation throughout the entire proceedings. Hence, it appears to me that such discrepancy in the name of O.P., as reveals from the record, might be a typographical one and did not prejudice the rights and liabilities of the parties to the

57

14.06.2023

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
14.06.23  
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. 260, 260/D of 1998 Order Sheet No. 35

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS  
M/S K.R. STEEL UNION PVT. LTD.

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14.06.2023

present proceeding. In view of the above, it is therefore, directed that henceforth the name of O.P should be read as **K.R Steel Union Ltd** instead of **K.R Steel Union Pvt. Ltd** for all the material purposes of this proceeding.

O.P. filed its objection/reply to the Show Cause Notice on 26.08.2022 and contested the matter through its Advocate. I have duly considered the O.P's brief notes of arguments dated 11.11.2022 and also the application as was filed on 04.01.2023. I have also considered SMPK's applications/comments to the petition filed on 12.09.2022, 15.12.2022 and 09.01.2023.

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

- I. Whether O.P. can disown their liability towards payment of damages/compensation charges on the plea that they have vacated the premises or not;
- II. Whether O.P. is liable to pay damages upto 28.12.2011 that is up to the date of taking over possession of the entire Public Premises in question to SMPK or not;
- III. Whether quantum of damages as claimed by SMPK against O.P. is correctly payable by O.P. or not;

With regard to the **issue No.I** dispute has been raised by O.P disowning their liability towards payment compensation charges on the ground of surrender of possession of land to SMPK. O.P. vide their reply/written objection to the Show Cause dated 26.08.2022 contended that vide their letter dated 27.10.1983 and 30.11.1983, O.P. had repeatedly brought to the knowledge of SMPK authority that their Officers were present on the site from 10.30 A.M to 5.30 P.M from 27.10.1983 upto till 31.10.1983 for handing over peaceful possession of the lease hold land to SMPK, however, none from the SMPK's side were present to take such possession

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
ISSUED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
15.06.23  
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

Proceedings No. 260, 260/P of 1998 Order Sheet No. 36

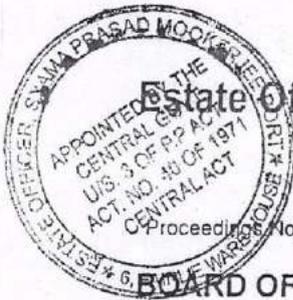
**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**VS**

**M/S K.R. STEEL UNION PVT. LTD**

back. It is further contended by O.P that they were forced to sign one agreement with one land grabbing unscrupulous element, carrying on business in the name of 'Jupiter & Co' and were also forced to write to SMPK for installation of electricity meter. It is also the case of O.P. that they are not in possession of the Public Premises since 31.10.1983 and as such they are not liable to pay payment towards the charges for compensation/mesne profit as claimed by SMPK. On the other hand SMPK has contended that after expiry of the period of licence on 31.03.1980, O.P continued their occupation unauthorisedly and neglected to vacate and deliver up peaceful possession to SMPK therefore, O.P is liable to pay compensation to SMPK for such unauthorized occupation. Heard the submission of both the parties and considered the matter. As per law a lessee/licencee is bound to deliver back possession of the premises to its lessor/licensor in its original condition after expiry of the lease/licence period or after determination of the lease/licence etc. as the case may be. Mere writing of letter communicating any intention to surrender possession or informing the status of the property does not necessarily mean that the property has been actually surrendered to SMPK and SMPK had taken over possession of such property upon such surrender. In course of hearing it is argued by SMPK that there cannot be any question of taking possession of the property in encumbered condition from O.P. The written objection of O.P. does not disclose any commitment or assurance from the part of SMPK regarding acceptance of possession of the property with the occupation of unauthorized entities. According to O.P.,(written objection of O.P. filed on 26.08.2022) they left the premises since 31.10.1983 whereas the averment of O.P's letter dated 10.02.1995 about installation of electric meter for supplying power at the premises negating the contention of O.P. Further O.P's letter dated 15.07.1996 also clearly depicts that O.P had sublet the premises M/s. Arshad & Co. Hence, as per law, O.P. has failed to make out any case in support of their contention regarding vacating/ surrendering of the premises

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PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
26.06.23



**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.

260, 260/D of 1998

Order Sheet No.

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**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**M/S K.I.R. STEEL<sup>VS</sup> UNION PVT. LTD**

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to SMPK since 31.10.1983 and in my considered view, O.P. was under constructive possession of the premises through its sub-tenant upto the date of recovery of possession by SMPK on 28.12.2011. With this observation the issue is decided against O.P. and clearly decided in favour of SMPK.

**Issues No. II & III** are taken up together for the shake of convenience as the issues are related with each other. The discussions against the foregoing issue is bound to dominate these issues. I have deeply gone into the submissions/arguments made on behalf of the parties in course of hearing. The properties of the Port authority are coming under the purview of "public premises" as defined under the Act. Now the question arises how a person become 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. Here the tenancy under licence in favour of O.P. has doubtlessly determined by expiry of licence period and the Port Authority issued notice of revocation of licence dated 22.04.1980 and did not recognize O.P. as tenant by way of not issuing demand for "licence fees/rent". As such, I have no bar to accept SMPK's contentions regarding determination of tenancy as discussed/decided against the aforesaid paragraphs 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 extended period of licence, O.P. has lost its authority to occupy the public premises. On evaluation of factual aspect involved into this matter I find that O.P. is liable to pay

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SYAMA PRASAD MOOKERJEE PORT  
15.06.23  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT



**State 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. 260, 260/D of 1998 Order Sheet No. 38

**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**VS**  
**M/S K.R. STEEL UNION PVT. LTD.**

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14.06.2023

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 10<sup>th</sup> December 2004, reported (2005)1 SCC 705, para-11 of the said judgment 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. ....”

Undoubtedly, the tenancy under licence is governed by the principles/provisions of the Indian Easement Act and there is no scope for denial of the same. Though the status of a “licencee” is entirely different from the status of a “lessee”, the principle established by the Hon'ble Apex Court of India in deciding any question about “damages” in case of a “lease” may be accepted as guiding principle for determining any question about damages in case of a “licence”.

In course of hearing, the representative of SMPK states and submits that Port Authority never consented in continuing O.P's occupation into the public premises and never expressed any intention to accept O.P as tenant. It is contended that SMPK'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 licence was doubtlessly revoked by the landlord by notice, whose validity for the purpose of deciding the question of law cannot be questioned by O.P. Therefore, there cannot be any doubt that the O.P. was in unauthorized occupation of the

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14.06.2023  
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. 260, 260/D of 1998 Order Sheet No. 39

**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**M/S K.R. STEEL UNION PVT. LTD. VS**

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14.06.2023

premises, once the licence was revoked. In my opinion, institution of this proceedings against O.P. is sufficient to express the intention of SMPK to obtain an order of eviction and SMPK is not in a position to recognize O.P. as tenant under such licence.

The Port Authority has a definite legitimate claim to get its revenue involved into this matter as per the SMPK'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 reported 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 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. In course of hearing, it is submitted on behalf of SMPK that the charges claimed on account of damages is on the basis of the SMPK's Schedule of Rent Charges as applicable for all the tenants/occupiers of the premises in a similarly placed situation and such Schedule of Rent Charges is notified rates of charges under provisions of the Major Port Trusts Act 1963. In my view, such claim of charges for damages by SMPK is based on sound reasoning and should be acceptable by this Forum of Law. 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. I have no hesitation to observe that O.P's act in continuing occupation is unauthorized and O.P. is liable to pay damages for unauthorized use and occupation of the Port property in question upto the date of delivering vacant, unencumbered

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**SYAMA PRASAD MOOKERJEE PORT**  
14.06.2023  
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. 260, 260/D of 1998 Order Sheet No. 40

**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**M/S K. R. STEEL VS UNION PVT. LTD**

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14.06.2023

and peaceful possession to SMPK. With this observation, I must reiterate that the Revocation notice, demanding possession from O.P. dated 22.04.1980 as stated above have been validly served upon O.P. in the facts and circumstances of the case and such notices are valid, lawful and binding upon the parties. In view of the discussions above, the issues are decided in favour of SMPK.

NOW THEREFORE, I think it is a fit case for issuance order for recovery of damages u/s 7 of the Act as prayed for on behalf of SMPK. I sign the order as per rule made under the Act, giving time upto 28.06.2023 for payment of damages of Rs. 1,09,92,550/- (Rupees One Crore nine lakh ninety two thousand five hundred fifty only) to SMPK by O.P. for the period 30.04.1980 to 28.12.2011 (both days inclusive) respectively. 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 make it clear that in the event of failure on the part of O.P. to pay the amounts to SMPK as aforesaid, Port Authority is entitled to proceed further in accordance with Law. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

(Kausik Kumar Manna)  
ESTATE OFFICER

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

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
Head Assistant  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
15.06.2023