



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

REASONED ORDER NO. 09 DT 27 JUL 2023
PROCEEDINGS NO.1459 OF 2015

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

-Vs-

Estate Radharani Mukherjee Rrepresented by Legal heirs, 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 Radharani Mukherjee Represented by Legal heirs of 67/41, Strand
Road, Kolkata-700007** is in unauthorized occupation of the Public Premises
specified in the Schedule below:

REASONS

1. That O.P or any other person interested in the property has failed to file any reply to the Show Cause Notice/s U/S 4 & 7 of the Act inspite of sufficient chances being provided to them.
2. That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
3. That O.P has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 28.04.1990.
4. That occupation of O.P. beyond the period of 'Quit Notice' is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question.
5. 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 to the Port Authority.

Just of:

THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE - PORT

8

PLEASE SEE ON REVERSE

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



(2)

27 JUL 2023

A copy of the reasoned order No. 09 dated 27 JUL 2023 is attached hereto which also forms a part of the reasons.

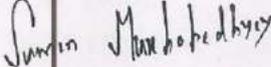
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **Estate Radharani Mukherjee Represented by Legal heirs of 67/41, Strand Road, Kolkata-700007** and all persons who 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 Radharani Mukherjee Represented by Legal heirs of 67/41, Strand Road, Kolkata-700007** 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 Nos.SB-39, SB-39/1 & SF-167

The said piece or parcel of land msg. about 129.135 Sq.m or thereabouts is situated on the west of Strand Road at Kulpighat within the presidency town of Kolkata. The said plot is bounded on the North by the Trustees' leased out land, on the East by Strand Road, on the South by Cross Road No.10, leading from Strand Road and on the West by the said Trustee' leased out land. Trustees' means the Board of Syama Prasad Mookerjee Port, Kolkata Authority (Erstwhile Board of Trustees' for the Port of Kolkata).

Dated:


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 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.1459/D OF 2015
ORDER NO. 09 DATED:

27 JUL 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

**Estate Radharani Mukherjee
Represented by Legal heirs
67/41, Strand Road,
Kolkata-700007.**

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 01.07.2016 you are called upon to show cause on or before 03.08.2016 why an order requiring you to pay damages of Rs.14,99,442/- (Rupees Fourteen Lakh ninety nine thousand four hundred forty two Only) 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.14,99,442/- (Rupees Fourteen Lakh ninety nine thousand four hundred forty two Only) assessed by me as damages on account of your unauthorised occupation of the premises both for the period from 01.06.2004 to 31.05.2016 (both days inclusive) to SMPK by 04-08-2023.

PLEASE SEE ON REVERSE

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



: 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 Nos. SB-39, SB-39/1 & SF-167

The said piece or parcel of land msg. about 129.135 Sq.m or thereabouts is situated on the west of Strand Road at Kulpighat within the presidency town of Kolkata. The said plot is bounded on the North by the Trustees' leased out land, on the East by Strand Road, on the South by Cross Road No.10, leading from Strand Road and on the West by the said Trustee' leased out land. Trustees' means the Board of Syama Prasad Mookerjee Port, Kolkata Authority (Erstwhile Board of Trustees' for the Port of Kolkata).

Date

Suman Mukherjee
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
[Signature]
OFFICE OF THE 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

Proceedings No.

1459, 1459/D Of 2015

Order Sheet No.

09

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

ESTATE RADHARANI MUKHERJEE, REPRESENTED BY LEGAL HEIRS.

FINAL ORDER

The instant proceedings No. 1459, 1459/D of 2015 arises out of the application bearing No. Lnd.15/35/12/766 dated 01.03.2012 filed by the Syama Prasad Mookerjee Port, Kolkata (Formerly Kolkata Port Trust/KoPT), hereinafter referred to as SMPK, the applicant herein, praying for an order of eviction and recovery of dues /damages and other charges etc. along with accrued interest in respect of the public premises as defined in the 'Schedule A' of said application, against **Smt. Radharani Mukherjee** (widow of Late Monmotha Nath Mukherjee, the "O.P" herein, under relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

It appears that the original application was filed by SMPK against **Smt. Radharani Mukherjee** (widow of Late Monmotha Nath Mukherjee and during the course of hearing, SMPK vide their application bearing No.Lnd.15/35/16/3735 dated 29.02.2016 submits that after enquiry made by the Officer In Charge of Jorabagan Police Station it was found that Smt. Radharani Mukherjee has expired and one Smt. Sailarani Banerjee @ Sumita Banerjee w/o Saktinath Banerjee(D/o Manmotha Nath Mukherjee), residing at Samba Mirjanagar Govt. Housing Estate, Block-G, Flat No.31, P.O. Sarkarpoole, P.S. Mahastola, Kolkata-743382 is the legal heir of Radharani Mukherjee(since deceased).

From the submissions of SMPK and verifying the enquiry report submitted by Officer In Charge of Jorabagan Police Station, it is well presumed that Smt. Radharani Mukherjee has expired and Smt. Sailarani Banerjee @ Sumita Banerjee is the legal heir of Late Radharani Mukherjee. Accordingly at the time of issuing Show Cause Notice dated 01.07.2016(vide order dated 01.04.2015) correction of the cause title was made as "**Estate Radharani Mukherjee**" instead of "**Smt. Radharani Mukherjee**(widow of Late Monmotha Nath Mukherjee)" for continuation of the instant Proceedings further.

The fact of the case in a nutshell is that the O.P. came into occupation of the port property being land measuring 129.135 sq.mtrs. or thereabout situated at Kulpighat (under Plate Nos.SB-39, SB-39/1 & SF-167) in the presidency town of Kolkata as short term Lessee which is morefully described in the 'Schedule of Property' of the said SMPK's application dated 01.03.2012. The allegations levelled by SMPK against the O.P is that while

09
27 JUL 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

OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1459, 1459/2 Of 2015 Order Sheet No. 40

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

ESTATE RADHARANI MUKHERJEE, REPRESENTED BY LEGAL HEIRS.

09
27 JUL 2023

in possession of Port property as Lessee, the O.P has defaulted in payment of Compensation/damages and also accrued interest thereon the details of which has given in 'Schedule-C' of the SMPK's application dated 01.03.2012.

It is the case of SMPK that said lease with O.P was determined by way of a Quit Notice dated 28.04.1990 and the O.P was asked to vacate the premises on the expiry of the month of May, 1990 but the O.P. has failed and neglected to vacate/ hand over the possession of the said premises after service of the said Notice to Quit.

Considering the submission advanced by SMPK 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 01.07.2016(vide order dated 01.04.2015) 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.

It is seen that after issuance of the aforesaid notice/s, on 03.08.2016 and 14.09.2016 O.P. did not appear before the Forum for giving reply to the Show Cause. However, the record depicts that such Notice/s had been sent to O.P both by hand and Registered Post as per addresses available on record.

Further it reveals from the report of the Process Server dated 01.07.2016 that Show Cause Notice/s u/s 4 & 7 were affixed on the subject premises on the same day at about 12.30 P.M. It is also seen that one Rajeev Agarwal has received the same on behalf of O.P and one Smt. Sailo Rani Banerjee thereafter appeared before the Forum on 09.11.2016 claiming herself as a legal heir of O.P. Thereafter, the Forum making necessary scrutiny of the above stated claim and considering the Police report dated 09.11.2015, gave a direction to O.P to file her reply to the Show Cause. Thereafter on 15.09.2022, the matter was placed before the undersigned and Forum gave a further direction to O.P to appear before the Forum vide its order dated 29.09.2022 and said Order dated 29.09.2022 was again served upon the O.P. through speed post/hand delivery to give him chances as per the Principles of Natural Justice. The Letter sent through Speed Post returned undelivered to the Forum with an

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 Assys
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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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. 1459, 1459/D of 2015 Order Sheet No. 11

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

ESTATE RADHAAANI MUKHERJEE, REPRESENTED BY LEGAL HEIRS

09
27 JUL 2023

endorsement "Addressee cannot be located/RTS" on 25.10.2022. However, the Report of the Process Server dated 25.10.22 depicts that said order was affixed on the subject premises in question on 25.10.2022 at 14:00 P.M as per the mandate of the P.P Act. But attendance of O.P could not be procured.

As none appeared on behalf of O.P or any other person interested in the property and as there is no reply to the Show Cause Notice/s both u/s 4 & 7 of the Act inspite of repeated chances, the final Order was reserved in the matter on 03.11.2022.

Now this Forum has decided to adjudicate the matter ex-parte.

As no one from O.P's side appears and no reply to the Show Cause Notice u/s 4 & 7 of the Act has been filed as yet, I have no bar to accept the claim of SMPK on account of unauthorised occupation of O.P into the Public Premises in question. I think that it is a fit case for issuing Order of eviction u/s 5 of the Act on the following grounds:-

1. That O.P or any other person interested in the property has failed to file any reply to the Show Cause Notice/s U/S 4 & 7 of the Act inspite of sufficient chances being provided to them.
2. That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
3. That O.P has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 28.04.1990.
4. That occupation of O.P. beyond the period of 'Quit Notice' is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question.
5. 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 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.Ps' 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

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
22/7/23
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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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. 1459, 1459/2 of 2015 Order Sheet No. 12

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

ESTATE RADHARANI MUKHERJEE REPRESENTED BY LEGAL HEIRS.

09
27 JUL 2023
27 JUL 2023

O.Ps' 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.14,99,442/- (Rupees Fourteen Lakh ninety nine thousand four hundred forty two only) for the period 01.06.2004 to 31.05.2016 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of compensation/damages and O.P. must have to pay such dues to SMPK on or before 04.08.23. The said damages shall 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 incurrance 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 sign the formal orders u/s 7 of the Act.

I make it clear that SMPK is entitled to claim 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 liability of O.P. to pay damages extends beyond 31.05.2016 as well, till such time the possession of the premises continues to be under the unauthorised occupation with the O.P. SMPK is directed to submit a statement comprising details of its calculation of damages after 31.05.2016, 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

Suman Mukhopadhyay
(S.Mukhopadhyay)
ESTATE OFFICER

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

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