



**REGISTERED POST WITH A/D.
HAND DELIVERY
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
15, STRAND ROAD
(4th Floor)
KOLKATA - 700 001

Court Room At the 2nd Floor
of Kolkata Port Trust's
Head Office, Old Buildings
15, Strand Road, Kolkata- 700 001.

REASONED ORDER NO. 12 DT 07.08.2018
PROCEEDINGS NO. 1460 OF 2015

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
Estate Krishna Mohan Dutta (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 Krishna Mohan Dutta, of Village & P.O. Begampur, Thana-Chanditala, Dist. Hooghly, West Bengal, PIN 712306** 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 has failed to file reply to the Show Cause Notice under the Act inspite of sufficient chances being given.
- 2) That O.P. has failed to vacate the premises which has been declared as condemned by the Port Authority.
- 3) That O.P. has 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 20.04.1990 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 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.

Please see on reverse



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A copy of the reasoned order No. 12 dated 07.08.2018 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 Krishna Mohan Dutta, of Village & P.O. Begampur, Thana- Chanditala, Dist. Hooghly, West Bengal, PIN 712306** 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 Krishna Mohan Dutta, of Village & P.O. Begampur, Thana- Chanditala, Dist. Hooghly, West Bengal, PIN 712306** 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

The said piece and parcel of the plot being Room no. 17 measuring 22.576 sqm or thereabouts on the second floor of the lessor's building being premises no. P.221/2, Strand Bank Road, situated on the West Side of the Strand Bank Road in the presidency town of Kolkata. It is bounded on the North by Room no. 16 of the said building, on the East by open space below which is the footpath of Strand Bank Road, on the South by Room no. 18 of the said building and on the West by the verandah of the said building used as passage.

Trustees' mean the Board of Trustees for the Port of Kolkata.

Dated: 07.08.2018

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

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FINAL ORDER

The matter is taken up today for final disposal. It is the case of Kolkata Port Trust (KoPT), applicant herein, that originally one Shri Krishna Mohan Dutta came into occupation of KoPT's Room no. 17 measuring about 22.576 sqm situated at second floor of KoPT's building being premises no. P.221/2 on the West side of Strand Bank Road, comprised under occupation No. CG-182/A, being the Public Premises in question, as a monthly lessee on certain terms and conditions. A case has been made out by KoPT that the premises had been declared condemned and hence a Notice to Quit dated 20.04.1990 was served on said Shri Krishna Mohan Dutta. It is strongly argued on behalf of KoPT that Shri Krishna Mohan Dutta has no authority under law to occupy the public premises after expiry of the period as mentioned in the notice to quit dated 20.04.1990 and Shri Krishna Mohan Dutta is liable to pay damages for wrongful use and occupation of the Port property upto the date of handing over of vacant possession of the same.

This Forum issued Show Cause notice under Section 4 of the Act (for adjudication of the prayer for issuance of Order of Eviction etc.) on 21.08.2015.

It is seen from record that nobody appeared on behalf of said Shri Krishna Mohan Dutta during the course of hearing before this Forum. It transpired that Shri Krishna Mohan Dutta has expired and hence in terms of the provisions of the Act, the proceedings was continued against "Estate Krishna Mohan Dutta" as O.P. of the instant case. Numerous



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opportunities were granted to all interested persons to appear before and submit their defence, if any, before this Forum of Law, but despite repeated attempts of service through the Process Server nobody turned up before this Forum. As per the mandate of the Act, Notice/s were published in daily newspapers The Telegraph and Anandabazar Patrika on 21.04.2016 and 30.04.2016 respectively but still no one appeared before this Forum. Thus, being satisfied with the service of notice to all concerned as mandated under law, this Forum, after hearing the arguments of KoPT proceeded to reserve the Final Order on 29.11.2017.

I have carefully gone through the contentions made by KoPT against the O.P. It is seen that KoPT vide letter dated 02.09.1969 (addressed to M/s Mandoss Drugs Pvt. Ltd) conveyed its offer to transfer the tenancy to Shri Krishna Mohan Dutta on monthly lease basis and Shri Krishna Mohan Dutta in turn accepted the offer vide letter dated 05.03.1970. Clause ii) of the said offer dated 02.09.1969 reads as follows:

"The tenancy will be terminable by 15 days' notice on either side expiring with the end of an English calendar month."

In such a scenario, in my view, after receiving the notice to quit dated 20.04.1990, the occupation of the O.P. is nothing but "unauthorized" in terms of the P.P. Act 1971. Accordingly, I am firm in holding that the Notice to Quit dated 20.04.1990 had been validly issued and served on the O.P. and the same is binding on the parties.



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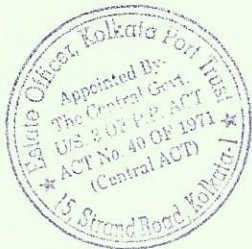
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In view of the circumstances, as there is no reply to the Show Cause Notice under Section 4 of the Act, from or on behalf of the O.P., and being satisfied as above, I am left with no other alternative but to issue the Order of Eviction against O.P., as prayed for on behalf of KoPT, on the following grounds/reasons:-

- 1) That O.P. has failed to appear before this Forum and has failed to file reply to the Show Cause Notice under the Act inspite of sufficient chances being given.
- 2) That O.P. has failed to vacate the premises which has been declared as condemned by the Port Authority.
- 3) That O.P. has 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 20.04.1990 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 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.

ACCORDINGLY, I sign the 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



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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 the canons of Law till the date of unencumbered 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 can be taken for execution of the order of eviction u/s 5 of the Act, as per Rule made under the Act.

KoPT is further directed to submit a report regarding its claim on account of dues and damages against O.P., indicating there-in, the details of the computation of such dues and damages with the rate of charges so claimed for the respective periods (details of computation with rates applicable for the relevant periods, i.e. upto the date of taking over of possession) for my consideration in order to assess the damages as per the Act and the Rules made thereunder.

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. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

(G. MUKHOPADHYAY)
ESTATE OFFICER

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