

**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  
(4<sup>th</sup> Floor)  
KOLKATA - 700 001  
\*\*\*\*\*

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

REASONED ORDER NO. 15 DT 23.08.2018  
PROCEEDINGS NO.1196 OF 2011

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-

**M/s Banerjee Coal Traders (as 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 **M/s Banerjee Coal Traders (Prop: Shri Alok Kumar Banerjee), OF 23/2B, Joy Krishna Paul Road, Kolkata 700023, AND also of Plot no. 78, Chetla Station Yard, Kolkata 700027** is in unauthorized occupation of the Public Premises specified in the Schedule below:

**REASONS**

1. That O.P. has violated the condition of monthly license as granted by the Port authority by way of not making payment of rental dues to KoPT, unauthorised parting of possession of subject premises, carrying out unauthorised construction etc.
2. That O.P. have failed to make out any case in support of its occupation as "authorised occupation".
3. That O.P. or any other persons asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation".
4. That the notice to quit dated 01.09.2003 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 Sec.2 (g) of the P.P. Act.
5. That O.P. is liable to pay damages for wrongful use and occupation of the public premises up to the date of handing over the clear, vacant and unencumbered possession to the port authority.

*R*

**Please see on reverse**

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A copy of the reasoned order No. 15 dated 23.08.2018 is attached hereto which also forms a part of the reasons.

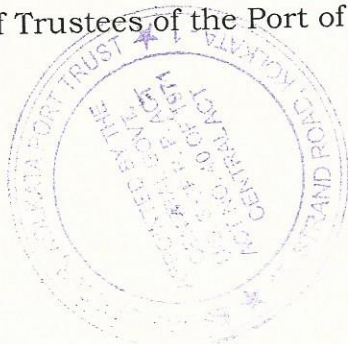
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **M/s Banerjee Coal Traders (Prop: Shri Alok Kumar Banerjee), OF 23/2B, Joy Krishna Paul Road, Kolkata 700023, AND also of Plot no. 78, Chetla Station Yard, Kolkata 700027** 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 **M/s Banerjee Coal Traders (Prop: Shri Alok Kumar Banerjee), OF 23/2B, Joy Krishna Paul Road, Kolkata 700023, AND also of Plot no. 78, Chetla Station Yard, Kolkata 700027** 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 or parcel of land Msg. about 112.413 sqm or thereabouts, situated at Chetla Station Yard, P.S. previously New Alipore, now Chetla P.S., Registration Dept. Alipore, Dist. 24 Parganas. It is bounded on the North by the Trustees' strip of open land alongside their boundary wall, on the East by the Trustees' land leased to Smt. Ramani Devi, on the South by the Trustees' road and on the West by the Trustees' vacant plot of land.

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

Dated: 23.08.2018



Signature & Seal of the  
Estate Officer.

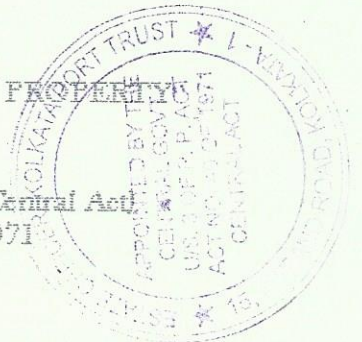
**COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER, KOLKATA  
PORT TRUST FOR INFORMATION.**

REGISTERED POST WITH A/D.  
HAND DELIVERY/AFFIXATION ON PROPERTY

**ESTATE OFFICER, 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  
15, STRAND ROAD (4<sup>TH</sup> FLOOR) KOLKATA-700001



Form " E "

PROCEEDINGS NO.1196/R OF 2011  
ORDER NO. 15 DATED:23.08.2018

Form of order under Sub-section (1) and (2A) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971

To  
M/s. Banerjee Coal Traders,  
(Prop: Shri Alok Kumar Banerjee)  
Of 23/2B, Joy Krishna Paul Road,  
Kolkata-700025 AND ALSO OF  
Flot No.78, Chetla Station Yard,  
Kolkata-700027.

WHEREAS you are in occupation of the public premises described in the Schedule below. (Please see on reverse).

AND WHEREAS, by written notice dated 02.01.2018 you were called upon to show cause on/or before 30.01.2018 why an order requiring you to pay a sum of Rs.92,047.59/- (Rupees Ninety Two thousand Forty Seven and paisa Fifty Nine only.) being the rent payable together with compound interest in respect of the said premises should not be made;

And whereas I have considered your objection and/or the evidence produced by you.

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby require you to pay the sum of Rs.92,047.59/- (Rupees Ninety Two thousand Forty Seven and paisa Fifty Nine only.) for the period 01.06.1987 to 30.09.2003 (both days inclusive) to Kolkata Port Trust by 14.09.2018.

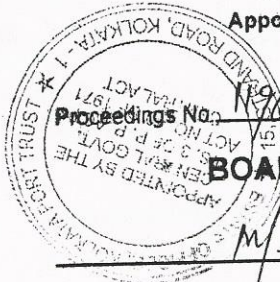
*a*

PLEASE SEE ON REVERSE



# 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. 1196/R. 1196/D of 2011 Order Sheet No. 12

**BOARD OF TRUSTEES OF THE PORT OF KOLKATA**

M/s Banerjee Coal Traders (As-O.P.) **VS**

15

23-08-2018

## FINAL ORDER

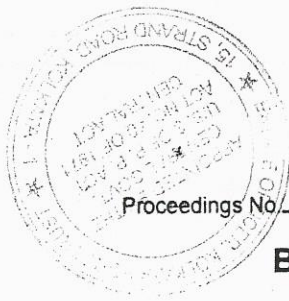
The matter is taken up today for final disposal. It is the case of Kolkata Port Trust (KoPT), applicant herein, that M/s Banerjee Coal Traders (Prop: Shri Alok Kumar Banerjee) (O.P. herein) came into occupation of the Port property measuring about 112.413 sq.mtr. at Chetla Station Yard (Plate No. D-553) as a monthly licensee and had defaulted in making payment of the arrear dues, transferred the full tenancy right to an outsider namely Shri Lalit Singh, encroached upon ports property measuring about 41.42 sq.mtr. and made unauthorised construction without prior approval, in clear violation of the terms and conditions of the license in question.

It is submitted that O.P. has no authority under law to occupy the public premises after issuance of notice to quit dated 01.09.2003 and was required to hand over the peaceful vacant possession of the property in question to KoPT on 01.10.2003 in terms of the notice to quit dated 01.09.2003. My attention is drawn with a strong argument that the cause of action arises upon failure on the part of the O.P. to hand over possession in terms of the said notice dated 01.09.2003 as served upon O.P. and thereafter.

In terms of Order no. 9 dated 14.12.2017, on 02.01.2018 this forum issued Show Cause Notice under section 4 of Public Premises (Eviction of Unauthorised Occupants) Act 1971 for adjudication of the prayer of passing of Order of Eviction etc. On the same date two Show Cause Notices u/s 7 of the Act were also issued upon O.P. for adjudication of the prayer for recovery of rental dues, damages etc.

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*[Faint purple stamp and handwritten signature]*  
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# 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. 1196, 1196/R, 1196/P Of 2011 Order Sheet No. 13

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Banerjee Coal Traders (A.S.O.P.) VS

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23.08.2018

On receipt of Show Cause Notices one Rishi Ranjan Singh, son of Siba Singh, claiming to be partner of M/s Banerjee Coal Traders appeared in person before this forum on 30.01.2018 and filed a Reply to Show Cause Notices signed by said Siba Singh. In the said reply request has been made for regularisation of the tenancy, and interest has also been shown to clear the Trustees' dues in equal monthly instalments. On 10.04.2018 representative of KoPT filed the rejoinder to the Reply of the O.P. with a copy served to Siba Singh who claimed himself to be a sitting occupant.

In the said rejoinder, KoPT has vehemently opposed the submission of O.P. and reiterated the allegations as per their earlier application made before this forum on 10.02.2006.

After obtaining rival pleadings along with documents and hearing both the parties extensively, final order was reserved on 24.04.2018 to avoid further lingering of the matter.

Now while delivering the final order, I have carefully gone through the contentions made by KoPT against the O.P. along with supporting documents submitted in this respect and submission of O.P. in this respect thereto. On perusal of the materials available on the record, I find that not only from the pleading of KoPT, but also from the Reply to Show Cause as filed by the sitting occupant who claimed himself to be a partner of O.P. and the documents submitted by O.P. it is clear that the sole proprietor of O.P. (Shri Alok Kumar Banerjee) has illegally and unlawfully transferred his right over the Port property to one Sri Yagya Narayan Singh who in turned transferred his right to one Santosh Kumar Singh who then formed apparent partnership with Siba Singh. As

*[Signature]*

UNDER THE  
ESTATE OFFICER  
KOLKATA PORT TRUST  
Received copy of the Order  
passed by the Estate Officer  
Kolkata Port Trust  
*[Signature]*  
Estate Officer  
Kolkata Port Trust



# 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. 1196.1196/R.1196/D Of 2011 Order Sheet No. 14

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Banerjee Coal Traders (As. O.P.) <sup>VS</sup>

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RECEIVED BY THE  
ESTATE OFFICER  
KOLKATA PORT TRUST  
15  
23.08.2018

per law, a license as was granted to the O.P. is not at all a transferable or heritable right. Moreover, no permission was ever taken from KoPT before entering into such transactions. I take a strong note of the fact that the partnership firm M/s Banerjee Coal Traders represented by sole Proprietor Shri Alok Kumar Banerjee appears to have lost its existence with the series of alleged transfers to Santosh Kumar Singh and Siba Singh. Such a partnership (as alleged) is completely a different entity in the eye of law. As such, I find no cogent reason or justification to treat the appearing persons as bonafide tenants of KoPT. In my view, taking note of the appearance of Lalit Singh before this Forum, there is definite element of truth in the submission of KoPT regarding unauthorised parting of possession to rank outsiders.

Be that as it may, from the accounts statements as submitted by KoPT, it is evident that O.P. was a defaulter in payment of KoPT's rent and taxes for prolonged period, which is not denied by the sitting occupants appearing before this Forum. In fact, willingness to pay the arrear dues amounts to nothing but admission of KoPT's dues. Moreover, it is seen that O.P. vide letter dated 17.10.1984 requested for permission for certain constructions, whereas no such permission from the Port Authority is seen forthcoming. Rather, KoPT vide its letter dated 01.12.1987 advised the O.P. to remove the unauthorised constructions. Taking note of such background of the matter; I think the allegations of KoPT against the O.P. are well established, in the facts and circumstances of the case.

The properties of the Port Trust are coming under the purview of "public premises" as defined under the Act. Now the question arises as to how a

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# 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

m/s. Banerjee Coal Traders (As O.P.) VS

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person becomes 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. The monthly license granted to O.P. was undoubtedly determined by the Port Authority by due service of notice to quit and institution of proceedings against O.P. by KoPT is a clear manifestation of Port Authority's intention to get back possession of the premises for violation of the fundamental conditions of the license.

As such, 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 ground/reasons:

1. That O.P. has violated the condition of monthly license as granted by the Port authority by way of not making payment of rental dues to KoPT, unauthorised parting of possession of subject premises, carrying out unauthorised construction etc.
2. That O.P. have failed to make out any case in support of its occupation as "authorised occupation".
3. That O.P. or any other persons asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation"
4. That the notice to quit dated 01.09.2003 as served upon O.P. by the Port authority is

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SEAL OF THE ESTATE OFFICER  
KOLKATA PORT TRUST

Verified copy of the Order  
passed by the Board of Trustees  
Kolkata Port Trust  
29/8  
Assistant  
Estate Officer  
Kolkata Port Trust





### 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. 1196/R, 1196/P Of 2011 Order Sheet No. 16

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Bonerjee Coal Traders (As-O.P) VS

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23.08.2018

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 Sec.2 (g) of the P.P. Act.

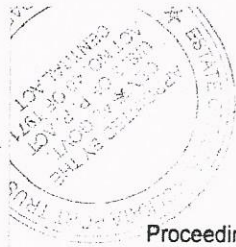
5. That O.P. is liable to pay damages for wrongful use and occupation of the public premises up to the date of handing over the clear, vacant and unencumbered possession to the port authority.

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 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 up to 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.

It is my considered view that a sum of Rs. 92,047.59/- for the period from 01.06.1987 up to 30.09.2003 is due and recoverable from O.P. by the Port authority on account of rental dues and O.P. must have to pay the rental dues to KoPT on or before 14.09.2018. Such dues attracts interest at the rate of 15% per annum upto 18.09.1996 and thereafter at the rate of 18% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum till its liquidation of the same from the

APPROVED BY THE BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
ESTATE OFFICER  
KOLKATA PORT TRUST  
Copies of this Order  
issued by the Estate Officer  
Kolkata Port Trust  
29/8

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# 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. 1196, 1196/R, 1196/P Of 2011 Order Sheet No. 17

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Bamenjee Coal Traders (As O.P.) <sup>VS</sup>

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date of incurrance of liability in accordance with the notification of KoPT issued under Authority of Law as per adjustment of payments made so far by O.P as per KoPT's books of accounts. I sign the formal order as per Rule u/s 7 of the Act.

I am not inclined to assess the damages at this stage as the Notice u/s 7(2) was issued only for a particular period whereas the O.P. is liable to pay damages for unauthorized use and enjoyment of the property right upto the date of handing over of possession of the public premises to KoPT. As such, the damages are to be assessed later, upon issuance of fresh Notice u/s 7(2) of the Act by this Forum, at the appropriate time. KoPT is directed to submit a report regarding its claim on account of damages against O.P., indicating there-in, the details of the computation of such damages with the rate of charges so claimed for the respective periods (including 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. or any other occupier 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

(A.K. SARKAR)

ESTATE OFFICER

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

IDENTIFIED COPY OF THE ORDER  
ISSUED BY THE ESTATE OFFICER  
KOLKATA PORT TRUST  
23/08/2018