



**REGISTERED POST WITH A/D.
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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. 14 DT 12.09.2018
PROCEEDINGS NO. 727 OF 2005

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
Indo Water Ways Transport Co-operative Society (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 **Indo Water Ways Transport Co-operative Society, of 17/A, Raghunath Mullick Lane, Kolkata 700012** 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 liquidate the estate dues of KoPT as well as failed to utilise the public premises.
- 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 26.06.2003 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 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. 14 dated 12.09.2018 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 **Indo Water Ways Transport Co-operative Society, of 17/A, Raghunath Mullick Lane, Kolkata 700012** 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 **Indo Water Ways Transport Co-operative Society, of 17/A, Raghunath Mullick Lane, Kolkata 700012** 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 Piece or parcel of land Msg. About 33.44 Sq.m situated by the side of the river at Jagannath Ghat. It is bounded On the North by KoPT's land leased to CIWTC Ltd., On the East by KoPT's vacant land and then KoPT's land leased to Aitour Rahaman, On the South by KoPT's land, On the West side sloping land and then River Hooghly.

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

Dated: 12.09.2018


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 M/s Indo Water Ways Transport Co-operative Society, O.P. herein, came into occupation of KoPT's land measuring about 33.44 sqm or thereabouts situated at Jagannath Ghat, Thana-N.P.P.S., Kolkata, comprised under occupation No. SB-543, being the Public Premises in question, as a monthly licensee on certain terms and conditions. A case has been made out by KoPT that O.P. failed to pay the license fees and taxes. Due to non-utilisation of the land and parting of possession in favour of rank outsiders, finally a Notice to Quit dated 26.06.2003 was served on said O.P. by KoPT. It is strongly argued on behalf of KoPT that O.P. has no authority under law to occupy the public premises after expiry of the period as mentioned in the notice to quit dated 26.06.2003 and O.P. 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/s under Section 4 & 7 of the Act (for adjudication of the prayer for issuance of Order of Eviction, recovery of arrears of rent etc.) both dated 20.02.2018. It is seen from record that nobody appeared on behalf of said O.P. during the course of hearing before this Forum. Numerous opportunities were granted to all interested persons to appear before and submit their defence, if any, before this Forum of Law, but despite attempts of service through the

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Estate Officer, Kolkata Port Trust

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Process Server nobody turned up before this Forum. In terms of Report dated 28.02.2018 of the Process Server, the O.P. was not found at the address; however, the Notice/s were affixed on the property as per the mandate of the Act. Moreover, Notice/s were published in daily newspaper The Telegraph on 01.05.2018 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 25.05.2018. I have carefully gone through the contentions made by KoPT against the O.P. It is seen that possession of subject premises was handed over to O.P. on 09.02.1988. KoPT has claimed before this Forum that the O.P. defaulted in payment of license fees as well as non-utilised the subject land. During the inspection held in terms of the order of this Forum, the entire premises was found to be lying vacant (as mentioned in KoPT's report dated 10.03.2017). As I have mentioned above, O.P. chose not to contest the matter despite numerous opportunities through all means. As such, I have no hesitation to accept the contentions of KoPT. It appears to me that the O.P. is not at all interested in the public premises in question. Under such circumstances, I am of the view that after issuance of the notice to quit dated 26.06.2003, the occupation of the O.P. is nothing but "unauthorized" in terms of the P.P. Act 1971.

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

(Signature)

Estate Officer, Kolkata Port Trust

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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 liquidate the estate dues of KoPT as well as failed to utilise the public premises.
- 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 26.06.2003 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 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 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

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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 ***