

# 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. 1399 A 1399/D Of 2013 Order Sheet No. 15

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

<sup>VS</sup>  
*Estate Ananta Singh*

16  
28-09-2018

### 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 Ramji Singh came into occupation of KoPT's land measuring about 66.426 sqm situated on the Eastern side of Strand Bank Road, Cossipore, in the Presidency Town of Kolkata, comprised under occupation No. SB-485/A, being the Public Premises in question, as a monthly lessee, on certain terms and conditions, and subsequently the said tenancy was transferred to Shri Anant Singh with effect from 01.11.1977. Due to certain breaches of the terms and conditions, the said tenancy was terminated by the KoPT vide Notice to Quit dated 30.09.1985. Subsequently a settlement was entered into by and between the KoPT and the said Shri Anant Singh, by virtue of which said Notice to Quit was withdrawn subject to the condition that Shri Anant Singh vacates the subject public premises and instead, takes occupation of the alternative occupation provided by KoPT. It is the case of KoPT that Shri Anant Singh failed to honour the terms of such settlement and hence, KoPT has submitted that Shri Ramji Singh or his representatives have no authority under law to occupy the public premises and that they are 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 notices under Section 4 & 7 of the Act (for adjudication of the

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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*Estate Ananta Singh* <sup>VS</sup>

16  
28.09.2018.

prayer for issuance of Order of Eviction, assessment of damages etc.) both dated 15.05.2018.

It is seen from record that one Kamalesh Singh filed an application dated 29.06.2018 with submission that the said Shri Anant Singh has expired, and that Kamalesh Singh and others are occupying the subject premises as legal heirs. Taking cognizance of such application, this Forum decided to continue the proceedings against "Estate Anant Singh" as O.P. of the instant case, thereby giving opportunity to all legal heirs/representatives to come forward and contest the matter. Thereafter Applications came to be filed by said Kamalesh Singh on 17.08.2018 and 27.08.2018 whereby the applicant complained of "partiality" on the part of KoPT of not having provided the additional/alternative plot of land. It is seen from record that one ad-hoc payment was also made by said Shri Kamalesh Singh to KoPT. Be that as it may, the matter was finally heard on 12.09.2018 when the parties submitted that they have nothing more to add. As such, final order was reserved by the Forum.

I have carefully gone through the contentions made by the parties against each other. As per records produced before me, it is clear that KoPT vide its letter dated 19.12.1989 forwarded the terms of settlement to said Shri Anant Singh. As per the said terms, the evictee tenant was required to pay the arrears of rental dues and mesne profit in respect of the subject premises upto November, 1989 within a period of one month, and also the evictee tenant was required to shift to the alternative plot of equivalent area, on similar terms and conditions, if so

*(Signature)*

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(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1399 x 1399/D Of 2013 Order Sheet No. 17

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*Estate Ananta* <sup>VS</sup> *Singh*

16  
28-09-2018

requested by the Trustees of KoPT. It appears to me from letter dated 17.08.1991 of KoPT that the Port Authority had requested the O.P. to take possession of the alternative plot of land but the O.P. paid no heed. In my view, in terms of the settlement between the parties, the O.P. was very much bound to vacant the instant plot of land and shift to the alternative plot offered to KoPT. As such, failure on the part of the O.P. to comply with the terms of the settlement very much makes the occupation of O.P. in the subject premises as "unauthorized" within the meaning of the P.P. Act, 1971. During course of hearing, representative/s of O.P. produced no evidence as to how it is justified in occupying the present public premises inspite of several requests from KoPT. Moreover, representative/s of O.P. have practically admitted that it was in default of payment of occupational charges in respect of the subject public premises. I find no merit whatsoever in any claim of "partiality" against KoPT inasmuch as KoPT had offered alternative occupation repeatedly which was not acted upon by the O.P. for reasons best known to them. In my view, an unauthorized occupation of KoPT's public premises, that too without payment of the occupational charges, is a serious matter and action must have to be taken against the O.P. for such default, in accordance with law.

In view of the above, being satisfied, I am left with no other alternative but to issue the Order of Eviction against O.P. i.e. "Estate Anant Singh", as prayed for on behalf of KoPT, on the following grounds/reasons:-

*CS*

# Estate Officer, Kolkata Port Trust

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(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1399 & 1399/D Of 2013 Order Sheet No. 18

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*Estate Ananta* <sup>VS</sup> *Singh*

16  
28.09.2018

- 1) That O.P. has admitted its failure to satisfy the occupational charges of KoPT for decades.
- 2) That O.P. has failed to justify how it is entitled or authorised to occupy the public premises inspite of repeated request of KoPT to vacate the same and shift to the alternative accomodation.
- 3) That occupation of the O.P. deserves no protection, even for the sake of natural justice.
- 4) That O.P. has failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 5) 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.
- 6) That 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.
- 7) 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 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

*CS*

# 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. 1399 & 1399/D Of 2013 Order Sheet No. 19

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*Estate Ananta Singh* <sup>VS</sup>

16  
28.09.2018.

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 \*\*\*

**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. 16 DT 28.09.2018  
PROCEEDINGS NO. 1399 OF 2013

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-  
**Estate Anant Singh (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 Anant Singh, of Village & Post Office Pipra, Kalan, Thana-Narahi, District – Balia, U.P., AND also of P-21, Strand Bank Road, Kolkata 700002** 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 admitted its failure to satisfy the occupational charges of KoPT for decades.
- 2) That O.P. has failed to justify how it is entitled or authorised to occupy the public premises inspite of repeated request of KoPT to vacate the same and shift to the alternative accomodation.
- 3) That occupation of the O.P. deserves no protection, even for the sake of natural justice.
- 4) That O.P. has failed to make out any case in support of its occupation as “authorised occupation”, inspite of sufficient chances being given.
- 5) 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.
- 6) That 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.
- 7) 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**

A copy of the reasoned order No. 16 dated 28.09.2018 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 **Estate Anant Singh, of Village & Post Office Pipra, Kalan, Thana-Narahi, District - Balia, U.P., AND also of P-21, Strand Bank Road, Kolkata 700002** 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 Anant Singh, of Village & Post Office Pipra, Kalan, Thana-Narahi, District - Balia, U.P., AND also of P-21, Strand Bank Road, Kolkata 700002** 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 Trustees' land space msg. 66.426 sqm, situated on the East side of Strand Bank Road, Cossipore, in the presidency town of Kolkata, Thana- N.P.P.S., Sub-registry-Sealdah, District - 24 Parganas. It is bounded on the North by the said Trustees' land leased to M/s United Minerals, on the East and South by the said Trustees' open land and on the West by the said Trustees' Strand Bank Road.

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

Dated: 28.09.2018

  
Signature & Seal of the  
Estate Officer.

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