

# 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. 1642, 1642/R & 1642/D Of 2018 Order Sheet No. 06

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

<sup>VS</sup>  
M/s. Surajbhan Murarilall Co. firm

07  
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 M/s Surajbhan Murarilall Co. Firm, O.P. herein, came into occupation of KoPT's land measuring about 147.25 sqm or thereabouts situated at Pathuriaghat on the West side of Strand Bank Road, Kolkata, comprised under occupation No. SB-279/1, being the Public Premises in question, as a long term lessee (for 10 years) on certain terms and conditions. A case has been made out by KoPT that O.P. failed to pay the rent and taxes and also erected unauthorized construction and encroached into the Trustees' land. It is also the case of KoPT that the O.P. has parted with possession of the premises to rank outsiders and that O.P. has no right to occupy the premises after expiry of the 10-years lease on 30.09.1993. Finally, a Notice to Quit dated 27.07.2000 has been 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 leasehold period, as mentioned in the notice to quit dated 27.07.2000 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, damages etc.) all dated 02.05.2018.

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(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1642, 1642/B & 1642/D Of 2018 Order Sheet No. 07

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*M/s. Surojibhan Murarilall & Co. firm.*

07  
28.09.2018.

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 Process Server nobody turned up before this Forum. The Notices sent through registered post were returned undelivered. In terms of Report of the Process Server, the O.P. could not be found at the address; however, the Notice/s were affixed on the property as per the mandate of the Act. Finding no other alternative, Notice/s were published in daily newspaper Times of India on 22.06.2018 but still no one appeared before this Forum. The Notice/s were also published in official website of KoPT for wider publicity to all concerned, but still the O.P. remained unrepresented. 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 25.07.2018.

I have carefully gone through the contentions made by KoPT against the O.P. KoPT has claimed before this Forum that the O.P. defaulted in payment of rent and taxes as well as committed other breaches. Although KoPT has not led any positive evidence so far as these other breaches are concerned, the contention of default in payment of rent and taxes is well established in the instant case. KoPT has produced the computerized statement of accounts maintained by the statutory authority which carries definite evidentiary value in the eye of law. O.P. is

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# Estate Officer, Kolkata Port Trust

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(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1642, 1642/P & 1642/D Of 2018 Order Sheet No. 08

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*M/s. Surojban* <sup>VS</sup> *Murari Lal & Co. firm*

07  
28.09.2018.

seen to be defaulter for a prolonged period, as per said statement of accounts. As I have mentioned above, O.P. has chosen not to contest the matter despite numerous opportunities through all means. As such, I have no hesitation to accept the contentions of KoPT. In my view, O.P.'s breach in lease terms by way of not satisfying the rental dues of KoPT is a serious matter and must have to be dealt with sternly. Moreover, O.P. has failed to show any cause as to why its occupation beyond the lease-hold period should be treated as "authorized". Under such circumstances, I am of the view that after KoPT's notice to quit dated 27.07.2000 is very much valid, lawful and correctly served on the O.P. and binding on the parties.

In view of the circumstances, as there is no reply to the Show Cause Notice under 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 liquidate the estate dues of KoPT for prolonged period.
- 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.





# 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. 1642, 1642/R/1642/D Of 2018 Order Sheet No. 09

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*M/s. Surajbhan Murarilall Co. firm* <sup>VS</sup>

07  
28.09.2018.

5) That the notice to quit dated 27.07.2000 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 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.

It is my considered view that a sum of Rs. 1,09,860.00/- for the period 01.10.1988 to 30.09.1993 (both days inclusive) 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 31.10.2018. Such dues attract interest @ 15% per annum upto

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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. 1642, 1642/R & 1642/D Of 2018 Order Sheet No. 10

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*M/s. Surajbhan* <sup>VS</sup> *Murari Lal Co. Firm*

07  
28.09.2018.

18.09.1996 and thereafter @ 18% per annum upto 06.04.2011 and thereafter @ 14.25% per annum, till the liquidation of the same, from the 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., in terms of KoPT's books of accounts. I sign the formal order as per Rule u/s 7 of the Act.

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 (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  
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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. 07 DT 28.09.2018  
PROCEEDINGS NO. 1642 OF 2018

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-  
**M/s Surajbhan Murarilall Co. Firm (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 Surajbhan Murarilall Co. Firm, of 8, Amratolla Street, Kolkata 700001** 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 for prolonged period.
- 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 27.07.2000 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**

A copy of the reasoned order No. 07 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 **M/s Surajbhan Murarilall Co. Firm, of 8, Amratolla Street, Kolkata 700001** 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 Surajbhan Murarilall Co. Firm, of 8, Amratolla Street, Kolkata 700001** 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 147.25 sqm or thereabouts, situated at Pathuriaghat on the west side of Strand Bank Road in the Presidency Town of Kolkata. It is bounded on the North by the Trustees' land occupied partly by Shyam Sundar Sadhukhan Ram Chandra Sadhukhan and partly by Sarda & Sons, on the East by Strand Bank Road, on the South by the trustees' land occupied by Kishorilal Mahawar and on the West by the Trustees' open wharf land.

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.**



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.1642/R OF 2018  
ORDER NO.07 DATED:28.09.2018

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. Surajbhan Murarilall Co.Firm,  
8, Amratolla Street,  
Calcutta-700 001.

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

AND WHEREAS, by written notice dated 02.05.2018 you  
are/were called upon to show cause on/or before 25.05.2018 why  
an order requiring you to pay a sum of Rs.1,09,860.00/- (Rupees  
One Lakh Nine thousand Eight hundred Sixty only.) being the rent  
payable together with compound interest in respect 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 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.1,09,860.00/- (Rupees One Lakh Nine thousand Eight  
hundred Sixty only.) for the period 01.10.1988 to 30.09.1993 (both  
days inclusive) to Kolkata Port Trust by 31.10.2018.

PLEASE SEE ON REVERSE



In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest at the rate of 15% per annum upto 18.09.1996 and thereafter @18% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Official Gazettee/s as per Kolkata Port Trust's Rule.


In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

### SCHEDULE

The said piece or parcel of land msg. 147.25 sq.mtrs. or thereabouts situated at Pathuriaghat on the west side of Strand Bank Road in the presidency town of Kolkata. It is bounded on the North by the Trustees' land occupied partly by Shyam Sundar Sadhukhan Ram Chandra Sadhukhan and partly by Sarda & Sons, on the East by Strand Bank Road, on the South by the Trustees' land occupied by Kishorilal Mahawar and on the West by the Trustees' open wharf land.

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

Dated:28.09.2018

  
Signature and seal of the  
Estate Officer.