



**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. 23 DT 13.12.2018
PROCEEDINGS NO.1244 OF 2011

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-

Estate Parameswar Singh
(represented by Shri Subodh Singh) (O.P.)

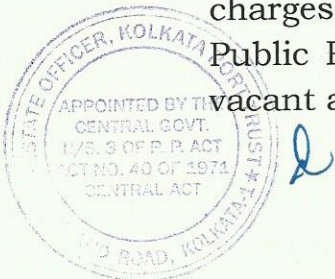
F O R M – “B”

**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 Parameswar Singh (represented by Shri Subodh Singh), OF 67, Chetla Station Yard, Kolkata 700027** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

1. That O.P. has been found to be in arrears of rent and taxes for decades, in utter defiance of the contractual terms and conditions.
2. That O.P. has failed to liquidate the dues, even after its own commitment, and even after several opportunities provided by this Forum for the sake of natural justice.
3. That KoPT's notice dated 06.09.2006 demanding possession of Port property from O.P. is very much valid, lawful and enforceable in the facts and circumstances of the case.
4. That no case has been made out on behalf of O.P. as to how its occupation in the Public Premises could be termed as “authorized” after expiry of the period mentioned in the Notice to Quit, and accordingly, the occupation of O.P. has definitely become unauthorized in view of Sec.2(g) of the P.P. Act, 1971.
5. That right since expiry of the period as mentioned in the Notice to Quit dated 06.09.2006, O.P. has lost its authority to authorisedly occupy the Public Premises and O.P. is liable to pay compensation charges/damages with interest for wrongful use and enjoyment of the Public Property from that date upto the date of handing over of clear, vacant and unencumbered possession of the same to the Port Authority.



Please see on reverse



:: 2 ::

A copy of the reasoned order No. 23 dated 13.12.2018 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 Parameswar Singh (represented by Shri Subodh Singh), OF 67, 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 **Estate Parameswar Singh (represented by Shri Subodh Singh), OF 67, 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

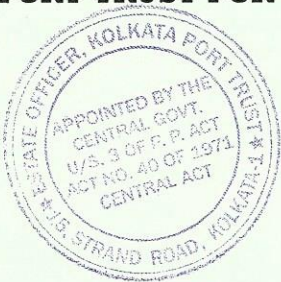
The said piece or parcel of land Msg. about 143.999 sqm or thereabouts situated at Chetla Station Yard in Mouza – Moyerpore, Police Station Alipore, Now Chetla P.S., District – 24 parganas & Registration District – Alipore. It is bounded on the North by the lessor's strip of open land reserved as margin of safety alongside a Port Trust Railway Siding, On the East by the Lessor's land leased to Shew Ratan Singh, On the South by the Lessor's strip of open land alongside their road and on the West by the Lessor's Plot no. 66.

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

Dated: 13.12.2018

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 (4TH FLOOR) KOLKATA-700001

Form " E "

PROCEEDINGS NO.1244/R OF 2011
ORDER NO. 23 DATED: 13.12.2018

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

To

**Estate Parameswar Singh
(represented by Shri Subodh Singh),
67, 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. 2,07,835.54/- (Rupees Two Lakh
Seven Thousand Eight Hundred Thirty Five and Paise Fifty Four
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. 2,07,835.54/- (Rupees Two Lakh Seven Thousand Eight
Hundred Thirty Five and Paise Fifty Four only.) for the period
01.02.1988 to 04.10.2006 (both days inclusive) to Kolkata Port
Trust by 31.12.2018.

L

PLEASE SEE ON REVERSE





: 2 :

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 Gazette/s.

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

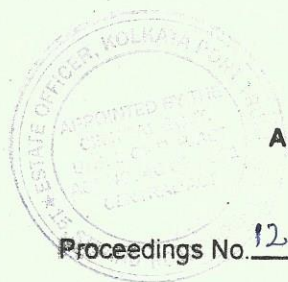
The said piece or parcel of land Msg. about 143.999 sqm or thereabouts situated at Chetla Station Yard in Mouza – Moyerpore, Police Station Alipore, Now Chetla P.S., District – 24 parganas & Registration District – Alipore. It is bounded on the North by the lessor's strip of open land reserved as margin of safety alongside a Port Trust Railway Siding, On the East by the Lessor's land leased to Shew Ratan Singh, On the South by the Lessor's strip of open land alongside their road and on the West by the Lessor's Plot no. 66.

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

Dated: 13.12.2018



Signature and seal of the
Estate Officer



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. 1244, 1244/R, 1244/D Of 2011 Order Sheet No. 20

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Estate Parmeswar Singh.

23

13-12-2018

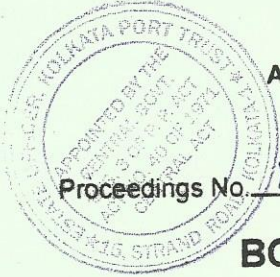
FINAL ORDER

The matter is taken up today for final disposal. It is the case of Kolkata Port Trust (KoPT), applicant herein, vide their application dated 15.02.2007, that one Shri Parmeswar Singh came into occupation of KoPT's land measuring 143.999 sqm or thereabouts, situated at Chetla Station Yard, comprised under occupation No. D-484/A, being the public premises in question, as a monthly lessee, on certain terms and conditions and the said lessee violated the condition of tenancy under the lease as granted by KoPT, by defaulting in payment of rent and taxes, subletting/parting with possession of the demised land to rank outsiders, and erecting unauthorized construction upon the port property/carrying out unauthorized addition and alteration. KoPT has argued that Shri Parmeswar Singh has no authority under law to occupy the public premises after expiry of the period as mentioned in the notice to quit dated 06.09.2006, and that Shri Parmeswar Singh 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.) and under 7 of the Act (for adjudication of the prayer for recovery of rent, interest, damages etc) all dated 02.01.2018.

It is seen from records that one Shri Subodh Singh claiming to be son of Late Parmeswar Singh appeared before this Forum, with the submission that Shri Parmeswar Singh has expired. In support of his contention, photocopy of his identity card and also a copy of death certificate of Shri Parmeswar Singh are filed before this Forum (date of death, as recorded - 08.02.2013). In absence of any other documents etc filed by interested/concerned parties/KoPT, contesting the said statement of Shri Subodh Singh, this Forum finds no reason to disbelieve the facts as brought out by said Shri

A



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. 1244, 1244/R, 1244/D Of 2011 Order Sheet No. 21

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Estate Parmeswar Singh.

23

13.12.2018

Subodh Singh. Accordingly, the instant proceedings was allowed to be continued against "Estate Parmeswar Singh, represented by Shri Subodh Singh" as O.P., thereby complying with the mandate of the Act for giving opportunity of hearing to all concerned who are interested in the property. Be that as it may, a Reply to Show Cause was filed on behalf of the O.P. on 28.06.2018, on plain denial of averments made in the original application of KoPT. In order to find out the actual state of affairs, afterwards, a joint inspection by both the parties was directed by this Forum, which took place on 02.07.2018. A Report dated 07.08.2018 together with Rejoinder to O.P.'s Reply came to be filed by KoPT thereafter. Intention was expressed on the part of the O.P. to liquidate the dues of KoPT on 17.07.2018 and 13.09.2018 but O.P. failed to keep its commitment. Rather, O.P. failed to appear before this Forum on 04.10.2018. In my view, there are sufficient materials on record to determine the respective rights and contentions of the parties. Thus, finding no other alternative, final order was reserved by the Forum on 04.10.2018 after hearing the arguments of KoPT.

I have carefully considered the deliberations of the parties and gone through the documents placed on record. As regards the allegations of breach of contract against the O.P., I find that KoPT has produced letters dated 02.03.2006, 07.04.2006 etc addressed to the O.P., requesting to liquidate immediately the huge rental dues. That apart, KoPT has also produced statement of accounts in respect of the occupation, right since 1988, which show that no payment whatsoever has been made on behalf of the O.P.. In my view, such statement maintained by the statutory authority in usual course of business has definite evidentiary value, unless challenged by any of the concerned/interested parties with fortified documents/evidences etc, ready to bear the test of legal scrutiny. Moreover, O.P. has failed to produce any single document as to the evidence of payment

A



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. 1244, 1244/R, 1244/D Of 2011 Order Sheet No. 22

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Estate Parmeswar Singh.

23

13-12-2018

of rent/dues to the Port Authority from time to time. Rather, reply dated 08.06.2018 of O.P. is a tacit admission of the fact that O.P. was in arrears of rent for a prolonged period. O.P. has sought to clear the dues as per the "old rate" of rent. I do not agree with such submissions of O.P. inasmuch as the O.P. cannot claim differential treatment from any other user of the Port property. During course of hearing, I am given to understand by the Port Authority that the rent charged from time to time is based on the rates notified by the Tariff Authority for Major Ports (TAMP) in the Official Gazette, which is binding on all users of the port property. I am not at all satisfied with plain denial on the part of the O.P., with no evidence whatsoever. In my view, the insistence of O.P. to the applicability of old rate of rent of KoPT is very futile and redundant. Moreover, O.P.'s submission regarding pendency of legal proceedings on this count on other Forum is also very vague and devoid of any details.

Be that as it may, during the course of hearing, it came out that there is no unauthorized construction or addition and alteration subsisting in the premises. Similarly, KoPT's allegation of unauthorized subletting/parting with possession also do not seem to hold much ground. However, non-payment of rental dues for decades is very much prominent and established, as discussed above. As per law, a monthly tenancy like the one granted to the O.P. continues only on the basis of timely payment of rent bill/s and non-payment, even for a small period, is enough to vitiate the contract. Here, in the instant case, O.P. is a defaulter for decades and never bothered to pay a single penny to KoPT. In such a scenario, I find nothing to protect the occupation of the O.P. beyond 05.10.2006, as laid down in terms of KoPT's quit notice dated 06.09.2006, as authorized. In my view, the breach committed by the O.P. is very much well established in the facts and circumstances of the case and O.P. must have to suffer the rigours of law.

A

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. 1244, 1244/R, 1244/D. Of 2011 Order Sheet No. 23

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Estate Parmeswar Singh.

23

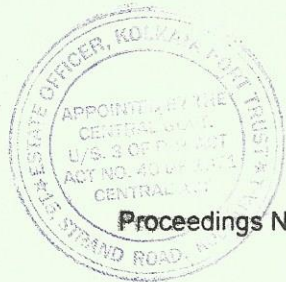
13.12.2018

As such, I must conclude that the occupation of the O.P. is definitely unauthorized after expiry of the period mentioned in the Notice to Quit dated 06.09.2006. As per Section 2 (g) of the P.P. Act, 1971, 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. In my view, the said provision is squarely attracted in the instant case and O.P. has failed to justify why it should be held otherwise. With this observation, I must reiterate that the ejection notice, demanding possession as stated above, has been validly served upon O.P., in the facts and circumstances of the case and such notice is valid, lawful and binding upon the parties.

NOW THEREFORE, I consider it a fit case for allowing KoPT's prayer for eviction against O.P. u/s 5 of the Act on the following grounds/reasons:

1. That O.P. has been found to be in arrears of rent and taxes for decades, in utter defiance of the contractual terms and conditions.
2. That O.P. has failed to liquidate the dues, even after its own commitment, and even after several opportunities provided by this Forum for the sake of natural justice.
3. That KoPT's notice dated 06.09.2006 demanding possession of Port property from O.P. is very much valid, lawful and enforceable in the facts and circumstances of the case.
4. That no case has been made out on behalf of O.P. as to how its occupation in the Public Premises could be termed as "authorized" after expiry of the period mentioned in the Notice to

A



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. 1244, 1244/R, 1244/D Of 2011 Order Sheet No. 24

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Estate Parmeswar Singh.

23

13.12.2018

Quit, and accordingly, the occupation of O.P. has definitely become unauthorized in view of Sec.2(g) of the P.P. Act, 1971.

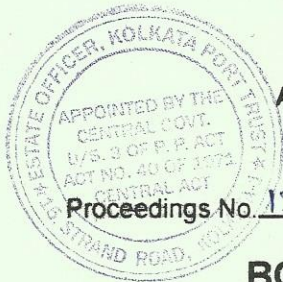
5. That right since expiry of the period as mentioned in the Notice to Quit dated 06.09.2006, O.P. has lost its authority to authorisably occupy the Public Premises and O.P. is liable to pay compensation charges/damages with interest for wrongful use and enjoyment of the Public Property from that date upto the date of handing over of clear, vacant and unencumbered possession of the same to the Port Authority.

ACCORDINGLY, formal order of eviction u/s 5 of the Act as per Rule made there-under, is drawn 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 Law, up to the date of recovery of unencumbered 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.

Regarding payment of rental dues to KoPT, I must say that Rs. 2,07,835.54/- as claimed by the Port Authority in relation to the Plate in question, is correctly payable by O.P. for the period 01.02.1988 to 04.10.2006 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 31.12.2018. O.P. shall be liable to pay simple interest @ 15% per annum upto 18.09.1996 and thereafter @ 18% per annum till 06.04.2011 and thereafter @14.25% per annum on

[Signature]



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. 1244, 1244/R, 1244/D Of 2011 Order Sheet No. 25

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Estate Parmeswar Singh.

23

13.12.2018

the above sum from the date of incurrance of liability till its final payment in accordance with the relevant notification/s published in Official Gazette. The formal order u/s 7 of the Act is signed accordingly.

During the course of hearing, I find that KoPT has made out an arguable claim against O.P., founded with sound reasoning, regarding the damages/compensation to be paid for unauthorised occupation. I make it clear that KoPT is entitled to claim damages against O.P. for unauthorised use and occupation of the public premises right upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law, and as such I am not inclined to assess the damages at this stage when possession of the premises is still with the O.P.. KoPT is directed to submit a statement comprising details of its calculation of damages indicating there-in, the details of the rate of such charges, and the period of the damages (i.e. till the date of taking over of possession) together with the basis on which such charges are claimed against O.P., for my consideration for the purpose of assessment of damages as per Rule made under the Act.

I make it clear that in the event of failure on the part of O.P. to comply with this Order, 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 ***