

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. 1021, 1021/R, 1021/G Of 2009 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Metal Box India Ltd. ^{VS}

16
20-08-2018

Present: D. Chakraborty, Jr. Land Inspector

Representative of KoPT submits that there is no material development in the matter, i.e. the tenancy file still remains unavailable. However, an application, attaching therewith a statement of accounts, is filed today.

Considered the matter on the basis of the submissions and the materials on record. It is seen that multiple opportunities have been allowed to KoPT to come up with the relevant correspondence with O.P. forming the contractual relationship as also establishing the alleged breaches of contractual terms by the O.P. However, KoPT has hopelessly failed to submit anything relevant for my consideration to proceed against O.P. KoPT has also failed to furnish any cogent reason for such failure.

In such circumstances I do not think it prudent to fix up another date for hearing. Let the final order be reserved. Department to put up the file upon requisition.


ESTATE OFFICER

FINAL ORDER

The file is taken up today for disposal. In a nutshell, the instant proceedings has been initiated by KoPT vide application dated 03.09.2008, praying for order of eviction and recovery of dues etc. against Metal Box India Ltd., in relation to a public premises situated at Block B-I, Hide Road, Kolkata, covered under Plate no. H-16/1. Alongwith this application, KoPT has filed copy of a Notice to Quit dated 10.05.2007 issued to the said Metal Box India Ltd., determining the short term lease in respect of the said public premises in question.

This Forum took up the matter for hearing on 27.04.2009, when this Forum directed KoPT to





ORDER OF THE ESTATE OFFICER KOLKATA PORT TRUST

Identified copy of the Order passed by the Estate Officer Kolkata Port Trust

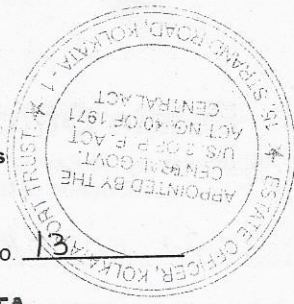
11/2/19
Asst. Officer of the Ld. Trusts
KOLKATA PORT TRUST

17
13-12-2018

Debt

Estate Officer, Kolkata Port Trust

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(Eviction of Unauthorised Occupants) Act 1971



Proceedings No. 1021, 1021/R, 1021/D Of 2009 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Metal Box India Ltd. ^{VS}

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produce all relevant papers/documents in respect of contractual relationship and papers connected with the occupation of Metal Box India Ltd. with exchange of correspondence with the parties, for consideration. Thereafter, time was allowed to KoPT from time to time to submit the said documents. On 06.07.2009, KoPT filed an application referring to certain documents filed in some other case, without any copy of said referred documents. Record reveals that this Forum kept on asking for the documents when on 15.09.2009, KoPT submitted that the original file has been sent to the office of the Chief Vigilance Officer, KoPT, and the necessary papers will be submitted at the earliest. On 20.10.2009, KoPT filed an application enclosing therewith photocopy of a lease of 30 years with Metal Box India Ltd. as against a short term lease mentioned in the Notice to Quit dated 10.05.2007. Due to such contradictions in the claim of KoPT, this Forum was not satisfied with said documents and again directed KoPT to produce all relevant papers/documents in connection with O.P.'s occupation. On 24.11.2009, this Forum again recorded about the insufficiency of the submissions of KoPT and again mentioned that all exchange of correspondence in respect of the Occupation no. H-16/1 are required for proceeding against Metal Box India Ltd under the relevant provisions of the P.P. Act. Thereafter, at least 3 adjournments were allowed to KoPT from time to time to submit the papers/documents as asked for.

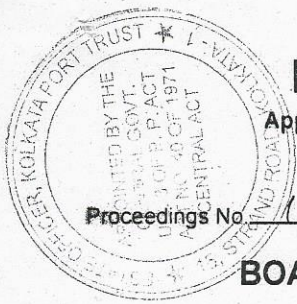
When the matter was assigned to the undersigned for the first time, hearing was resumed on 15.06.2018 with similar directions on KoPT. On 22.06.2018 representative of KoPT submitted that the concerned file is not readily available with the Estate Division, KoPT and hence KoPT is unable to comply with the Order of this Forum. This Forum expressed its strong disapproval at such lackadaisical attitude on the part of KoPT even after 9 years of filing the petition. However, a last and final opportunity was granted to KoPT to comply with the earlier Orders, fixing 16.07.2018 as the



THE ESTATE OFFICER
KOLKATA PORT TRUST

certified copy of the Order
issued by the Estate Officer
Kolkata Port Trust

13/12/18
Estate Officer
Kolkata Port Trust



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Proceedings No. 1021, 1021/B, 1021/D Of 2009 Order Sheet No. 14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S ^{VS} Metal Box India Ltd.

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13.12.18

next date of hearing. On 16.07.2018 KoPT failed to produce anything and merely reiterated its earlier submissions. Again, for the sake of natural justice, this Forum granted another opportunity to KoPT for immediate compliance of the Orders of this Forum. On 20.08.2018 KoPT filed a statement of accounts and nothing else. In my view, much water has flown since the filing of this instant case by KoPT but KoPT has failed in seriatim to produce any relevant document for consideration of this Forum, for close to a decade. I must mention that as a petitioner, KoPT has the responsibility to produce all relevant documents for consideration of this Forum, before issuing Notice u/s 4 or 7 of the Act. If KoPT is unable to trace out its documents despite numerous opportunities, there is nothing that this Forum can do but to dismiss the proceedings. This Forum cannot and should not be a blind adjudicator. It is very difficult, almost impossible to proceed against Metal Box India Ltd with only a copy of a notice to quit. It is judicially settled that the Forum under the P.P. Act must apply its mind before issuing Notice upon the O.P. calling for its reply. Such a Notice cannot be issued in a mechanical manner. Thus, in my view, there is no scope to proceed against Metal Box India Ltd in the instant proceedings, in the lack of any cogent and convincing evidence produced by the Port Authority. As such, I am not at all inclined to keep the proceedings pending any further.

Accordingly, the instant proceedings against Metal Box India Ltd. is hereby dismissed. KoPT shall however have the liberty to institute fresh proceedings against Metal Box India Ltd, if deemed appropriate, in accordance with law. All concerned are directed to act accordingly.

(S. ROYCHOWDHURY)
ESTATE OFFICER



BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST

Certified copy of the Order
Issued by the Estate Officer
Kolkata Port Trust

Head Assistant
Officer of the L.A. Estate Officer
KOLKATA PORT TRUST