

**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
1st Floor, 6, Fairlie Place (Fairlie Warehouse),
Kolkata-700001

Court Room At the 1st Floor
6, Fairlie Place Warehouse
Kolkata- 700 001.

REASONED ORDER NO. 12 DT 29.03.2019
PROCEEDINGS NO.1608 OF 2017

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/s. Anand Trading Corporation (as 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. Anand Trading Corporation, OF 31/6, Jagat Banerjee Ghat Road Shibpur, Howrah-711102 AND Also at River Side Road, Shibpur, Howrah** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

1. That O.P. failed to submit its reply to the Show Cause Notice u/s.4 and 7 of the Act in spite of repeated chances.
2. That O.P. failed to bear any witness or adduce any evidence in support of its occupation into the public premises in spite of repeated chances.
3. That in gross violation of the condition of tenancy as granted by the Port Authority, O.P. failed and neglected to pay the rental dues to KoPT.
4. That O.P. parted with possession of the public premises unauthorizedly without having any authority under law.
5. That O.P. encroached upon Trustees' land msg. about 58.495 sq. Mt. And erected unauthorised construction without having any authority under law.
6. That the ejectment notice dated 27.05.1982 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties.
7. That O.P. has lost its authority to occupy the public premises after determination/termination of the lease as mentioned in the notice to Quit dated 27.05.1982.
8. That O.P's occupation into the public premises is wrongful on and from 15.07.1982 and O.P. is liable to pay damages for such unauthorized 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 overleaf.....

A copy of the reasoned order No. 12 dated 29.03.2019 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. Anand Trading Corporation, OF 31/6, Jagat Banerjee Ghat Road Shibpur, Howrah-711102 AND Also at River Side Road, Shibpur, Howrah** 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. Anand Trading Corporation, OF 31/6, Jagat Banerjee Ghat Road Shibpur, Howrah-711102 AND Also at River Side Road, Shibpur, Howrah** 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 371.612 sqm (comprising 92.903 sq. mt. high land and 278.709 sq. mt in low land) or thereabouts situated at River Side Road, Shibpur, Howrah, Thana, Dist. and Registration District- Howrah. It is bounded on the North partly by the Trustees' open land then Riverside Road and Partly by the Foreshore Land of River Hooghly, on the East by the River Hooghly, On the South partly by the Foreshore land of River Hooghly and partly by the Trustees' open land alongside River Side Road and on the West by the Trustees' open land and then River Side Road.

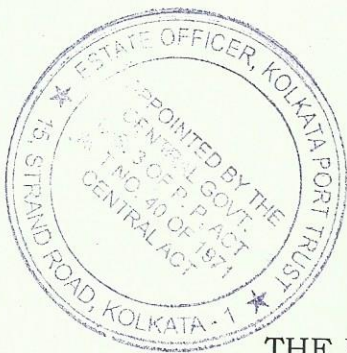
Trustees' means the Board of Trustees of the Port of Kolkata.

Dated: 29.03.2019




Signature & Seal of the
Estate Officer.

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



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THE ESTATE OFFICER, KOLKATA PORT TRUST
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REASONED ORDER NO. 12 DT 29.03.2019
PROCEEDINGS NO.1608/R OF 2017

Form " E "

**BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/s. Anand Trading Corporation (as O.P.)**

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. Anand Trading Corporation,
31/6, Jagat Banerjee Ghat Road,
Shibpur, Howrah- 711102.

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

AND WHEREAS, by written notice dated 04.05.2018 you were called upon to show cause on/or before 30.05.2018 why an order requiring you to pay a sum of Rs. 11,785.58/- (Rupees Eleven Thousand Seven Hundred and Eighty Five only and paise fifty eight) being the rent payable together with compound interest in respect of the said premises should not be made;

And whereas you have failed to represent the instant proceedings inspite of repeated chances given to you. Even Paper Publication of the Notice/s yielded no fruitful result and therefore no evidence have been produced by you in support of your case.

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. 11,785.58/- (Rupees Eleven Thousand Seven Hundred and Eighty Five only and paise fifty eight) for the period 01.03.1979 to 14.07.1982 (both days inclusive) to Kolkata Port Trust by 15.04.2019.

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 7.35% per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

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 371.612 sqm (comprising 92.903 sq. mt. high land and 278.709 sq. mt in low land) or thereabouts situated at River Side Road, Shibpur, Howrah, Thana, Dist. and Registration District- Howrah. It is bounded on the North partly by the Trustees' open land then Riverside Road and Partly by the Foreshore Land of River Hooghly, on the East by the River Hooghly, On the South partly by the Foreshore land of River Hooghly and partly by the Trustees' open land alongside River Side Road and on the West by the Trustees' open land and then River Side Road.

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

Dated: 29.03.2019



Signature and seal of the


Estate Officer



**REGISTERED POST WITH A/D.
HAND DELIVERY
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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
1st Floor, 6, Fairlie Place (Fairlie Warehouse),
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Form G

Court Room At the 1st Floor
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REASONED ORDER NO. 12 DT 29.03.2019
PROCEEDINGS NO.1608/D OF 2017

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/s. Anand Trading Corporation (as O.P.)

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

To
M/s. Anand Trading Corporation,
31/6, Jagat Banerjee Ghat Road,
Shibpur, Howrah- 711102.

Whereas I, the undersigned, am satisfied that you are in unauthorised occupation of the public premises mentioned in the Schedule below:

And whereas by written notice dated 04.05.2018 you were called upon to show cause on/or before 30.05.2018 why an order requiring you to pay damages of Rs. 10,29,312.67/- (Rupees Ten Lakhs Twenty Nine Thousand Three Hundred and Twelve only and paise sixty seven) together with compound interest for unauthorised use and occupation of the said premises, should not be made.

And whereas you have failed to represent the instant proceedings inspite of repeated chances given to you. Even Paper Publication of the Notice/s yielded no fruitful result and therefore no evidence have been produced by you in support of your case.

Now, therefore, in exercise of the powers conferred on me by Sub-section (2) of Section 7 of the Public Premises (Eviction of

PLEASE SEE ON REVERSE

Unauthorised Occupants) Act 1971, I hereby order you to pay the sum of Rs. 10,29,312.67/- (Rupees ten Lakhs Twenty Nine Thousand Three Hundred and Twelve only and paise sixty seven) for the period 15.07.1982 to 30.06.2017 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust by 15.04.2019.

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 7.35% per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

In the event of your refusal or failure to pay the damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue.

SCHEDULE

The said piece or parcel of land Msg. about 371.612 sqm (comprising 92.903 sq. mt. high land and 278.709 sq. mt in low land) or thereabouts situated at River Side Road, Shibpur, Howrah, Thana, Dist. and Registration District- Howrah. It is bounded on the North partly by the Trustees' open land then Riverside Road and Partly by the Foreshore Land of River Hooghly, on the East by the River Hooghly, On the South partly by the Foreshore land of River Hooghly and partly by the Trustees' open land alongside River Side Road and on the West by the Trustees' open land and then River Side Road.

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

Dated: 29.03.2019



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. 1608, 1608/R, 1608/D Of 2017 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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It is seen from record that in terms of my earlier order, paper publication has been made in daily newspaper "Times of India" on 27.07.2018 duly inviting the attention of all concerned, as to the hearing fixed today. The notice has also been displayed in the official website of KoPT for wide publicity. However, still nobody appeared on behalf of O.P. despite second call.

In my view, sufficient opportunity as per the mandate of the P.P. Act has been granted to O.P. and anybody else interested in the property, to represent the case, but nobody has turned up before this Forum. As such, I am inclined to reserve the final order today.

Department is directed to put up the file upon requisition. All concerned are directed to act accordingly.


(S Sinha)

ESTATE OFFICER

FINAL ORDER

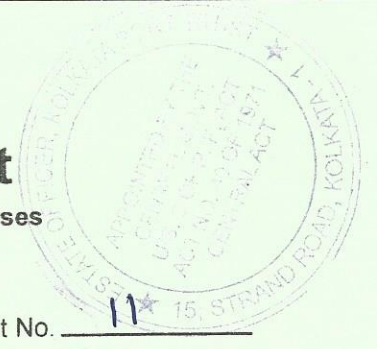
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29-03-2019

Factual aspect involved in this matter is required to be stated in a nutshell in order to link up the chain of events leading to this proceedings. Plots of land measuring altogether 371.612 sq.m. (comprising High Land Msg. 92.903sq. mts or thereabouts and Low Land msg. 278.709 sq. mts comprised under Plate No.HL-453/C) situated at Riverside Road, Shibpur, Howrah, Thana-Shibpur Police Station, were allotted to M/s. Anand Trading Corporation (O.P. herein) by Kolkata Port Trust (KoPT), Applicant



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. 1608, 1608/R, 1608/D Of 2d7 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

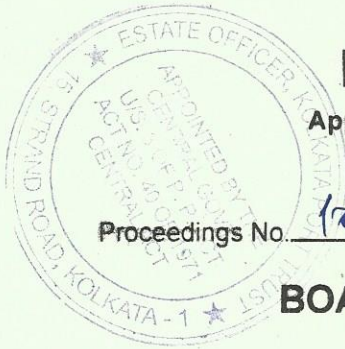
M/s Anand Trading Corporation ^{VS}

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29.3.2019

herein, on long term lease basis for 30 years without any option of renewal, w.e.f. 16.01.1979. It is the case of KoPT that M/s. Anand Trading Corporation, O.P. herein, defaulted in making payment of rental dues, inducted unauthorised occupants, made unauthorised construction, and changed the purpose of the lease and also encroached upon Trustees' vacant land. On the above said grounds, the said long term lease granted by KoPT to O.P. was determined/terminated by forfeiture of lease by issuing Notice to Quit dated 27.05.1982 but O.P. failed and neglected to hand over possession of the public premises in question in spite of due service of the said ejection notice.

On the basis of KoPT's application before this Forum, dated 22.12.2014, this Forum of Law formed its opinion to proceed against O.P. under the relevant provisions of the Act and issued Show Cause Notice u/s. 4 of the Act (for order of eviction) and u/s.7 of the Act (for recovery of rent, damages, interest etc), all dated 04.05.2018.

It is seen from record that nobody appeared on behalf of O.P. during the course of hearing before this Forum. It is seen that the Notices sent through registered post was returned back with the postal endorsement "Not Known". It is also seen that as reported by the Process Server, O.P. was not found in the subject premises. Even publication of notice in Kolkata Port Trust's website and in English Daily "The Times Of India" on 27.07.2018 yielded no results. As no one appeared on behalf of O.P. or any person interested



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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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Anand ^{VS} Trading Corporation

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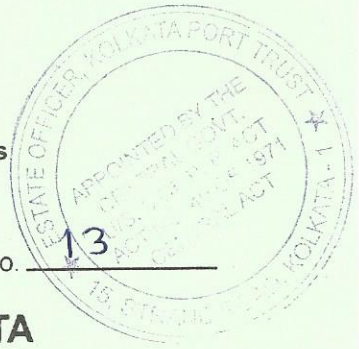
in this proceedings inspite of publication of notice in Daily Newspaper having wide circulation, I have no bar to decide the instant proceeding exparte and accordingly reserved the final order on 13.08.2018.

Now, while delivering the final order, I have carefully gone through the contentions made by KoPT against the O.P. It is seen that KoPT vide letter dated 26.09.1978 conveyed an offer of grant of long term lease to O.P. in response to the prayer of O.P., and said offer was duly accepted by O.P. vide its letter dated 13.10.1978. Thus, although no registered lease has been produced before me, I have no doubt over the contractual relationship of the parties, formed through offer and acceptance of the lease coupled with due consideration. Be that as it may, such relationship was continued for a certain period until it was determined by KoPT by issuing notice to quit dated 27.05.1982 for deliberately making non-payment of rental dues, erection of unauthorised construction, unauthorisedly parting with possession, change of purpose and also encroachment of Trustees' land msg. 58.495 sq. Mts (as reflected in the Sketch Plan No. 9130-H submitted by KoPT vide its application being No. Lnd. 4774/18/121 dated 16.04.2018) at the subject premises. I have also gone through KoPT's various communications such as letters dated 13.12.1980, 27.01.1981 etc through which KoPT repeatedly requested the O.P. to remedy the breaches but apparently no heed was paid by the O.P. During course of hearing, KoPT has produced

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Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises
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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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statement of accounts which reflect that O.P. did not satisfy the dues for a very prolonged period.

Thus, it appears to me that the contentions of KoPT have definite merit and as such, I am inclined to hold that the Notice to Quit dated 27.05.1982 is valid, lawful and correctly served on the O.P. and the same is binding between the parties.

As there is no reply to the Show Cause/s, I am left with no other alternative but to issue order of eviction u/s.5 of the Act to O.P. on the following reasons/grounds:

1. That O.P. failed to submit its reply to the Show Cause Notice u/s.4 and 7 of the Act in spite of repeated chances.
2. That O.P. failed to bear any witness or adduce any evidence in support of its occupation into the public premises in spite of repeated chances.
3. That in gross violation of the condition of tenancy as granted by the Port Authority, O.P. failed and neglected to pay the rental dues to KoPT.
4. That O.P. parted with possession of the public premises unauthorisedly without having any authority under law.

Or



Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises
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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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^{VS}

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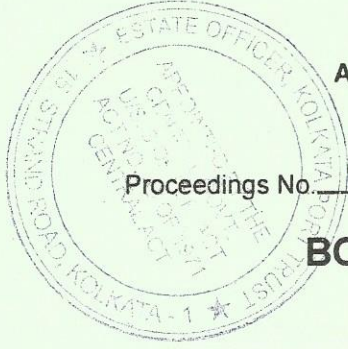
5. That O.P. encroached upon Trustees' land msg. about 58.495 sq. Mt. And erected unauthorised construction without having any authority under law.
6. That the ejectment notice dated 27.05.1982 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties.
7. That O.P. has lost its authority to occupy the public premises after determination/termination of the lease as mentioned in the notice to Quit dated 27.05.1982.
8. That O.P.'s occupation into the public premises is wrongful on and from 15.07.1982 and O.P. is liable to pay damages for such unauthorized 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

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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. 1608, 1608/R, 1608/D Of 2017 Order Sheet No. 15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Anand Trading Corporation ^{VS}

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damages for unauthorized use and occupation of the property against O.P. in accordance with Law up to the date of recovery of possession of the same.

I am satisfied that a sum of Rs. 11,785.58/- for the period 01.03.1979 to 14.07.1982 is due and recoverable from O.P. as arrears of rent and the arrear rental dues as aforesaid, shall be payable by O.P. to KoPT on or before 15.04.2019. In terms of Section 7 (2-A) of the PP Act, 1971, such dues attract simple interest @ 7.35 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrence of liability, till the liquidation of the same, as per the adjustment of payments, made so far by O.P., in terms of KoPT's books of accounts. I sign the formal order u/s 7 (1) & (2-A) of the Act.

Likewise, 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. As such, I must say that Rs. 10,29,312.67/- as claimed by the Port Authority as damages in relation to the Plate in question, is correctly payable by O.P. for the period 15.07.1982 to 30.06.2017 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by 15.04.2019. In terms of Section 7 (2-A) of the PP Act, 1971, such dues attract simple interest @ 7.35 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrence of liability, till the liquidation of the same, as per the adjustment of payments, made so far by O.P., in terms of KoPT's books of accounts. I sign the formal order u/s 7 (2) & (2-A) of the Act.

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. 1608, 1602(R), 1608(D) Of 2017 Order Sheet No. 16

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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I make it clear that KoPT is entitled to claim damages against O.P. for unauthorized 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 liability of O.P. to pay damages extends beyond 30.06.2017 as well, as the possession of the premises is still with the O.P.. KoPT is directed to submit a statement comprising details of its calculation of damages after 30.06.2017, 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 such 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


(SATYABRATA SINHA)
ESTATE OFFICER

*** ALL EXHIBITS AND DOCUMENTS
ARE REQUIRED TO BE TAKEN BACK
WITHIN ONE MONTH FROM THE DATE
OF PASSING OF THIS ORDER ***