

READY FOR DELIVERY  
03.04.2019



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  
6, FAIRLEY PLACE  
(1<sup>ST</sup> Floor)  
KOLKATA - 700 001  
\*\*\*\*\*

Court Room At the 1<sup>ST</sup> Floor  
of Kolkata Port Trust's  
Fairley Warehouse  
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 20 DT 22.03.2019  
PROCEEDINGS NO. 303 OF 1999

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-  
M/s Bundilal Nathunilal (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 Bundilal Nathunilal, OF 67/18, Strand Road, Nimtollah, Kolkata  
700006, AND also of Lot no. 18, Cross Road no. 17, Nimtollah, Kolkata  
700006** is in unauthorized occupation of the Public Premises specified in the  
Schedule below:

REASONS

- 1) That O.P. has failed to liquidate rental dues of the Port Authority, within the prescribed period, despite being requested for immediate liquidation.
- 2) That O.P. has clearly parted with possession of the public premises in favour of rank outsiders, without any approval of the KoPT, in the facts and circumstances of the case.
- 3) That O.P. has failed to file its Replies to the show cause notices inspite of having knowledge of the instant proceedings.
- 4) O.P. has failed to show any cause against the allegations of erecting unauthorised construction and unlawful induction of subtenants;
- 5) That O.P. as well as any sitting occupant has failed to make out any case in support of its occupation as "authorised occupation" inspite of sufficient chances being given.
- 6) That O.P. or any other person/s asserting its right through O.P. has failed to bear any witnesses or adduce any evidence in support of its occupations as "authorised occupation" inspite of sufficient chances being accorded.
- 7) That the notice to quit dated 23.06.1990 as served upon O.P. by Port Authority is valid, lawful and binding upon the parties and O.P.'s occupation, and that any other occupant of the premises, has become unauthorised in view of Section 2(g) of the P.P. Act.
- 8) 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





:: 2 ::

A copy of the reasoned order No. 20 dated 22.03.2019 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 Bundilal Nathunilal, OF 67/18, Strand Road, Nimtollah, Kolkata 700006, AND also of Lot no. 18, Cross Road no. 17, Nimtollah, Kolkata 700006** 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 Bundilal Nathunilal, OF 67/18, Strand Road, Nimtollah, Kolkata 700006, AND also of Lot no. 18, Cross Road no. 17, Nimtollah, Kolkata 700006** 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 225.754 sqm or thereabouts, situated on the south side of the Trustees' Cross Road no. 17 at Strand Road, Nimtola Police Station, Jorabagan, in the presidency town of Calcutta. The said piece or parcel of land is bounded on the North by the said Trustees' Cross Road no. 17, leading from Strand Road, on the East by the Strand Road, on the South by the old Nimtola Moribund House, and on the West by the said Trustees' land occupied by M/s Shree Krishna Timber Works.

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

Dated: 22.03.2019

  
Signature & Seal of the  
Estate Officer.

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

By Order of:  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
KOLKATA PORT TRUST  
Head Ass. Secy  
03/04/19  
OFFICE OF THE ESTATE OFFICER  
KOLKATA PORT TRUST





REGISTERED POST WITH A/D  
HAND DELIVERY/AFFIXATION ON PROPERTY

By Order of :  
THE ESTATE OFFICER, ESTATE OFFICER, KOLKATA PORT TRUST  
KOLKATA (Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)  
Public Premises (Eviction of Unauthorised Occupants) Act 1971  
CERTIFIED COPY OF THE ORDER OFFICE OF THE ESTATE OFFICER  
PASSED BY THE ESTATE OFFICER 16, FAIRLEY PLACE, (1<sup>ST</sup> FLOOR) KOLKATA-700001  
KOLKATA PORT TRUST  
J. B. 23.04.19,  
Head Assistant  
OFFICE OF THE ESTATE OFFICER  
KOLKATA PORT TRUST

**Form "E"**

PROCEEDINGS NO. 303/R OF 1999  
ORDER NO. 20 DATED: 22.03.2019

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 Bundilal Nathunilal,  
67/18, Strand Road, Nimtollah,  
Kolkata 700006,  
AND also of Lot no. 18,  
Cross Road no. 17,  
Nimtollah, Kolkata 700006

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

AND WHEREAS, by written notice dated 22.05.2018 you were called upon to show cause on/or before 22.06.2018 why an order requiring you to pay a sum of Rs. 70,258.10/- (Rupees Seventy Thousand Two Hundred Fifty Eight and paise ten only) being the rent payable together with compound interest in respect of the said premises should not be made;

And whereas you have failed to produce any objection and/or evidence in spite of sufficient opportunities.

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. 70,258.10/- (Rupees Seventy Thousand Two Hundred Fifty Eight and paise ten only) for the period 01.05.1987 to 31.08.1990 (both days inclusive) to Kolkata Port Trust by 15.04.2019.

*and*

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.

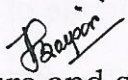
In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

### SCHEDULE

The said piece or parcel of land Msg. about 225.754 sqm or thereabouts, situated on the south side of the Trustees' Cross Road no. 17 at Strand Road, Nimtola Police Station, Jorabagan, in the presidency town of Calcutta. The said piece or parcel of land is bounded on the North by the said Trustees' Cross Road no. 17, leading from Strand Road, on the East by the Strand Road, on the South by the old Nimtola Moribund House, and on the West by the said Trustees' land occupied by M/s Shree Krishna Timber Works.

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

Dated: 22.03.2019

  
Signature and seal of the  
Estate Officer



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

6, FAIRLEY PLACE (1<sup>st</sup> FLOOR) KOLKATA-700001

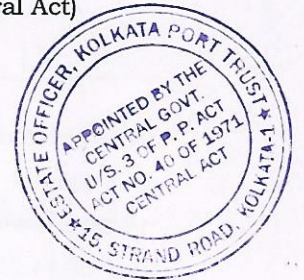
By Order of :  
THE ESTATE OFFICER  
KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
KOLKATA PORT TRUST

*J* 03.04.19.  
Head Assistant  
OFFICE OF THE ESTATE OFFICER  
KOLKATA PORT TRUST

**FORM -G**

PROCEEDINGS NO. 303/D OF 1999  
ORDER NO. 20 DATED: 22.03.2019



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

To

**M/s Bundilal Nathunilal,  
67/18, Strand Road, Nimtollah,  
Kolkata 700006,  
AND also of Lot no. 18,  
Cross Road no. 17, Nimtollah,  
Kolkata 700006**

Whereas I, the undersigned, am satisfied that you are in unauthorised  
occupants of the public premises described in the schedule below:

AND, whereas, by written notice dated 22.05.2018 you were called upon to  
show cause on or before 22.06.2018 why an order requiring you to pay a sum of Rs.  
55,24,707.03/- (Rupees Fifty five lakhs twenty four thousand seven hundred seven  
and paise three only) being the damages payable together with compound interest in  
respect of the said premises should not be made;

AND whereas you have failed to produce any objection and/or evidence inspite  
of sufficient opportunities.

NOW, THEREFORE, in exercise of the powers conferred on me by Sub-Section  
(2) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971,  
I hereby require you to pay the sum of Rs. 55,24,707.03/- (Rupees Fifty five lakhs  
twenty four thousand seven hundred seven and paise three only) assessed by me as  
damages on account of your unauthorised occupation of the public premises for the  
period 01.09.1990 to 10.05.2018 to Kolkata Port Trust by 15.04.2019.

*[Handwritten signature]*

PLEASE SEE ON THE REVERSE





:: 2 ::

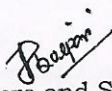
IN exercise of the powers conferred by Sub-section (2-A) of Section 7 of the said Act, I also hereby require you to pay simple interest at the rate of 15% per annum upto 18.09.1996 and thereafter @18% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum on the above sum till its final 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 225.754 sqm or thereabouts, situated on the south side of the Trustees' Cross Road no. 17 at Strand Road, Nimtola Police Station, Jorabagan, in the presidency town of Calcutta. The said piece or parcel of land is bounded on the North by the said Trustees' Cross Road no. 17, leading from Strand Road, on the East by the Strand Road, on the South by the old Nimtola Moribund House, and on the West by the said Trustees' land occupied by M/s Shree Krishna Timber Works.

Dated: 22.03.2019

  
Signature and Seal of the  
Estate Officer



READY FOR DELIVERY  
on 03-04-2019

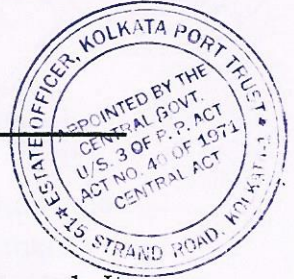
## Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises  
(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 303, 303/R/303/D Of 1999 Order Sheet No. 17

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Bundilal <sup>VS</sup> Nathunilal



20  
22-03-2019

### FINAL ORDER

By Order of:  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
KOLKATA PORT TRUST  
03-04-19  
J Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
KOLKATA PORT TRUST

The matter is taken up today for final disposal. It is the case of Kolkata Port Trust (KoPT), applicant herein, that M/s Bundilal Nathunilal (O.P. herein) came into occupation of the Port property measuring about 225.754 sqm. on the south side of Trustees' Cross Road No. 17 at Strand Road, Nimtollah (Plate No. SB-214) as a monthly lessee and had defaulted in making payment of the arrear dues and taxes, parted with possession of the premises to rank outsiders and erected unauthorised construction without prior approval of the Port authority, in clear violation of the terms and conditions of the lease in question.

It is submitted that O.P. has no authority under law to occupy the public premises after issuance of notice to quit dated 23.06.1990 and was required to hand over the peaceful vacant possession of the property in question to KoPT in terms of the said notice to quit. My attention is drawn with a strong argument that the cause of action arises upon failure on the part of the O.P. to hand over possession in terms of the said notice dated 23.06.1990 as served upon O.P. and thereafter.

In terms of Order no. 8 dated 11.05.2018, on 22.05.2018 this Forum issued Show Cause Notice under section 4 of Public Premises (Eviction of Unauthorised Occupants) Act 1971 for adjudication of the prayer of passing of Order of Eviction etc. On the same date two Show Cause Notices u/s 7 of the Act were also issued upon O.P. for adjudication of the prayer for recovery of rental dues, damages etc.

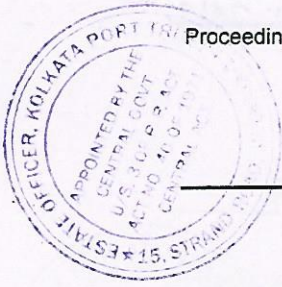
On receipt of Show Cause Notices one Arun Roy, a sitting occupant appeared through Sri Om Prakash

*Amal*



# 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. 303, 303/R A303/D. Of 1999 Order Sheet No. 18

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*M/s. Bimalal Nathuwalal.*  
<sup>VS</sup>

20  
22-03-2019

Yadav, Advocate by filing a Vakalatnama. On 22.06.2018 and 27.07.2018 two applications were filed on behalf of said Arun Roy praying for time to file the Replies to the show cause notices. On 20.08.2018 Arun Roy prayed for supply of certain documents which were duly served on Arun Roy by KoPT on 1.11.2018.

Thereafter, vide several orders the O.P. as well as the other interested parties were informed about the next date for appearing and filing the replies to the show cause notices. But inspite of receipt of the orders, none appeared either for O.P. or for Arun Roy or any other sitting occupant nor represented their case before the Forum.

In such circumstances after giving enough chances to O.P. and other interested parties, the Final order was reserved to avoid further pendency of the matter.

Now while delivering the final order, I have carefully gone through the contentions made by KoPT against the O.P. along with supporting documents submitted in this respect. Practically, this case is decided ex-parte O.P., as no one on behalf of O.P. ever appeared before this Forum despite sufficient opportunities. One sitting occupant appeared before this Forum on a certain occasions but failed to prove on what authority he is in occupation of the public property in question. Be that as it may, on perusal of the materials available on the record, and from the pleading of KoPT, I find that the action on the part of the Port Authority is very much logical and is very much within the four corners of law. KoPT has placed before me several communications addressed to the O.P. prior to determining the relationship, requesting to remove the breaches in question, but

By Order of:  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
CERTIFIED COPY OF THE ORDER  
PASSED IN THE ESTATE OFFICER  
KOLKATA PORT TRUST  
OFFICE OF THE ESTATE OFFICER  
KOLKATA PORT TRUST  
*2003.04.19*

*Jan*



# 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. 303, 303/R A 303/D Of 1999 Order Sheet No. 19

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*M/S. Bimalal Nathaniel* <sup>VS</sup>

20  
22-03-2019

By Order of:  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
KOLKATA PORT TRUST  
*03.04.19*  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
KOLKATA PORT TRUST

apparently O.P. paid no heed. KoPT has also produced before this Forum the statement of accounts which depicts the O.P. as a defaulter of rent of taxes for prolonged period. Moreover, KoPT's inspection report filed on 10.03.2017 indicates that unauthorised persons/entities are in use and enjoyment of the premises to the detriment of the Port Authority. This is practically admitted by the O.P. also, in its letter dated 17.12.1987, a copy of which has been produced before me by KoPT. Overall, I am satisfied that the breaches complained of by KoPT were/are very much existent and as such I am not inclined to grant any protection to the O.P. at all. I am of the firm view that the Notice to Quit dated 23.06.1990 issued by the Port Authority had been validly issued and served on the O.P. and the same is binding on the parties.

In view of the circumstances, 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 liquidate rental dues of the Port Authority, within the prescribed period, despite being requested for immediate liquidation.
- 2) That O.P. has clearly parted with possession of the public premises in favour of rank outsiders, without any approval of the KoPT, in the facts and circumstances of the case.
- 3) That O.P. has failed to file its Replies to the show cause notices inspite of having knowledge of the instant proceedings.
- 4) O.P. has failed to show any cause against the allegations of erecting unauthorised

*Amal*



# 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. 303, 303/RA303/D Of 1999 Order Sheet No. 20

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*M/s. Baidilal Nathuwal.*



20

22.03.2019.

By Order of:  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE BOARD OF TRUSTEES  
KOLKATA PORT TRUST  
OFFICE OF THE ESTATE OFFICER  
KOLKATA PORT TRUST  
203-04-19

- construction and unlawful induction of subtenants;
- 5) That O.P. as well as any sitting occupant has failed to make out any case in support of its occupation as "authorised occupation" inspite of sufficient chances being given.
  - 6) That O.P. or any other person/s asserting its right through O.P. has failed to bear any witnesses or adduce any evidence in support of its occupations as "authorised occupation" inspite of sufficient chances being accorded.
  - 7) That the notice to quit dated 23.06.1990 as served upon O.P. by Port Authority is valid, lawful and binding upon the parties and O.P.'s occupation, and that any other occupant of the premises, has become unauthorised in view of Section 2(g) of the P.P. Act.
  - 8) 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 Law up to the date of 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 could be taken for execution of

*Janil*



# 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. 303, 303/R & 303/D Of 1999 Order Sheet No. 21

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*M/s. Buidilol<sup>VS</sup> Nathunilol.*

20  
22-03-2019.

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. 70,258.10/- for the period from 01.05.1987 up to 31.08.1990 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 15.04.2019. Such dues attracts simple interest at the rate of 15% per annum upto 18.09.1996 and thereafter at the rate of 18% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum till its liquidation of the same from the date of incurrence 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 as per KoPT's books of accounts.

By Order of :  
THE ESTATE OFFICER  
KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
KOLKATA PORT TRUST  
*J* 203-04-19.  
Head Assistant

OFFICE OF THE LD. ESTATE OFFICER  
KOLKATA PORT TRUST

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. 55,24,707.03/- as claimed by the Port Authority as damages in relation to the Plate in question, is correctly payable by O.P. for the period 01.09.1990 to 10.05.2018 (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. The said damages shall carry 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 the above sum from the date of incurrence of liability till its final payment in accordance with the relevant notification/s published in Official Gazette. The formal orders u/s 7 of the Act are signed accordingly.

I make it clear that KoPT is entitled to claim damages against O.P. for unauthorized use and occupation of



READY FOR DELIVERY  
on 03-04-2019

# 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. 303, 303/R A 303/D Of 1999 Order Sheet No. 22

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*vs*  
*r/s. Bunde Lal Nathmural.*



*20*

*22.03.2019.*

By Order of:  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
KOLKATA PORT TRUST  
*J. Head Assistant*  
*03.04.19.*  
OFFICE OF THE ESTATE OFFICER  
KOLKATA PORT TRUST

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 10.05.2018 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 10.05.2018, 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

*J.P. BOIPAI*  
(J. P. BOIPAI)  
ESTATE OFFICER

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