

**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. 14 DT 02.08.2019  
PROCEEDINGS NO. 1640 OF 2018

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-

M/s Shyam Sundar Agarwal (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 Shyam Sundar Agarwal (Proprietor: Shri Shyam Sundar Agarwal) OF 67/47, Strand Road, Kolkata 700070 AND also of D/5, Jagannath Ghat Cross Road, Kolkata 700007** is in unauthorized occupation of the Public Premises specified in the Schedule below:

**REASONS**

- 1) That O.P or any person interested on the subject property has failed to appear before this Forum and has failed to file Reply to the Show Cause Notice under Sec. 4 of the Act inspite of sufficient chances.
- 2) That O.P has violated the condition of tenancy under monthly licence as granted by the Port Authority by way of not making payment of licence fees and taxes to KoPT without any authority of law and also by sub-letting and/or parting with possession in favour of rank outsiders without any authority of law.
- 3) That O.P. has failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances.
- 4) That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation", inspite of sufficient chances.
- 5) That the notice to quit dated 15.05.1993 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**

*And*

*05.08.2019*

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A copy of the reasoned order No. 14 dated 02.08.2019 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 Shyam Sundar Agarwal (Proprietor: Shri Shyam Sundar Agarwal) OF 67/47, Strand Road, Kolkata 700070 AND also of D/5, Jagannath Ghat Cross Road, Kolkata 700007** 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 Shyam Sundar Agarwal (Proprietor: Shri Shyam Sundar Agarwal) OF 67/47, Strand Road, Kolkata 700070 AND also of D/5, Jagannath Ghat Cross Road, Kolkata 700007** 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**

*By Order  
02.08.2019*

Plate no. CG218 - The godown no. D/5 msg. about 152.460 sqm or thereabouts, situated on the South side of J.N. Ghat Cross Road, Thana - Jorabagan, within the Presidency Town of Kolkata.

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

Datcd: 02.08.2019

*Porizon*  
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  
16, FAIRLEY PLACE, (1<sup>ST</sup> FLOOR) KOLKATA-700001

**Form " E "**

PROCEEDINGS NO. 1640/R OF 2018  
ORDER NO. 14 DATED: 02.08.2019

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 Shyam Sundar Agarwal**  
**(Proprietor: Shri Shyam Sundar Agarwal)**  
**67/47, Strand Road, Kolkata 700070**

**AND also of D/5, Jagannath Ghat Cross Road,**  
**Kolkata 700007**

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

AND WHEREAS, by written notice dated 22.06.2018 you were  
called upon to show cause on/or before 20.07.2018 why an order  
requiring you to pay a sum of Rs. 2,72,668.66/- (Rupees Two Lakh  
Seventy Two Thousand Six Hundred Sixty Eight and paise sixty six  
only) being the licence fees 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 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. 2,72,668.66/- (Rupees Two Lakh Seventy Two Thousand  
Six Hundred Sixty Eight and paise sixty six only) for the period  
01.04.1980 to 09.06.1993 (both days inclusive) to Kolkata Port  
Trust by 16.08.2019.

PLEASE SEE ON REVERSE

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02.08.2019  
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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**

*05.08.2019*

Plate no. CG218 - The godown no. D/5 msg. about 152.460 sqm or thereabouts, situated on the South side of J.N. Ghat Cross Road, Thana - Jorabagan, within the Presidency Town of Kolkata.

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

Dated: 02.08.2019

*Rayon*  
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

**FORM -G**

PROCEEDINGS NO. 1640/D OF 2018  
ORDER NO. 14 DATED: 02.08.2019

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

To

**M/s Shyam Sundar Agarwal  
(Proprietor: Shri Shyam Sundar Agarwal)  
67/47, Strand Road, Kolkata 700070**

**AND also of D/5, Jagannath Ghat Cross Road,  
Kolkata 700007**

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 22.06.2018 you were called upon to  
show cause on or before 20.07.2018 why an order requiring you to pay a sum of Rs.  
49,66,957.12/- (Rupees Forty Nine Lakhs Sixty Six Thousand Nine hundred fifty  
seven and paise twelve 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. 49,66,957.12/- (Rupees Forty Nine Lakhs  
Sixty Six Thousand Nine hundred fifty seven and paise twelve only) assessed by me as  
damages on account of your unauthorised occupation of the public premises for the  
period 10.06.1993 to 15.06.2018 to Kolkata Port Trust by 16.08.2019.

PLEASE SEE ON THE REVERSE

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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

Plate no. CG218 - The godown no. D/5 msg. about 152.460 sqm or thereabouts, situated on the South side of J.N. Ghat Cross Road, Thana - Jorabagan, within the Presidency Town of Kolkata.

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

Dated: 02.08.2019

  
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. 1640, 1640/R, 1640/D Of 2018 Order Sheet No. -09-

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*M/S. Shyam Sundar Agarwal.* VS *(CG-218)*

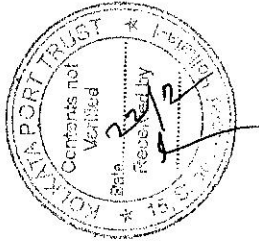
13  
15.02.2019

Present: G.Ghoshal, Resolution Officer-Legal  
For Kolkata Port Trust (KoPT)

No one appears for O.P. It is seen from the Process Server's report dated 12.02.2019 that due affixation of the order has been made on the premises as O.P. did not accept service of the order passed by this Forum.

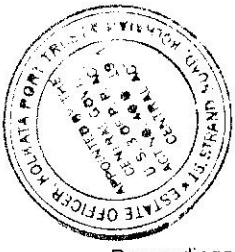
It is therefore clear that O.P. is not interested in representing his case before this Forum. In such circumstances let Final Order be reserved.

All concerned are directed to act accordingly.



05.08.2019

*P. Basu*  
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. 1640, 1640/R, 1640/D Of 2018 Order Sheet No. 10

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*M/s. Shyam Sunder Agarwal. (CG-218)*  
**VS**

### FINAL ORDER

The instant proceedings nos. 1640, 1640/R, 1640/D of 2018 arises out of the application filed on 04.11.2004 by the Kolkata Port Trust (KoPT), Applicant herein, praying for an order of eviction and recovery of dues and other charges etc. along with accrued interest against M/s Shyam Sunder Agarwal (Proprietor: Shri Shyam Sunder Agarwal), the O.P. herein, under the relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

The fact of the case in nutshell is that the O.P. came into occupation of the port property measuring 152.640 sqm or thereabout situated at South side of J.N. Ghat Cross Road, Thana -Jorabagan, District : Kolkata having Occupation No. CG-218 (morefully described in Schedule 'A' of the KoPT's application filed on 04.11.2004) as a monthly licensee and had defaulted in making payment of licence fees and taxes, carried out unauthorized construction/s and unauthorisedly sub-let/transferred/sold the tenancy rights to strangers and/or otherwise parted with possession in favour of outsiders, which are all violations of the terms and conditions of the licence agreement.

It is the case of KoPT that the O.P. was asked to vacate the premises in terms of the Quit Notice dated 15.05.1993, served as per statute upon the O.P. by registered post with acknowledgement due requesting the O.P. to quit, vacate and deliver up the vacant and peaceful possession of the premises. It is further the case of KoPT that inspite of Ejectment Notice, the O.P. failed and neglected to quit, vacate and deliver up vacant and peaceful possession of the said premises on the stipulated date and as such failed and neglected to hand over the public premises to KoPT.

Considering the submission and materials on record as submitted by KoPT, Notice/s to Show Cause all dated 22.06.2018, U/s 4 & 7 of the Public Premises Act, 1971 were issued to the O.P. as well as any other person interested on the subject property, as to why an order of eviction should not be made against the O.P. The Notice/s were served upon the address of O.P. by 'Speed Post' in KoPT's usual course of business as well as by Hand Delivery through Process Server of this Office.

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02-08-2019.

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THE ESTATE OFFICER  
KOLKATA PORT TRUST  
05-08-2019

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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. 1640, 1640/R x 1640/D Of 2018 Order Sheet No. 11

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Shyam Sunder <sup>VS</sup> Agerwal. (CG-218)

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02-08-2019

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It appears from the records that the Notice/s sent through 'Speed Post' were returned undelivered with the endorsement of the postal department as "addressee cannot be located". As reported by the Process Server of this Forum, O.P./his representatives refused to receive the Notice/s during attempts of personal service; however, the Notice/s were affixed on the public premises in question as per the mandate of the Act. Moreover, one stranger in occupation namely Ashok Kumar Goel received the Notice/s but without any letter/document of authority. Be that as it may, no one turned up before this Forum when the matters were taken up for hearing. Considering the provisions of the Act, the Notice/s were then published in the daily newspaper "The Times of India" dated 30.07.2018 inviting attention of all concerned. On the returnable date, i.e. 24.08.2018, said Ashok Kumar Goel claiming to be a co-partner of the O.P. came up but neither produced any letter/document of authority nor filed any Reply to the Show Cause Notice/s. The same person again appeared on 24.09.2018 but did not comply with the direction of this Forum. After the matter was placed before me after retirement of the predecessor Estate Officer, I also gave multiple opportunities to the O.P. or anybody else interested in the property but nobody turned up to defend themselves. In fact, the Orders of this Forum were successively refused, as reported by the Process Server. Finding no other alternative, I reserved the final order on 15.02.2019.

Now while delivering the final order, I have carefully gone through the submissions of KoPT. It is noted that KoPT vide their original application filed on 04.11.2004 and subsequently vide detailed statement of accounts has drawn my attention to the fact that huge amount is lying outstanding from the O.P. It appears to me from perusal of the statement of accounts prepared and maintained by KoPT in its usual course of business, that O.P. was clearly a defaulter of licence fees and taxes. Although nothing regarding unauthorized construction has been produced before me by KoPT, but the issue of sub-letting or parting with possession in favour of rank outsiders appears to have merit inasmuch as strangers such as Ashok Kumar Goel are in use and enjoyment of the public premises in question. Considering these facts and circumstances, there is no doubt or confusion in my mind that the monthly licence of the O.P. was rightly revoked by the Port Authority vide Notice to Quit dated 15.05.1993. The said act of the Port Authority is, in

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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. 1640, 1640/R & 1640/D Of 2018 Order Sheet No. 12

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S. Shyam Sunder Agarwal. (CG-218)  
VS

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02.08.2019.

05.08.2019.

my view, very much in consonance with the terms of the conditions of the licence as contained in KoPT's offer letter dated 26.09.1979 which had been unconditionally accepted by the O.P. vide its letter dated 06.10.1979. As such, I have no hesitation to hold that the said Notice to Quit had been validly issued and served on the O.P. and the same is binding on the parties.

In view of the circumstances, as there is no reply to the Show Cause Notice under Section 4 of the Act, either on behalf of O.P or on behalf of any other person/s interested in the property in question, inspite of sufficient chances, 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 or any person interested on the subject property has failed to appear before this Forum and has failed to file Reply to the Show Cause Notice under Sec. 4 of the Act inspite of sufficient chances.
- 2) That O.P has violated the condition of tenancy under monthly licence as granted by the Port Authority by way of not making payment of licence fees and taxes to KoPT without any authority of law and also by sub-letting and/or parting with possession in favour of rank outsiders without any authority of law.
- 3) That O.P. has failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances.
- 4) That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation", inspite of sufficient chances.
- 5) That the notice to quit dated 15.05.1993 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

Done

# 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. 1640, 1640/R & 1640/D Of 2018 Order Sheet No. 13

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S. Shyam Sunder <sup>VS</sup> Agorwal. (CG-218)

14  
02.08.2019.

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 Law upto 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 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. 2,72,668.66/- for the period 01.04.1980 to 09.06.1993 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of arrears of licence fees and O.P. must have to pay the said dues to KoPT on or before 16.08.2019. Such dues attract interest @ 15% per annum upto 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.

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. 49,66,957.12/- as claimed by the Port Authority as damages in relation to the Plate in question, is correctly payable by O.P. for the period 10.06.1993 to 15.06.2018 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by 16.08.2019. 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 incurrance of liability till

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05.08.2019.

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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. 1640, 1640/R/1640/D Of 2018 Order Sheet No. 13.14

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*M/s. Shyam Sunder Agarwal. (CG-218)*  
**VS**

14  
02.08.2019.


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 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 the liability of O.P. to pay damages extends beyond 15.06.2018 as well, as and till such time the possession of the premises continues to be under the unauthorised occupation with the O.P.. KoPT is directed to submit a statement comprising details of its calculation of damages after 15.06.2018, 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 execution of this Order in accordance with law.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

  
(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 \*\*\*

*05.08.2019*