

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. 1695, 1695 R-D Of 2019 Order Sheet No. 7

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Ashoka Stores Agency ^{VS}

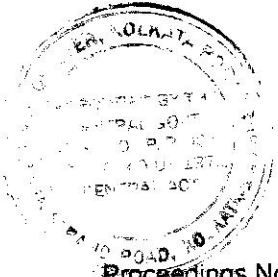
05
20.08.2019

FINAL ORDER

The matter is taken up today for final disposal. It is the case of Kolkata Port Trust (KoPT), applicant herein, vide application dated 15.06.2016, that M/s Ashoka Stores Agency, O.P. herein, came into occupation of KoPT's godown space measuring about 236.718 sqm at the ground floor of the Trustees' Armenian Ghat Warehouse, P.S. North Port Police Station, Kolkata comprised under occupation No. A/18, being the Public Premises in question, as a monthly lessee on certain terms and conditions, and O.P. violated the fundamental condition of grant of tenancy by way of not making payment of rental dues, taxes and interest for a prolonged period. It is strongly argued on behalf of KoPT that the O.P. has no authority under law to occupy the public premises after expiry of the period as mentioned in the notice to quit dated 23.07.2001 and the O.P. 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 Show Cause Notice/s under 7 of the Act (for adjudication of the prayer for recovery of rent, damages, interest etc) all dated 02.05.2019.

It is seen from record that the letters sent through registered post containing the Notice/s as aforesaid were returned by the Postal Department undelivered, with the endorsements "left or moved" and "no such co. in this address, insufficient address". It is further seen from the report of the Process Server that the Notice/s could not be served on the O.P. as O.P. could not be found. In such circumstances, direction for newspaper publication was passed by this Forum and such publication took place on "The Times of India" dated 30.05.2019 intimating the O.P. and/or anybody interested in the



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Proceedings No. 1695, 1695/R-D Of 2019 Order Sheet No. 8

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/s. Ashoka Stores Agency

05
20.8.2019

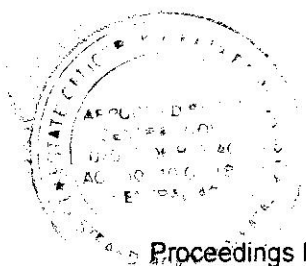
property to appear before the undersigned on the scheduled date and time. Publication was also made in KoPT's official website for information to all concerned. However, still nobody appeared before me on the date fixed, i.e. 24.06.2019. Thus, being satisfied with service of Notice/s on all concerned, and after hearing the arguments of KoPT, I proceeded to reserve the final order.

Now while passing the final order, I have carefully gone through the contentions made by KoPT against the O.P. It is seen that the offer letter dated 22.02.1969 of the KoPT was duly accepted by the O.P. vide its letter dated 13.03.1969, thus forming the contractual relationship between the parties. Be that as it may, it is the specific contention of the Port Authority via application dated 15.06.2016 that O.P. had defaulted in payment of rent and taxes for a prolonged period. This stands confirmed from the Notice to Quit dated 23.07.2001 where such huge rental dues find a clear mention. In such a situation, I have no reason to disbelieve the submission of the statutory authority. As such, it appears to me that the termination of the tenancy by KoPT is very much justified inasmuch as the O.P. was a defaulter for a long time. I therefore come to the conclusion that the Notice to Quit dated 23.07.2001 had been validly issued and served on the O.P. and the same is binding on the parties. I am also convinced with the submission of the Port Authority that the compensation charges claimed against the O.P. are on the basis of the relevant TAMP (Tariff Authority for Major Ports) notifications as issued from time to time.

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. ex-parte, as prayed for on behalf of KoPT, on the following grounds/reasons:-

- 1) That O.P. has failed to liquidate the dues of the Port Authority, for a considerable period, in

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Proceedings No. 1695, 1695/R-D Of 2019 Order Sheet No. 9

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Ashoka ^{VS} Stores Agency

DS
20-8-2019

- violation of the condition of the agreement between the parties.
- 2) That O.P. has failed to appear before this Forum and failed to show cause as to why order of eviction should not be passed on the O.P.
 - 3) That O.P./any other person on behalf of O.P. have failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
 - 4) That O.P. or any other person/s asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation", inspite of sufficient chances being provided.
 - 5) That the notice to quit dated 23.07.2001 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.

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 canons of Law till the date of unencumbered 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.

[Handwritten 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. 1695, 1695) R-D Of 2019 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

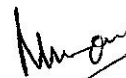
M/s. Ashoka ^{VS} Stores Agency.

05
20.8.2019

its calculation of damages after 31.05.2016, 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.

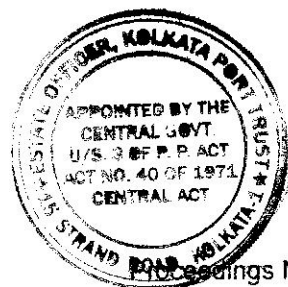
I make it clear that in the event of failure on the part of O.P. to comply with this Order, Port Authority is entitled to proceed further for execution of this order in accordance with law. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL



(M.K. Das)
ESTATE OFFICER

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



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. 1695, 1695/R-D Of 2019 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Ashoka Stores Agency. ^{VS}

DS
20.8.2019

It is my considered view that a sum of Rs. 13,78,673.00/- for the period 01.06.1990 to 31.08.2001 (both days inclusive) 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 30.08.2019. 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. 48,60,804.12/- as claimed by the Port Authority as damages in relation to the Plate in question, is correctly payable by O.P. for the period 01.09.2001 to 31.05.2016 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by 30.08.2019. The said damages shall carry simple interest @ 18% per annum upto 06.04.2011 and thereafter @ 14.25% per annum on 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. I sign the formal orders u/s 7 of the Act.

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 31.05.2016 as well, 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

**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 (1st Floor)
KOLKATA - 700 001

Court Room At the 1st Floor
of Kolkata Port Trust's
Fairley Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 05 DT 20.08.2019
PROCEEDINGS NO. 1695 OF 2019

By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-

M/s Ashoka Stores Agency (O.P.)

F O R M - "B"

FOR 1/100 COPY OF THE ORDER
TO THE ESTATE OFFICER
KOLKATA PORT TRUST
6, FAIRLEY PLACE, KOLKATA-700001

**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 Ashoka Stores Agency, OF Room no. 274 & 275, 4th floor, 25, Strand
Road, Kolkata 700001 AND also of 24, Strand Road, Godown no. 5, Ground floor,
Kolkata 700001** is in unauthorized occupation of the Public Premises specified
in the Schedule below:

REASONS

- 1) That O.P. has failed to liquidate the dues of the Port Authority, for a considerable period, in violation of the condition of the agreement between the parties.
- 2) That O.P. has failed to appear before this Forum and failed to show cause as to why order of eviction should not be passed on the O.P.
- 3) That O.P./any other person on behalf of O.P. have failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 4) That O.P. or any other person/s asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation", inspite of sufficient chances being provided.
- 5) That the notice to quit dated 23.07.2001 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

A copy of the reasoned order No. 05 dated 20.08.2019 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 Ashoka Stores Agency, OF Room no. 274 & 275, 4th floor, 25, Strand Road, Kolkata 700001 AND also of 24, Strand Road, Godown no. 5, Ground floor, Kolkata 700001** 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 Ashoka Stores Agency, OF Room no. 274 & 275, 4th floor, 25, Strand Road, Kolkata 700001 AND also of 24, Strand Road, Godown no. 5, Ground floor, Kolkata 700001** 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

Handwritten signature and date 20/8/19

Plate no. A/18 - The said piece or parcel of godown msg. 236.718 sq.m. or thereabouts in the ground floor of the Lessors' godown as Armenian Ghat Warehouse is situated on the west side of Armenian Ghat Street in the presidency town of Kolkata, P.S. North Port Police Station. It is bounded on the North by the portion of the Lessors' said Warehouse leased to Bengal Hardware Mart, on the East by Armenian Ghat Street, on the South by the portion of the Lessors said Warehouse lying vacant and on the West by the Lessors' stopped wharf land on the River Hooghly.

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

Dated: 20.08.2019



Handwritten signature
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
6, Fairley Place (1st FLOOR) KOLKATA-700001

Form " E "

PROCEEDINGS NO.1695/R OF 2019
ORDER NO. 05 DATED: 20.08.2019

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 Ashoka Stores Agency,
Room no. 274 & 275, 4th floor,
25, Strand Road, Kolkata 700001

AND also of 24, Strand Road, Godown no. 5,
Ground floor, Kolkata 700001

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

AND WHEREAS, by written notice dated 02.05.2019 you were
called upon to show cause on/or before 20.05.2019 why an order
requiring you to pay a sum of Rs. 13,78,673/- (Rupees Thirteen
laks seventy eight thousand six hundred and seventy three 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 represent your case and/or
appear before the undersigned to show cause, despite 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. 13,78,673/- (Rupees Thirteen laks seventy eight
thousand six hundred and seventy three only.) for the period
01.06.1990 to 31.08.2001 (both days inclusive) to Kolkata Port
Trust by 30.08.2019.

Handwritten initials

By Order of
THE ESTATE OFFICER
KOLKATA PORT TRUST
FOR RECEIPT COPY OF THE ORDER
TO THE ESTATE OFFICER
KOLKATA PORT TRUST
20/08/2019
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

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 @ 15% per annum upto 18.09.1996 and thereafter @ 18% per annum upto 06.04.2011 and thereafter 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.

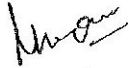
SCHEDULE

Plate no. A/18 - The said piece or parcel of godown msg. 236.718 sq.m. or thereabouts in the ground floor of the Lessors' godown as Armenian Ghat Warehouse is situated on the west side of Armenian Ghat Street in the presidency town of Kolkata, P.S. North Port Police Station. It is bounded on the North by the portion of the Lessors' said Warehouse leased to Bengal Hardware Mart, on the East by Armenian Ghat Street, on the South by the portion of the Lessors said Warehouse lying vacant and on the West by the Lessors' stopped wharf land on the River Hooghly.

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

Dated: 20.08.2019

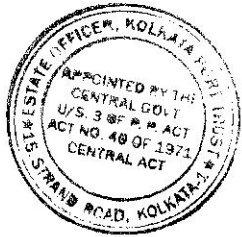



Signature and seal of the
Estate Officer

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
20/08/19
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

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, FAIRLIE PLACE (1st FLOOR) KOLKATA-700001



FORM -G

PROCEEDINGS NO. 1695/D OF 2019
 ORDER NO. 05 DATED: 20.08.2019

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

To

**M/s Ashoka Stores Agency,
 Room no. 274 & 275, 4th floor,
 25, Strand Road, Kolkata 700001**

**AND also of 24, Strand Road, Godown no. 5,
 Ground floor, Kolkata 700001**

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 02.05.2019 you were called upon to show cause on or before 20.05.2019 why an order requiring you to pay a sum of Rs. 48,60,804.12/- (Rupees Forty eight lakhs sixty thousand eight hundred and four 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 appear before me or show any cause before me despite 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. 48,60,804.12/- (Rupees Forty eight lakhs sixty thousand eight hundred and four and paise twelve only) assessed by me as damages on account of your unauthorised occupation of the public premises for the period 01.09.2001 to 31.05.2016 to Kolkata Port Trust by 30.08.2019.

Amc
 By Order of
 THE ESTATE OFFICER
 KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER
 PASSED BY THE ESTATE OFFICER
 KOLKATA PORT TRUST
[Signature]
 OFFICE OF THE ESTATE OFFICER
 KOLKATA PORT TRUST

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 @ 18% per annum upto 06.04.2011 and thereafter @ 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.

By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST

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

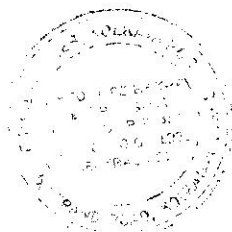
Head
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

SCHEDULE

Plate no. A/18 - The said piece or parcel of godown msg. 236.718 sq.m. or thereabouts in the ground floor of the Lessors' godown as Armenian Ghat Warehouse is situated on the west side of Armenian Ghat Street in the presidency town of Kolkata, P.S. North Port Police Station. It is bounded on the North by the portion of the Lessors' said Warehouse leased to Bengal Hardware Mart, on the East by Armenian Ghat Street, on the South by the portion of the Lessors said Warehouse lying vacant and on the West by the Lessors' stopped wharf land on the River Hooghly.

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

Dated: 20.08.2019



[Signature]
Signature and Seal of the
Estate Officer