

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
Fairlie Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 09 DT 06.09.2019
PROCEEDINGS NO. 1715,1715/D OF 2019

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/s Haripada Samanta, Promotha Nath Samanta(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 Haripada Samanta, Promotha Nath Samanta, Adya Sradhya
Ghat Road, Kolkata-700007 is in unauthorized occupation of the Public
Premises specified in the Schedule below:

REASONS

1. That O.P. has failed to file any Reply to the Show Cause/ papers/ documents inspite of repeated sufficient chances being provided and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P. dated 17.05.1991.
2. That occupation of O.P. beyond the period of expiry of the lease is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question.
3. That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.
4. That the Quit notice dated 17.05.1991 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.
5. That O.P. is liable to pay damages/ mesne profit along with the accrued interest thereon for wrongful enjoyment of the Port Property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

Handwritten signature and date: 11/9/19

Please see on reverse

A copy of the reasoned order No. 09 dated 06.09.2019 is attached hereto which also forms a part of the reasons.

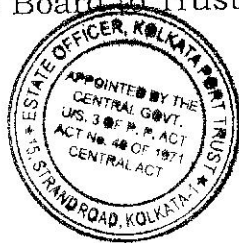
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **M/s Haripada Samanta Promotha Nath Samanta 1, Adya Sradhya Ghat Road, Kolkata-700001** and all persons who may 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 Haripada Samanta Pramatha Nath Samanta 1, Adya Sradhya Ghat Road, 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

290.41 Sq.mtrs. in between Cross Road No. 11 and P.C. Tagore Ghat Cross Road at Kulpighat under Plate No. SB-137 and Subletting Plate No. SF-158/1. It is bounded on the North partly by the Trustees' P.C. Tagore Ghat Cross Road and partly by the Trustees' leased out land, on the East by the Trustees' leased out land, on the South by the Trustees' Cross Road No. 11 and on the West by the Trustees' leased out land.

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

Date- 09.09.19



M. Das
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 SENT FOR DEPOSIT
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

M. Das
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST



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, Fairlie Place (1st Floor)
KOLKATA - 700 001

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

PROCEEDINGS NO.1715/D OF 2019
ORDER NO.09 DATED : 06.09.2019

Form- G

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 Haripada Samanta, Promotha Nath Samanta,
1, Adya Sradhya Ghat Road,
Kolkata-700007.**

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

And whereas by written notice dated 14.05.2019 you are/were called
upon to show cause on/or before 27.05.2019 why an order requiring you to
pay damages of Rs.51,13,894.00 (Rupees fifty one lakhs thirteen thousand
eight hundred ninety four only) for Plate No.SB-137 & Rs.32,43,563.00(Rupees
thirty two lakh forty three thousand five hundred sixty three only) for Plate
No.SF-158/1, both for the period from 01.07.1989 to 31.01.2017 for
unauthorised use and occupation of the said premises, should not be made.

And whereas you have not made any objections or produced any evidence
before the said date.

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 order you to pay the sum of Rs.51,13,894.00 (Rupees fifty one
lakhs thirteen thousand eight hundred ninety four only) for Plate No.SB-137 &
Rs.32,43,563.00(Rupees thirty two lakh forty three thousand five hundred
sixty three only) for Plate No.SF-158/1 as damages on account of your
unauthorised occupation of the premises, both for the period from 01.07.1989
to 31.01.2017 to Kolkata Port Trust by 23.09.2019.

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 @ 15% per annum
upto 18.09.1996, 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

PLEASE SEE ON REVERSE

BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST

FOR THE COPY OF THE ORDER
PAID TO THE ESTATE OFFICER
KOLKATA PORT TRUST

OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

(2)

till its final payment in accordance with the relevant notification/s published in Official Gazette.

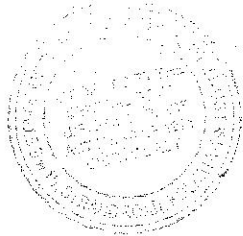
In the event of your refusal or failure to pay the damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue.

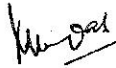
SCHEDULE

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

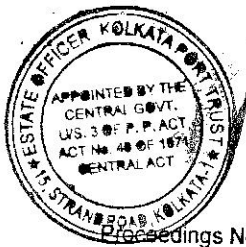
Date 09.09.19




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
Y Head Assistant
OFFICE OF THE LD ESTATE OFFICER
KOLKATA PORT TRUST**



Estate Officer, Kolkata Port Trust

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

Proceedings No. 1715, 1715/D Of 2019 Order Sheet No. 9

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Haripada Samanta, Promotha Nath Samanta VS

FINAL ORDER

09
06.09.2019

The instant proceedings No. 1715, 1715/D of 2019 arises out of the application bearing No. Lnd.16/37/III/A/3592 dated 08.02.2017 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of eviction and recovery of dues /damages and other charges etc. along with accrued interest in respect of the public premises as defined in the 'Schedule A' of said application, against M/S Haripada Samanta Promotha Nath Samanta, the O.P herein, under relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

The fact of the case in a nutshell is that the O.P. came into occupation of the port property measuring 290.41sq.mtrs. or thereabout in between cross Road No.11 and P.C Tagore Ghat Cross Road at Kulpighat (under Plate Nos.SB-137 and. SF-158/1) in the Presidency Town of Kolkata as Long term Lessee, morefully described in the 'Schedule of Property' of the said KoPT's application dated 08.02.2017. The allegation levelled by KoPT against the O.P is that the O.P. was issued an offer letter 05.12.1989 by KoPT for renewal of lease for a further period of 10 years after the expiry of the erstwhile long term lease on 30.06.1989 and the O.P. failed and neglected to accept the offer even after issuance of a reminder

By Order of :
THE ESTATE OFFICER
KOLKATA PORT TRUST

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

[Signature]
17/9/19
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

[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. 1715, 1715/D Of 2019 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Haripada VS Samanta Promotha Nath Samanta,

09

06.09.19

by KoPT vide letter dated 24.11.1990. It is also the case of KoPT that O.P. was asked to vacate the premises on 01.08.1991 vide the Notice to Quit dated 17.05.1991 and the O.P. failed and neglected to deliver the clear, vacant, unencumbered possession to KoPT thereafter. It is further the case of KoPT that the O.P. is liable to pay compensation charges/ mesne profit along with the accrued interest to KoPT for wrongful use and occupation of the Public Premises in question, the details of which has been provided by KoPT vide 'Schedule-B' of the said application of KoPT dated 08.12.2017.

Considering the submission and documents filed by KoPT, the Notice/s to Show Cause were issued by this forum both dated 14.05.2019 (vide Order no 4 dated 06.05.2019) U/s 4 and 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 to the O.P. directing them to file show cause as to why an order of Eviction and payment of arrear compensation/damages together with interest should not be made against the O.P. The O.P. was also called upon to appear before this forum in person or through authorized representative capable to answer all material question/s in connection with the matter along with the evidence which the opposite party intends to produce in support of their case.

By Order of:

THE ESTATE OFFICER

KOLKATA PORT TRUST

OFFICE OF THE ESTATE OFFICER

PORT TRUST BUILDING

11/9/19

11/9/19

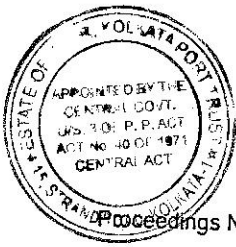
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Estate Officer, Kolkata Port Trust

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

Proceedings No. 1715, 1715/D Of 2019 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Haripada Samanta, Promotha Nath Samanta.
VS

09
06.09.2019

It is placed on record that the said Notices were sent to the recorded address of O.P. vide Speed Post, hand delivery as well by affixing the same in the Public Premises in question as per mandate of the Act. The Notice/s sent by Speed Post were not returned back to this Forum. Further the postal track report obtained from the Official website of the India Post reveals that the notice/s were delivered to the recorded address of O.P. on 17.05.2019. Additionally, it appears from the report of Process Server dated 17.05.2019 that the O.P. has refused to take the service of the said notice/s dated 14.05.2019. However, the said notice/s could not be affixed on the subject premises due to strong resistance offered by the O.P. with the help of the local people in terms of the report of the Process Server dated 17.05.2019. As none appeared on behalf of O.P or any other person interested in the property in spite of service in all available modes and affixation of the Notice/orders on subject premises, a publication was made in the classified column of Kolkata edition of Times of India on 31.07.2019 fixing the penultimate date of O.P's appearance on 26.08.2019. Finally as the O.P failed to appear on 26.08.2019 the final Order was reserved in the matter.

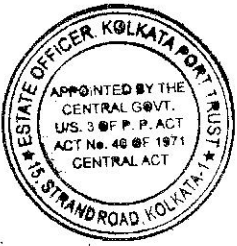
Now, while passing the Final Order, I have carefully considered the documents on record and

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KOLKATA PORT TRUST

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KOLKATA PORT TRUST

17/09/19
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

Mr



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. 17) S, 1715/D Of 2019 Order Sheet No. 12

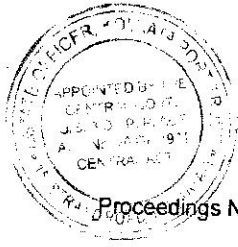
BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M) S. Haripada Samanta, Promotha Nath Samanta.
VS

09
06.09.19

the submissions of KoPT. The question now arises is how far the service of the Show Cause Notice/s deserves merit in the facts and circumstances of the case. After a through perusal of all the records in the case, I have left with no other alternative but to accept that the said notice/s have duly been served upon O.P. through Speed Post at the recorded address of O.P. at that point of time. In my view, the importance of a notice served in the official course of business of India Post cannot be ignored by mere non appearance of the O.P. Further a question can be raised as to whether an erstwhile long term lessee like O.P. can continue in occupation when lease was expired long back and the terms and conditions of the fresh offer has not been accepted by them. As per the Transfer of Property Act, 1882, a lessee is under legal obligation to hand over possession of the property to its landlord/lessor in its original condition after expiration of tenancy under lease. The tenancy of the O.P. automatically stands terminated upon expiry of the lease-hold period and no additional Notice is required in the eye of law on the part of the landlord to ask the O.P. to vacate the premises. In other words, in case of a long term lease having a specific date of expiration, there is no legal compulsion on the landlord to issue any Notice to Quit. The landlord is, however, free to issue such a Notice as a reminder or as an act of gratuity. In the

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KOLKATA PORT TRUST
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST
11/9/19



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. 1715, 1715/D Of 2019 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/s. Harigala Samanta, Promotha Nath Samant.

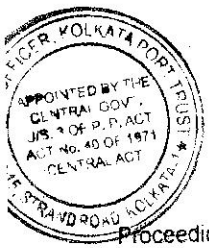
09
06.09.19

instant case, the landlord i.e. KoPT adopted such a course and claims to have issued a Notice to O.P. dated 17.05.1991 asking for immediate vacation of the premises. Whether such Notice has been received by O.P. or not is quite immaterial inasmuch as O.P. was duty bound to hand over possession long back which it had failed to do. During the entire proceedings, no justification came from the O.P. inspite of providing repeated chances as to how the O.P. is entitled to enjoy the property after expiry of their leasehold right. No attempt has been made on behalf of O.P. to satisfy this Forum of Law about any consent on the part of KoPT in occupying the public premises after expiry of the long term lease. No paper/document was ever produced on behalf of O.P., contradicting/ disputing the claim of KoPT inspite of repeated chances being given. Further the occupation of O.P. beyond the period of expiry of the lease is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question. In view of the discussion mentioned above, I am left with no other alternative but to issue an order of eviction u/s 5 of the Act against O.P. on the following grounds/reasons :-

1. That O.P. has failed to file any Reply to the Show Cause/ papers/ documents inspite of repeated sufficient chances being provided and as such, there is nothing to disbelieve

Handwritten signature and date: 11/9/19

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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. 1715, 1715/D Of 2019 Order Sheet No. 14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Hanipada Samanta, Promotha Nath Samanta. VS

KoPT's contention regarding service of Quit notice to O.P. dated 17.05.1991.

2. That occupation of O.P. beyond the period of expiry of the lease is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question.

3. That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.

4. That the Quit notice dated 17.05.1991 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.

5. That O.P. is liable to pay damages/ mesne profit along with the accrued interest thereon for wrongful enjoyment of the Port Property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

ACCORDINGLY, Department is directed to draw up formal order of eviction u/s.5 of the Act as per Rule made there under, giving 15 days time to O.Ps' 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

By Order of

ESTATE OFFICER

KOLKATA PORT TRUST

OFFICE

KOLKATA

OFFICE

KOLKATA

[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. 1715, 1715/D Of 2019 Order Sheet No. 15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Haripada Samanta, Promotha Nath Samanta.

09
06.09.19

the property against O.Ps' in accordance with Law up to the date of recovery of possession of the same.

Regarding payment of compensation / damages / Mesne profit dues to KoPT, I must say that Rs51,13,894.00 (for Plate No SB 137) and Rs.32,43,563.00 (for SF 158/1) as claimed by the Port Authority in relation to the Plates in question, is correctly payable by O.P. for the period 01.07.1989 to 31.01.2017 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 23.09.2019 . O.P. shall be liable to pay 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 its final payment in accordance with the relevant notification/s published in Official Gazette. The formal order u/s 7 of the Act is signed accordingly.

I make it clear that KoPT is entitled to claim further 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 I am not in a position to assess the damages which is payable

By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED TRUE COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

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. 1715, 1715 Of 2019 Order Sheet No. 16

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Haripada Samanta, Promotha Nath Samanta.
VS

by the O.P. in total at this stage when possession of the premises is still with the O.P. KoPT is directed to submit a statement comprising details of its calculation of damages 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 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

(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 ***

Handwritten note:
or 11/9/19