



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. DT 10/10/19
PROCEEDINGS NO. 1698 OF 2019

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-

Sri Ram Niwas Gupta(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 **Sri Ram Niwas Gupta P-221/2, Strand Bank Road(2nd Floor), Kolkata - 700 001** 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 25.02.2016.
2. That occupation of O.P. after determination of lease by Notice to Quit 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 25.02.2016 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 rent/ 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.

PLEASE SEE ON REVERSE

8. 10/10/19

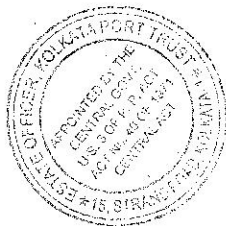
A copy of the reasoned order No. 8 dated 10/10/19 is attached hereto which also forms a part of the reasons.

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 **Sri Ram Niwas Gupta, P-221/2, Strand Bank Road(2nd Floor), Kolkata - 700 001** 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 **Sri Ram Niwas Gupta, P-221/2, Strand Bank Road(2nd Floor), Kolkata - 700 001** 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

Room space msg. about 13.935 sq. m situated on the 2nd Floor under (Plate No.CG-160) of Kolkata Port Trust's premises No.P-221/2, Strand Bank Road under North Port Police Station in the Presidency town of Kolkata. The said room space is bounded on the North by common passage, On the East by the Trustee's room space allotted to M/S B.M. Mitra & Brothers, on the South by the Trustee's land used as passage and on the West by the Trustee's room space allotted to M/S Bharat Engineering Co. Trustees' means the Board to Trustees' of the Port of Kolkata.

Date- 11/10/19



Signature & Seal of the Estate Officer.

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

8/11/19



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 Occupatns) Act 1971

OFFICE OF THE ESTATE OFFICER

6th, Fairley Warehouse (1st FLOOR) KOLKATA-700001

Form "E"

PROCEEDINGS NO.1698/R OF 2019

ORDER NO. 8 DATED: 10.10.19

Form of order under Sub-section (1) and (2A) of Section 7 of the Public Premises
(Eviction of Unauthorised Occupants) Act,1971.

To

Sri Ram Niwas Gupta
P-221/2, Strand Bank Road(2nd Floor),
Kolkata - 700 001.

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

AND WHEREAS, by written notice dated 21.05.2019 you are/were called upon to show cause on/or before 11.06.2019 why an order requiring you to pay a sum of **Rs. 3,45,651.00** (Rupees Three lakhs Forty Five Thousand Six hundred fifty one only) being the rent payable together with simple interest in respect of the said premises should not be made;

And whereas I have considered your objection and/or the evidence produced by you.

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

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. 3,45,651.00** (Rupees Three lakhs Forty Five Thousand Six hundred fifty one only) for the period 01.02.1990 to 31.03.2016(both day inclusive)for Plate No.CG-160, to Kolkata Port Trust by 24.10.2019.

PLEASE SEE ON REVERSE

By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST

OFFICE OF THE ESTATE OFFICER
6th, Fairley Warehouse (1st FLOOR)
KOLKATA-700001

[Signature]
10/10
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

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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 @ 14.25% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Calcutta Gazettee/s as per Kolkata Port Trust's Rule.

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

Room space msg. about 13.935 sq. m situated on the 2nd Floor of Kolkata Port Trust's premises No.P-221/2, Strand Bank Road under North Port Police Station in the Presidency town of Kolkata. The said room space is bounded on the North by common passage, On the East by the Trustee's room space allotted to M/S B.M. Mitra & Brothers, on the South by the Trustee's land used as passage and on the West by the Trustee's room space allotted to M/S Bharat Engineering Co.

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

Dated: 11/10/19



Signature and seal of the Estate Officer.

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

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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. 1698/D OF 2019
ORDER NO. 3 DATED: 10.10.19

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
Sri Ram Niwas Gupta
P-221/2, Strand Bank Road(2nd Floor),
Kolkata - 700 001.

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 21.05.2019 you are/were called upon to show cause on/or before 11.06.2019 why an order requiring you to pay damages of Rs 75,145/- (Rupees **Seventy five thousand one hundred forty five only**) for Plate No.CG-160 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 75,145/- (Rupees **Seventy five thousand one hundred forty five only**) for Plate No.CG-160 as damages on account of your unauthorised occupation of the premises for the period 01.04.2016 to 30.06.2017 to Kolkata Port Trust by 24.10.2019.

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 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.

PLEASE SEE ON REVERSE

5 *akh*
17/10

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

Room space msg. about 13.935 sq. m situated on the 2nd Floor of Kolkata Port Trust's premises No.P-221/2, Strand Bank Road under North Port Police Station in the Presidency town of Kolkata. The said room space is bounded on the North by common passage, On the East by the Trustee's room space allotted to M/S B.M. Mitra & Brothers, on the South by the Trustee's land used as passage and on the West by the Trustee's room space allotted to M/S Bharat Engineering Co.

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

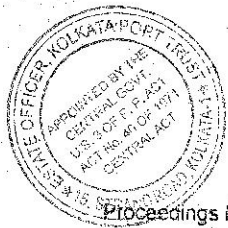
Date *14/11/19*



Signature & Seal of the Estate Officer.

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

RECEIVED
ESTATE OFFICER
KOLKATA PORT TRUST
[Signature]
11/11/19



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. 1698, 1698/R, 1698/D of 2019 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Sri Ram Niwas VS Gupta.

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10.10.19

FINAL ORDER

The instant proceedings No. 1698,1698/R, 1698/D of 2019 arises out of the application bearing No. Lnd.8/55/16/1186 dated 27.06.2016 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of eviction and recovery of rent, 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 Sri Ram Niwas Gupta, the O.P herein, under the 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 about 13.935 sq.mtrs. or thereabout situated on the premises No.P-221/2, Strand Bank Road(2nd Floor), Thana-North Port Police Station (under Plate No.CG-160) in the Presidency Town of Kolkata as monthly Lessee, morefully described in the 'Schedule A' of the said KoPT's application dated 27.06.2016. The allegation levelled by KoPT against the O.P is that the O.P. has defaulted in payment of monthly rent and taxes, has unauthorizedly parted with possession of the said property to rank outsiders in gross violation of the terms and conditions of the said tenancy and also violated the Order dated 12.02.2007 passed by the Hon'ble Calcutta High Court in the matter of APO 367 of 2006 with W.P. No. 347 of 1988 and W.P. No. 209 of 1997 (The Port Tenants Welfare Association & Ors. Vs The Board of Trustees for the Port of Calcutta). It is also the case of KoPT that O.P. failed to remedy the breaches despite the Final Notice of KoPT being No.Lnd.8/55/14/1097 vide dated 11.07.2014 and was asked to vacate the premises on 31.03.2016 in terms of the Notice to Quit dated 25.02.2016 and the O.P. failed and neglected to deliver the clear, vacant, unencumbered possession of the subject premises to KoPT in terms of the said notice. It is further the case of KoPT that the O.P. is liable to pay rent, 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' and 'C' of the said application of KoPT dated 27.06.2016.

Considering the submission and documents filed by KoPT, the Notice/s to Show Cause were issued by this forum both

Handwritten signature and date: 17/10

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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. 1698,1698/R. 1698/D Of 2019 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Ram Niwan VS Gupta

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10.10.19

dated 21.05.2019 (vide Order no 5 dated 21.05.2019) U/s 4 and 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 to the O.P. and/or any other interested party, directing them to file show cause as to why an order of Eviction and payment of arrear rent/compensation/damages together with interest should not be made against the O.P. and/or any other interested party. 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.

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 the mandate of the Act. The Notices sent by Speed Post were returned back to this Forum with the remark/s of Postal Department as 'Left' and 'insufficient address'. It appears from the report of Process Server dated 29.05.2019 that the O.P. was not found at above addresses. It appears from the Report of the Process Server dated 29.05.2019 that the said notice/s was affixed on the subject premises on 29.05.2019 as per the mandate of the said Act. As none appeared on behalf of O.P or any other person interested in the property in spite of service of Notice/s in all available modes of serving of Notice and affixation of the Notice/orders on the subject premises, the final Order in the matter was reserved on 25.06.2019.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of KoPT.

The question arises for adjudication as to how a monthly lessee like the O.P. can continue in occupation when lease was determined by a Notice to Quit. 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 determination of tenancy under lease. The tenancy of the O.P. automatically stands terminated upon expiry of the Notice 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 the

By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST

RECEIVED COPY OF THE ORDER
PASSING THE ESTATE OFFICER
KOLKATA PORT TRUST
[Signature]
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST





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. 1698, 1698/R, 1698/D Of 2019 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Ram Niwas Gupta
VS

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10.10.19

instant case, the landlord i.e. KoPT adopted such a course and has issued a Notice to O.P. dated 25.02.2016 asking for vacation of the premises on 31.03.2016. It appears that the Notice to quit dated 25.02.2016 was sent through registered post to the recorded address of O.P. and a copy of the such Notice was also served through hand delivery to the recorded address of O.P. which was received a person on O.P.'s behalf by putting his signature on a copy of the same on 29.03.2016. As per the mandate provided by the Transfer of Property Act the O.P. was duty bound to hand over possession of the subject premises on 31.03.2016 after the receipt of such Notice. In my view a letter /notice issued in the official course of business has definitely got an evidentiary value unless there is material, sufficient to contradict the case of KoPT on the basis of such letter. 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 Notice period. 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. after determination of lease by Notice to Quit 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 KoPT's contention regarding service of Quit notice to O.P. dated 25.02.2016.
2. That occupation of O.P. after determination of lease by Notice to Quit 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.

RECORDED
THE ESTATE OFFICER
KOLKATA PORT TRUST

Ram Niwas Gupta
11/10

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. 1698, 1698/R, 1698/D Of 2019 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Sri Ram Niwan ^{VS} Gupta

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10.10.19

4. That the Quit notice dated 25.02.2016 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 rent/ 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 the property against O.Ps' in accordance with Law up to the date of recovery of possession of the same.

Regarding payment of rent, I must say that a sum of Rs.3,45,651.00 (for Plate No CG-160) as claimed by KoPT vide application bearing no. Lnd 8/55 dated 12.02.2019 is correctly payable by O.P and regarding payment of compensation/damages/Mesne profit dues to KoPT, I must say that Rs 75,145/- (for Plate No CG-160) as claimed by the Port Authority in the said application dated 12.02.2019 in relation to the occupation/Plate in question, is correctly payable by O.P. for the period 01.04.2016 to 30.06.2017 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 24.10.2019. 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

BY ORDER OF THE
ESTATE OFFICER
KOLKATA PORT TRUST
APPOINTED BY THE CENTRAL GOVT.
UNDER SECTION 3 OF THE PUBLIC PREMISES
(EVICTON OF UNAUTHORISED OCCUPANTS) ACT 1971

[Signature]
10/10/19



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. 1698, 1698/R, 1698/D Of 2019 Order Sheet No. 14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Sri Ram Niwas ^{VS} Gupta

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10.10.19

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 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

(Sayan Sinha)
ESTATE OFFICER

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

Handwritten initials and date: 11/10

