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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
1st Floor, 6, Fairlie Place Warehouse,
Kolkata-700001

Court Room At the 1st Floor
6, Fairlie Place Warehouse
Kolkata- 700 001.

REASONED ORDER NO. 10 DT 21.10.2019
PROCEEDINGS NO.1704 of 2019

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/s. Gupta Carriers of India

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. Gupta Carriers of India, OF 69, Pathuria Ghat Street, Kolkata-700006** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

1. That O.P. failed to submit its reply to the Show Cause Notice u/s.4 and 7 of the Act in spite of repeated chances.
2. That O.P. failed to bear any witness or adduce any evidence in support of its occupation into the public premises in spite of repeated chances.
3. That O.P. has violated the condition of tenancy under lease as granted by the Port authority by way of unauthorised parting with possession of the Public Premises.
4. That in gross violation of the condition of tenancy as granted by the Port Authority, O.P. failed and neglected to pay the rental dues to KoPT.
5. That the Notice to quit dated 25.08.1972, demanding possession from O.P. as issued by the Port Authority is valid, lawful and binding upon the parties.
6. That O.P's occupation has become unauthorised in view of Sec.2(g) of the P.P. Act and O.P. is liable to pay damages for wrongful use and enjoyment of the Port Property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

A copy of the reasoned order No. 10 dated 21.10.2019 is attached hereto which also forms a part of the reasons.

Sd/-

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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. Gupta Carriers of India, OF 69, Pathuria Ghat Street, 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. Gupta Carriers of India, OF 69, Pathuria Ghat Street, 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 65.311 sqm on the West Side of Sahebbazar Godown at Nimtollah, Kolkata, in the Presidency of town of Kolkata Thana- Jorabagan Police Station (under Plate No. SB-230). It is bounded on the North by Trustees Land, On the South by Trustees Land occupied by M/s. Balhotra Kolkata Roadways, on the East by the Trustees' Sahebbazar Godown and on the West by the Trustees' land used as margin of safety alongside Circular Railway Tracks. Trustees' means the Board of Trustees of the Port of Kolkata.

Dated: 21.10.2019.



Signature & Seal of the
Estate Officer.

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

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THE ESTATE OFFICER, KOLKATA PORT TRUST
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
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1st Floor, 6, Fairlie Place (Fairlie Warehouse),
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Court Room At the 1st Floor
6, Fairlie Place Warehouse
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REASONED ORDER NO. 10 DT 21.10.2019
PROCEEDINGS NO.1704/R OF 2019

Form " E "

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/s. Gupta Carriers of India

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. Gupta Carriers of India,
69, Pathuria Ghat Street,
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 13.05.2019 you were called upon
to show cause on/or before 10.06.2019 why an order requiring you to pay a
sum of Rs. 110.65/- (Rupees One Hundred and Ten and Sixty Five paise 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 the instant proceedings
inspite of repeated chances given to you. As such no evidence have been
produced by you in support of your case.

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. 110.65/- (Rupees One
Hundred and Ten and Sixty Five paise only) for the period 01.09.1972 to
31.10.1972 (both days inclusive) to Kolkata Port Trust by 31.10.2019.

PLEASE SEE ON REVERSE

Sub

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 6.9% per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

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 65.311 sqm on the West Side of Sahebbazar Godown at Nimtollah, Kolkata, in the Presidency of town of Kolkata Thana- Jorabagan Police Station (under Plate No. SB-230). It is bounded on the North by Trustees Land, On the South by Trustees Land occupied by M/s. Balhotra Kolkata Roadways, on the East by the Trustees' Sahebbazar Godown and on the West by the Trustees' land used as margin of safety alongside Circular Railway Tracks. Trustees' means the Board of Trustees of the Port of Kolkata.

Dated: 21.10.2019.



Signature and seal of the

Estate Officer

**REGISTERED POST WITH A/D.
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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
1st Floor, 6, Fairlie Place Warehouse,
Kolkata-700001

Form G

Court Room At the 1st Floor
6, Fairlie Place Warehouse
Kolkata- 700 001.

REASONED ORDER NO. 10 DT 21.10.2019
PROCEEDINGS NO.1704/D OF 2019

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/s. Gupta Carriers of India

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. Gupta Carriers of India,
69, Pathuria Ghat Street,
Kolkata-700006.

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

And whereas by written notice dated 13.05.2019 you were called upon to
show cause on/or before 10.06.2019 why an order requiring you to pay
damages of sum of Rs. 15,41,084/- (Rupees Fifteen Lakhs Forty One
Thousand and Eighty Four only.) for Plate No. SB-230 together with compound
interest for unauthorised use and occupation of the said premises, should not
be made.

And whereas you have failed to represent the instant proceedings
inspite of repeated chances given to you. As such no evidence have been
produced by you in support of your case.

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

PLEASE SEE ON REVERSE



1971, I hereby order you to pay the sum of Rs. 15,41,084/- (Rupees Fifteen Lakhs Forty One Thousand and Eighty Four only.) for the period 01.11.1972 to 31.07.2018 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust by 31.10.2019.

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 @ 6.90% per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

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

The said piece or parcel of land Msg. about 65.311 sqm on the West Side of Sahebbazar Godown at Nimtollah, Kolkata, in the Presidency of town of Kolkata Thana- Jorabagan Police Station (under Plate No. SB-230). It is bounded on the North by Trustees Land, On the South by Trustees Land occupied by M/s. Balhotra Kolkata Roadways, on the East by the Trustees' Sahebbazar Godown and on the West by the Trustees' land used as margin of safety alongside Circular Railway Tracks. Trustees' means the Board of Trustees of the Port of Kolkata.

Dated: 21.10.2019.



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. 1704, 1704/B & 1704/D Of 2019 Order Sheet No. -10-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Gupta Carriers of India. (SB-230) VS

FINAL ORDER

The matter is taken-up today for Final Disposal. It is the case of Kolkata Port Trust(KoPT) that M/s. Gupta Carriers of India (O.P's) came into occupation of the Port Property in question being land Msg. 65.311 Sq.m., situated on the West side of Sahebbazer Godown at Nimtollah, Kolkata under Plate No. SB-230 as a month to month lessee and thereafter violated the condition of tenancy by way of not paying rental dues to KoPT. It is also the case of KoPT that O.P. has unauthorisedly parted with possession to rank outsiders and therefore, O.P. is liable to pay damages for wrongful use and occupation of the Public Premises after expiry of the period as mentioned in the notice to quit dated 25.08.1972 and was asked to vacate the possession on expiry of the month of October, 1972. It is argued that O.P. has lost its authority to occupy the Public Premises on and from 01.11.1972. This Forum of Law formed its opinion to proceed against O.P. and issued Show Cause Notice u/s 4 of the Act (for adjudication of the prayer for issuing order of eviction etc.) and Show Cause Notice/s u/s 7 of the Act (for adjudication of the prayer for recovery of arrear rental dues etc.) both dated 13.05.2019 as per Rule made under the Act. The Postal Acknowledgement returned undelivered with the remark 'Not Known'. Perused the report of the Process Server dated 17.05.2019 regarding affixation of Show Cause notice/s on the property. I am satisfied with the service of notice to all concerned.

No one appears on behalf of O.P. with proper authority despite service of the Notice/s.

As no reply to the Show Cause Notice/s u/s 4 and 7 of the Act has been filed on behalf of O.P. inspite of repeated chances, I have no other alternative but to issue order of eviction against O.P. of the following grounds/reasons :

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21.10.2019.

Sub

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. 1704, 1704/R & 1704/D Of 2019 Order Sheet No. -11-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Gupta Carriers of India. (SB-230)
VS

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21.10.2019.

1. That O.P. failed to submit its reply to the Show Cause Notice u/s.4 and 7 of the Act in spite of repeated chances.
2. That O.P. failed to bear any witness or adduce any evidence in support of its occupation into the public premises in spite of repeated chances.
3. That O.P. has violated the condition of tenancy under lease as granted by the Port authority by way of unauthorised parting with possession of the Public Premises.
4. That in gross violation of the condition of tenancy as granted by the Port Authority, O.P. failed and neglected to pay the rental dues to KoPT.
5. That the Notice to quit dated 25.08.1972, demanding possession from O.P. as issued by the Port Authority is valid, lawful and binding upon the parties.
6. That O.P's occupation has become unauthorised in view of Sec.2(g) of the P.P. Act and O.P. is liable to pay damages for wrongful use and 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.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

Sd/-

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. 1704, 1704/R & 1704/D Of 2019 Order Sheet No. -12-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Gupta Carriers of India. (SB-230) VS

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21.10.2019.

that necessary action could be taken for execution of the order of eviction u/s 5 of the Act as per Rule made under the Act.

Department is also directed to draw formal order for rent u/s.7 of the Act for Rs. 110.65 for Plate No. SB-230 for the period 01.09.1972 to 31.10.1972(both days inclusive), directing O.P. to pay the amount on or before 31.10.2019 and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 31.10.2019. In terms of Section 7 (2-A) of the PP Act, 1971, such dues attract simple interest @ 6.90 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrence of liability, till the liquidation of the same, as per the adjustment of payments, if any made so far by O.P., in terms of KoPT's books of accounts. I sign the formal order u/s 7 (1) & (2-A) of the Act. I make it clear that in the event of failure on the part of O.P. to pay the amount to KoPT as aforesaid, Port Authority is entitled to proceed further for recovery of its claim in accordance with law.

In my opinion KoPT's claim for damages upto 31.07.2018 for Rs. 15,41,084/- against Plate No. SB-230 (excluding interest for delayed payment) for wrongful occupation may be payable by O.P. As it is gathered in course of hearing that the charges so claimed by KoPT is on the basis of the Schedule of Rent Charges published under the Authority of Law as per provisions of the Major Port Trusts Act 1963. In course of hearing, I find that KoPT has made out an arguable claim against O.P., founded with sound reasoning. I make it clear that Kolkata Port Trust is entitled to claim damages against O.P. for unauthorized use and occupation of the public premises upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law and KoPT is entitled to claim interest upon dues/charges right from the date of incurrence of liability by O.P. as per KoPT's Rule.

Sank

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. 1704, 1704/R & 1704/D of 2019 Order Sheet No. -13-


BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S. Gupta Carriers of India. (SB-230) VS

10
21.10.2019.

NOW THEREFORE, I hereby assess the damages payable by the O.P. for wrongful and unauthorised occupation of the public premises in question, for the period 01.11.1972 to 31.07.2018 as Rs 15,41,084/- (principal amount). In terms of Section 7 (2-A) of the PP Act, 1971, such dues attract simple interest @ 6.90 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrence of liability, till the liquidation of the same, as per the adjustment of payments, if any made so far by O.P., in terms of KoPT's books of accounts. I sign the formal order u/s 7 (1) & (2-A) of the Act. I make it clear that in the event of failure on the part of O.P. to pay the amount to KoPT as aforesaid, Port Authority is entitled to proceed further for recovery of its claim in accordance with law.

GIVEN UNDER MY HAND AND SEAL


(Sourav Mitra)
ESTATE OFFICER

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