

SPEED-POST.
~~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. 34 DT 30.10.2019
 PROCEEDINGS NO. 1482, 1482/D OF 2016

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-

M/s. Natabar Sett

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. Natabar Sett of 8/1, Maharshi Debendra Road, Kolkata- 700 007 AND also of 31D, Jagannath Ghat, Kolkata- 700 007 (Plate CG- 52/A)** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

1. That the O.P. failed to satisfy the dues of the Port Authority in its entirety despite opportunity for a prolonged period.
2. That the submissions of the O.P. fail to attract the provisions of Sec. 114 of the Transfer of Property Act, 1882.
3. That the monthly lease of the O.P. had been rightly determined by the Port Authority vide Notice to Quit dated 04.08.2006, which is valid, lawful and binding upon the parties.
4. That O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation" inspite of sufficient chances.
5. That occupation of O.P. has become unauthorized in view of Sec. 2(g) of the P.P. Act, 1971.
6. That O.P. is liable to pay damages/compensation for wrongful use and enjoyment of the Port Property upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

Please see on reverse

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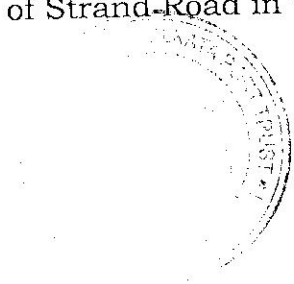
A copy of the reasoned order No. 34 dated 30.10.2019 is attached hereto which also forms a part of the reasons.


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. Natabar Sett of 8/1, Maharshi Debendra Road, Kolkata- 700 007 AND also of 31D, Jagannath Ghat, Kolkata- 700 007 (Plate CG- 52/A)** 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. Natabar Sett of 8/1, Maharshi Debendra Road, Kolkata- 700 007 AND also of 31D, Jagannath Ghat, Kolkata- 700 007 (Plate CG- 52/A)** 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

Compartment No 31 msg about 31.401 sqm or thereabouts in Block- D of Kolkata Port Trust's godown known as Jagannath Ghat godown (ground floor) is situated on the west side of Strand Road in the presidency town of Kolkata.

Dated: 30.10.19




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**

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

Form "G"

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

PROCEEDINGS NO. 1482, 1482/D OF 2016
ORDER NO. 34 DATED: 30.10.2019

To
**M/s. Natabar Sett of 8/1, Maharshi Debendra Road,
Kolkata- 700 007 AND also of
31D, Jagannath Ghat, Kolkata- 700 007**


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

And whereas by written notice dated 24.02.2017 you were called upon to show- cause on/or before 15.03.2017 why an order requiring you to pay a sum of Rs. 4,97,764.04/- (Rupees Four Lakhs Ninety Seven Thousand Seven Hundred Sixty Four and paise Four only) being damages payable together with compound interest for unauthorised use and occupation of the said premises, should not be made.

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

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. Rs. 4,97,764.04/- (Rupees Four Lakhs Ninety Seven Thousand Seven Hundred Sixty Four and paise Four only) for the period 01.12.2006 to 31.08.2016 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust, by 15.11.2019.

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 @ 18% per annum till 06.04.2011 and thereafter @14.25% per annum on the above sum with effect from the date of incurrance of liability, till its final payment in accordance with Notification Published in Official Gazette/s.

 A copy of the reasoned order no. 34 dated 30.10.2019 is attached hereto.

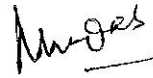
PLEASE SEE ON REVERSE

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

Compartment No 31 msg about 31.401 sqm or thereabouts in Block- D of Kolkata Port Trust's godown known as Jagannath Ghat godown (ground floor) is situated on the west side of Strand Road in the presidency town of Kolkata.

Dated: 30.10.2019



Signature and seal of the
Estate Officer.

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



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. 1482. 1482/D Of 2016 Order Sheet No. 217

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Natabar Sett. **VS**

34
30.10.2019

FINAL ORDER

The matter is taken up for final disposal today. It is the case of Kolkata Port Trust (hereinafter referred to as 'KoPT'), the applicant herein, vide application dated 28.02.2007, filed under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as 'the Act') that M/s Natabar Sett (hereinafter referred to as 'O.P.') came into occupation of the Port Property in question being Compartment no. 31 measuring about 31.401 sq.m or thereabouts (under occupation No. CG52/A) in the Block-D of KoPT's Jagannath Ghat Godown (ground floor) on the West side of Strand Road, in the presidency town of Kolkata, under P.S. North Port Police Station, as a month to month lessee. It is the submission of KoPT that O.P. defaulted in payment of rent and taxes for a prolonged period and for this violation of the terms and conditions of the lease, a Quit Notice dated 04.08.2006 was issued by the Port Authority. KoPT has made out a case that O.P. has no right to occupy the premises on the ground of violation of lease conditions and upon service of the said quit notice dated 04.08.2006.

This Forum of Law formed its opinion to proceed against O.P. under the relevant provisions of the P.P. Act and issued show cause notices under Sec. 4 & 7 of the Act both dated 24.02.2017 as per Rules made under the Act.

O.P. contested the matter and filed several application. Reply to the Show Cause/s has been filed by the O.P. on 21.04.2017. KoPT has filed their comments against the said reply of O.P. on 29.06.2017. Thereafter, O.P. filed application dated 01.09.2017 and prayed for liquidation of the dues of KoPT in several installments. During the course of hearing, some payments in piecemeal fashion have been preferred by the O.P. Finally the matter was reserved for passing Order 08.04.2019.

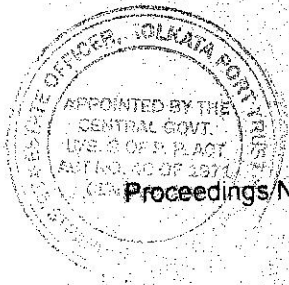
Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of the parties. As regards KoPT's contention of default in payment of rent and taxes, KoPT has relied on their letters dated 14.11.2005, 18.05.2006 etc addressed to the O.P. requesting the O.P. for liquidation

By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

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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. 1482, 1482D Of 2016 Order Sheet No. 26

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Nataban Sett ^{VS}

33

08.04.2019



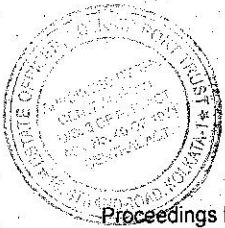
Present : G.Ghoshal, Resolution Officer(L) for
Kolkata Port Trust(KoPT).

No one appears on behalf of O.P

It is seen from the record and submission made by the representative of KoPT that O.P has not made any response to the earlier Order of this Forum. They had neither collected the copy of Dues Statement from the KoPT Office to know their dues at present ~~and~~ nor shown any interest to honour the proposal for liquidation as prayed by themselves.

Hearing the submission of KoPT and considering the matter, it seems to me unnecessary to continue the proceedings further. Therefore, proceedings of the instant matter is concluded today and accordingly the matter is reserved for final order.

(M.K Das)
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. 1482, 1482]D Of 2016 Order Sheet No. 28

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/s. Natabar Sett.

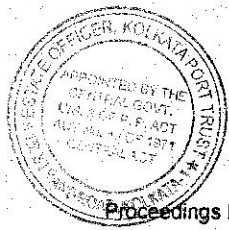
34
30.10.2019

of KoPT's dues. KoPT has also produced communication dated 02.06.2006 of the O.P. whereby O.P. has admitted the dues of KoPT. During the course of proceeding, O.P. did not question the veracity of KoPT's contention of dues on the part of O.P. Moreover, the O.P. has admitted their dues on several occasions even on their said reply to the Show Cause filed before this Forum on 21.04.2017. However, an attempt has been made by the O.P. to show the incorrectness of the dues claimed by KoPT by reference to some unadjusted claims, 3-times bills etc. KoPT, on the other hand has claimed that all payments made by the O.P. has been duly accounted for and nothing has been left as unadjusted. O.P. in their reply filed on 21.04.2017 has admitted that O.P. stopped payment of rent to KoPT when the same was enhanced 3 times higher than the previous rate of rent. It appears from the detailed statement of accounts dated 28.09.2016 filed under the cover of KoPT's application dated 25.10.2016 that 3 times compensation was charged to O.P. for the month of June, July, August 2012 @ Rs. 12,880/- (including taxes) .I must say that the Gazette Notifications of the Tariff Authority for Major Ports (TAMP) very much require the Port Authority to charge 3-times compensation/damages to occupants who are in occupation without any valid authority of law for the months of June, July, August 2012 and such levy of charges is uniform across all occupiers. In my view, there is no scope to accord any special treatment to the O.P. for occupation and enjoyment of Port property, the charges leviable upon the tenants/occupiers are based on the Schedule of Rent Charges as applicable for a tenant/occupier in respect of respective zone as indicated in such Schedule of Rent Charges. Every tenant/occupier of the Port property is under obligation to pay such charges for occupation and it has been specifically mentioned in the different Schedules of Rent Charges as were notified from time to time. I am firm in holding that such notifications have a statutory force of law and tenants/occupiers cannot deny the charges on account of interest as per notification in the Official Gazette until such rate of interest is modified/enhanced by further notification/s.

Further as per the mandate of the Transfer of Property Act, 1882, a lessee is under legal obligation to hand over

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 OFFICE OF THE ESTATE OFFICER
 BOARD OF TRUSTEES OF THE PORT OF KOLKATA
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 OFFICE OF THE ESTATE OFFICER
 BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M



Estate Officer, Kolkata Port Trust

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

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
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possession of the property to its landlord/lessor in its original condition after the termination of tenancy under lease vide the Notice to quit dated 04.08.2006. During the continuance of the proceeding, O.P. has never disputed with the service of the said Notice to quit upon O.P. and has always admitted the fact of lease with KoPT. Such being the case, the tenancy of the O.P. stands terminated upon expiry of the period mentioned in the Notice to Quit dated 04.08.2006.

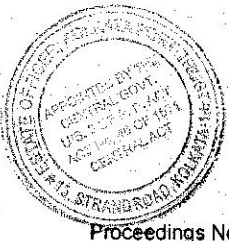
I take conscious note of the fact that KoPT never recognized O.P. as a lawful user/tenant in respect of the property in question and in fact, initiation of the instant proceedings vide original application dated 28.02.2007 of KoPT was culmination of KoPT's intent to obtain vacant possession of the public premises in question. It is a settled question of law that O.P. cannot claim any legal right to hold the property after expiry of the period mentioned in the Notice to Quit, without any valid grant or allotment from KoPT's side. The instant proceedings continued for a fairly long period of time and no intention was found on the part of KoPT to regularize the occupation of the O.P. Further as per Section 2 (g) of the P. P. Act the "unauthorized occupation", in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

In view of the above, I have no alternative but to uphold the validity of the Notice to Quit dated 04.08.2006 issued by the Port Authority. I also take note of the fact that the O.P. never succeeded in convincing or satisfying this Forum as to extending the benefit of Sec. 114 of the Transfer of Property Act, 1882 to the O.P. inasmuch as O.P. never succeeded in liquidating the dues in its entirety nor furnished any security for the same. As such, in my view, the occupation of the O.P. is nothing but "unauthorized occupation" in terms of Sec. 2 (g) of the P.P. Act, 1971.

OFFICE OF
ESTATE OFFICER
KOLKATA PORT TRUST

OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

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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. 1482, 1482/D Of 2016 Order Sheet No. 30

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Natabar Sett. ^{VS}

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30.10.2019

NOW THEREFORE, the logical conclusion which could be arrived at in view of the discussion above that it is a fit case for allowing KoPT's prayer for order of eviction against O.P. u/s 5 of the Act for the following grounds/reasons:

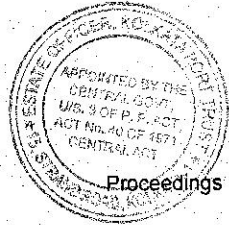
1. That the O.P. failed to satisfy the dues of the Port Authority in its entirety despite opportunity for a prolonged period.
2. That the submissions of the O.P. fail to attract the provisions of Sec. 114 of the Transfer of Property Act, 1882.
3. That the monthly lease of the O.P. had been rightly determined by the Port Authority vide Notice to Quit dated 04.08.2006, which is valid, lawful and binding upon the parties.
4. That O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation" inspite of sufficient chances.
5. That occupation of O.P. has become unauthorized in view of Sec. 2(g) of the P.P. Act, 1971.
6. That O.P. is liable to pay damages/compensation for wrongful use and enjoyment of the Port Property 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 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 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.

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

By Order of:
 THE ESTATE OFFICER
 KOLKATA PORT TRUST
 LEAD MEMBER OF THE BOARD
 APPOINTED BY THE ESTATE OFFICER
 KOLKATA PORT TRUST
 Estate Officer
 KOLKATA PORT TRUST

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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. 1482, 1482)D Of 2016 Order Sheet No. 31

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/s. Natabar Sett.

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30.10.2019

occupation. As such, I must say that Rs. 4,97,764.04/- as claimed by the Port Authority as compensation/damages in relation to the Plate in question, is correctly payable by O.P. for the period 01.12.2006 to 31.08.2016 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 15.11.2019. 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. The formal order u/s 7 of the Act is signed accordingly.

I make it clear that in the event of failure on the part of O.P. to comply with this order, the 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 TH

* Order of
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED TRUE COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
