

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 1<sup>st</sup> Floor  
of Kolkata Port Trust's  
Fairlie Warehouse  
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO.14 DT 06.11.2019  
PROCEEDINGS NO. 1213 OF 2011

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-  
**Md. Yusuf (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 **Md. Yusuf S/O, Md. Majid, 7C, A.J.C. Bose Road 5<sup>th</sup> Floor, Kolkata** is in unauthorized occupation of the Public Premises specified in the Schedule below:

**REASONS**

1. That O.P. has failed to file reply to the Show Cause Notice/s inspite of sufficient chances and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P., demanding possession dated 26.08.1992 .
2. That O.P. has parted with possession of the Public Premises in question without having any authority under law.
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 26.08.1992 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties and O.P's occupation into the Public Premises has become unauthorised in view of Sec.2(g) of the P.P. Act.

**Please see on reverse**

(2)

A copy of the reasoned order No. 14 dated 06.11.2019 is attached hereto which also forms a part of the reasons.

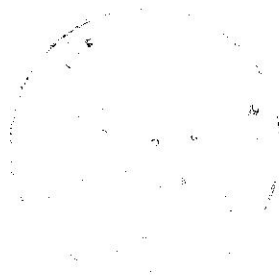
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **Md. Yusuf S/O, Md. Majid, 7C, A.J.C. Bose Road 5<sup>th</sup> Floor, Kolkata** and all persons who may be in occupation 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 **Md. Yusuf S/O, Md. Majid, 7C, A.J.C. Bose Road 5<sup>th</sup> Floor, Kolkata** 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.3.72 sq.m or thereabouts is situate at C.G.R Road, P.S- South Port Police Station, Dist: 24Parganas, Registration District-Alipore. It is bounded on the North by the C.G.R Road on the East by the Trustees' land/stall licenced to Md.Zakir Hossain, on the South by the Trustees open land leased to the Calutta Dock Labour Board and on the West by the Trustees' land licenced to Sk.Sabir.

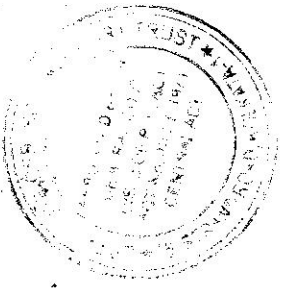
Trustees' means the Board to Trustees' of the Port of Kolkata.

Date- 6.11.19



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

PROCEEDINGS NO.1213/D OF 2011  
ORDER NO 14 DATED: 06.11.2019

**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

**Md. Yusuf**  
**S/O, Md. Majid,**  
**7C, A.J.C. Bose Road 5<sup>th</sup> Floor Kolkata**

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 23.03.2018 you are/were called upon to show cause on/or before 19.04.2018 why an order requiring you to pay damages of **Rs.97,452.15** (Rupees ninety seven thousand four hundred fifty two and paisa fifteen only) for **Plate No.D-603** 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.97,452.15** (Rupees ninety seven thousand four hundred fifty two and paisa fifteen only) for **Plate No.D-603** as damages on account of your unauthorised occupation of the premises for the period from 15.09.1992 to 30.06.2017 to Kolkata Port Trust by 21.11.2019.

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 @ 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 Kolkata Port Trust's Notification published in Calcutta Gazette/s as per Kolkata Port Trust's Rule.

**PLEASE SEE ON REVERSE**

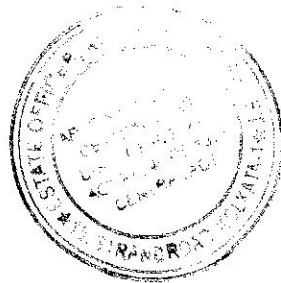
In the event of your refusal or failure to pay the damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue.

**SCHEDULE**

The said piece or parcel of land msg.3.72 sq.m or thereabouts is situate at C.G.R Road, P.S- South Port Police Station, Dist: 24Parganas, Registration District-Alipore. It is bounded on the North by the C.G.R Road on the East by the Trustees' land/stall licenced to Md.Zakir Hossain, on the South by the Trustees open land leased to the Calutta Dock Labour Board and on the West by the Trustees' land licenced to Sk.Sabir.

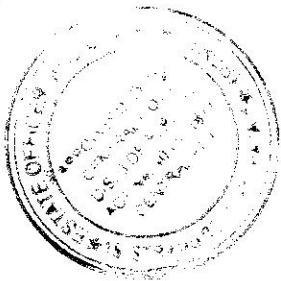
Trustees' means the Board of Trustees' of the Port of Kolkata.

Date 6.11.19



  
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  
1<sup>st</sup> Floor, 6, Fairlie Place Warehouse,  
Kolkata-700001  
\*\*\*\*\*

Court Room At the 1<sup>st</sup> Floor  
6, Fairlie Place Warehouse

**Form "E"**

PROCEEDINGS NO.1213/R OF 2011  
ORDER NO. 14 DATED: 06.11.2019

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

To  
**Md. Yusuf**  
**S/O, Md. Majid,**  
**7C, A.J.C. Bose Road 5<sup>th</sup> Floor Kolkata**

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

AND WHEREAS, by written notice dated 23.03.2018 you were called upon to show cause on/or before 19.04.2018 why an order requiring you to pay a sum of Rs. 2,47.84/- (Rupees Two Hundred Forty Seven and Paise Eighty four 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 being given to you. Even Paper Publication of the Notice yield no fruitful result and therefore 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. 2,47.84/- (Rupees Two Hundred Forty Seven and Paise Eighty four only.) for the period 01.08.1989 to 14.09.1992 (both days inclusive) to Kolkata Port Trust by 21.11.2019.

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 compound interest at the rate of 15% per annum upto 18.09.1996 and thereafter @18% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum on the above sum from the date of incurrance of liability till its final payment in accordance with Kolkata Port Trust's Notification published in Official Gazettee/s.

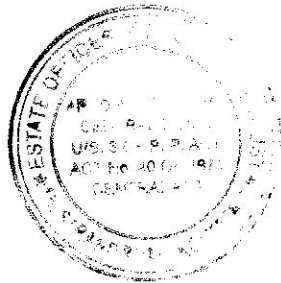
In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

### **SCHEDULE**

The said piece or parcel of land msg.3.72 sq.m or thereabouts is situate at C.G.R Road, P.S- South Port Police Station, Dist: 24Parganas, Registration District-Alipore. It is bounded on the North by the C.G.R Road on the East by the Trustees' land/stall licenced to Md.Zakir Hossain, on the South by the Trustees open land leased to the Calutta Dock Labour Board and on the West by the Trustees' land licenced to Sk.Sabir.

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

Dated: 6-11-19



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. 1213, 1213/R, 1213/D of 2011 Order Sheet No. 9

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Md. Yusuf VS

### FINAL ORDER

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06.11.2019

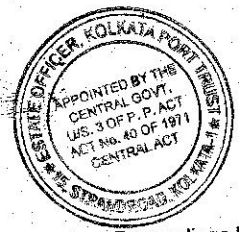
The instant proceedings No. 1213, 1213/R, 1213/D of 2011 arises out of the application bearing No. Lnd.4790/C/9/05/2976 dated 13.01.2005 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of eviction and recovery of licence fees/rent, compensation/damages and other charges etc. along with accrued interest in respect of the public premises as defined in the Schedule of said application, against Md. Yusuf, 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 being Hawker Stall No.09 Block -C measuring 3.72 sq.mtrs. or thereabout at C.G.R Road (under Plate No.D-603) Thana-South Port Police Station, District-24 Parganas as a monthly Licensee, morefully described in the Schedule 'A' of the KoPT's application dated 13.01.2005. The allegations levelled by KoPT against the O.P is that while in possession of Port property as Licensee, the O.P has defaulted in payment of monthly Licence Fees/rent Compensation/damages also accrued interest thereon the details of which has given in 'Schedule-B' of the KoPT's application dated 13.01.2005.

It is also the case of KoPT that O.P. has parted with possession of the subject premises to the rank outsiders in clear violations of the terms and conditions of the lease in question and without taking

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SEAL OF THE BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
ESTATE OFFICER  
KOLKATA PORT TRUST  
15, STRAND ROAD, KOLKATA - 700014



## 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. 1213, 1213/R, 1213/D Of 2011 Order Sheet No. 10

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Md. Yusuf <sup>VS</sup>

14  
06.11.2019

the prior approval. It is further the case of KoPT that the said licence with O.P. was determined by way of a Quit Notice dated 26.08.1992 and the O.P. was asked to vacate the premises on 15.09.1992 but O.P failed and neglected to vacate/ hand over the possession of the premises after service of the said Notice to Quit.

Considering the submission advanced by KoPT and the documents on record, Notice/s to Show Cause under section 4 and 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 all dated 23.03.2018 were issued by this forum to O.P. The Notice/s were issued in terms of the said provisions of the Act calling upon the O.P. to appear before this forum in person or through authorized representative capable to answer all material questions in connection with the matter along with the evidence which the opposite party intends to produce in support of their case.

The said notice/s was served through Speed Post to the correct recorded addresses of O.P. at 7C, AJC Bose Road, 5th Floor, Kolkata. It appears from records that the Notice/s sent to the address of O.P. at 7C, AJC Bose Road, 5th Floor Kolkata was returned back by the postal department with a mark "O.P unknown". The Notice/s have also been sent to the occupation of O.P. by hand delivery. It appears from the report of the Process Server dated 16.04.2018 that O.P was not found at above address. However, the copy of the said Notice/s have been affixed on the property under





## 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. 1213, 1213/R, 1213/D Of 2011 Order Sheet No. 11

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Md. Yusuf <sup>VS</sup>

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06. 11. 2019

schedule on 16.04.2018 at about 11.50 A.M. in compliance of the provisions of the Act. On the day fixed for appearance and filing of reply to the Show Cause by the O.P., none appeared on behalf of O.P. before this forum. Thereafter the attempts have been made by this Forum to provide chances to the O.P. for his appearance and filing of reply before this Forum following the principles of natural justice. The Order dated 19.04.2018 had again directed that the said Notice to be served upon O.P by speed post. However, it is seen that such Notice was served upon O.P by Speed post /hand delivery again in both the way fixing 24.05.2018 to provide chances to the O.P. for effective representation before this Forum.

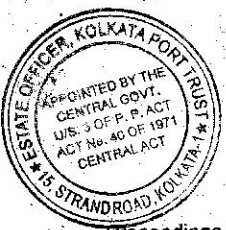
As none appeared on behalf of O.P in spite of repeated chances and affixation of the Notice/s on subject premises, the matter was finally reserved for passing Order on 24.05.2018.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of KoPT. It is a settled question of law that a licensee like O.P. cannot claim any legal right to hold the property after expiry of the period as mentioned in the notice to Quit, right of licensee to continue possession wholly depends on active willingness of land lord.

None appears on behalf of O.P., no attempts has ever been made by the O.P. to satisfy this Forum of Law about any consent on the part of KoPT in occupying the public premises. Rather it is a case of

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OFFICE OF THE  
ESTATE OFFICER  
KOLKATA PORT TRUST  
15, STRAND ROAD, KOLKATA  
OFFICE OF THE  
ESTATE OFFICER  
KOLKATA PORT TRUST  
15, STRAND ROAD, KOLKATA



## 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. 1213, 1213/R, 1213/D Of 2011 Order Sheet No. 12

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

**VS**  
Md. Yusuf

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06.11.2019

KoPT that by notice dated 26.08.1992 O.P. was directed to hand over possession of the premises to KoPT. A letter /notice issued in official course of business has definitely got an evidentiary value unless there is no material, sufficient to contradict the case of KoPT on the basis of such letter/Notice. It is a settled question of law that O.P. cannot claim any legal right to hold the property after expiry of the notice in question, without any valid grant or allotment from KoPT's side.

Further, as there is no reply to the Show Cause notice issued u/s 4 and u/s 7 of the Act inspite of sufficient chances provided to the O.P., I am left with no other alternative but to issue 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 reply to the Show Cause Notice/s inspite of sufficient chances and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P., demanding possession dated 26.08.1992
2. That O.P. has parted with possession of the Public Premises in question without having any authority under law.
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.

By order of:  
THE ESTATE OFFICER  
KOLKATA PORT TRUST

IN WITNESS WHEREOF  
I HAVE SIGNED AND  
SEALD THIS 06.11.2019

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. 1213, 1213/R, 1213/D Of 2011 Order Sheet No. 13

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

<sup>VS</sup>  
Md. Yusuf

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06.11.2019

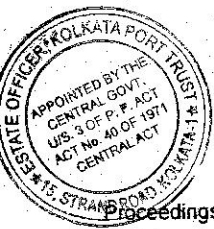
4. That the Quit notice dated 26.08.1992 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties and O.P's occupation into the Public Premises has become unauthorised in view of Sec.2(g) of the P.P. Act.

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.

It is my considered view that a sum of Rs.2,47.84 for the period 01.08.1989 to 14.09.1992 is due and recoverable from O.P. by the Port authority on account of Licence fees/rental dues and O.P. must have to pay such dues to KoPT on or before 05.10.2019. Such dues attracts interest at the rate of 15% per annum upto 18.09.1996 and thereafter at the rate of 18% per annum upto 13.02.2010 and thereafter at the rate of 14.25% per annum till its liquidation of the same from the date of incurrence 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 as per KoPT's books of accounts.

It is further considered that a sum of Rs.97,452.15 for the period 15.09.1992 to 30.06.2017 is due and recoverable from O.P. by the Port authority on account of compensation /Damages dues and O.P. must have to pay such dues to KoPT on or before 05.10.2019. Such dues attracts interest at the rate of 15% per annum upto 18.09.1996 and thereafter

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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. 1213, 1213/R, 1213/D Of 2011 Order Sheet No. 14

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

**VS**  
Md. Yusuf


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06.11.2019

at the rate of 18% per annum upto 13.02.2010 and thereafter at the rate of 14.25% per annum till its liquidation of the same from the date of incurrence 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 as per KoPT's books of accounts.

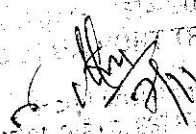
Department is directed to draw up formal order as per Rule u/s 7 of the Act. I make it clear that in the event of failure on the part of O.P. to pay the dues/charges as aforesaid, KoPT is at liberty to recover the compensation/Damages etc. in accordance with law.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

  
(A.K Sarkar)  
ESTATE OFFICER.

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

By Order of  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
IN THE ORDER  
OF THE ESTATE OFFICER  
KOLKATA PORT TRUST  
  
ESTATE OFFICER  
KOLKATA PORT TRUST