



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 19.11.2019
PROCEEDINGS NO. 1414 OF 2013

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-

M/s. Banerjee & Co. (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. Banerjee & Co., P.T.R. Siding No. 10, Shalimar, Howrah - 711 103 And 5, Maharshi Debendra Road, Kolkata- 700 007 And also at 14/2, Old Chaina Bazar Street, 3rd Floor, Room No. 225, Kolkata- 700 001** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

- 1) That O.P. has failed to liquidate the estate dues of KoPT.
- 2) That O.P. has inducted unauthorised occupant/stranger in the public premises without any authority of law.
- 3) That O.P. has failed to file Reply to the Show Cause Notice/s and also failed to justify how it is entitled to occupy the premises after issuance of Notice to Quit dated 19.03.1985.
- 4) That the sitting occupant M/s S.M. Trading Corporation also failed to justify how it is entitled to occupy the premises in terms of Section 2(g) of the P.P. Act.
- 5) That O.P. has failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 6) That O.P. or any other person/s asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation", inspite of sufficient chances being provided.
- 7) That the notice to quit dated 19.03.1985 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P's occupation, and that of any other occupant of the premises, has become unauthorised in view of Section 2(g) of the P.P Act.
- 8) That O.P. is liable to pay damages for wrongful use and occupation of the Public Premises upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

Please see on reverse 



:: 2 ::

A copy of the reasoned order No. 09 dated 22.01.2019 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. Banerjee & Co.**, of P.T.R. Siding No. 10, Shalimar, Howrah - 711 103 And 5, Maharshi Debendra Road, Kolkata- 700 007 And also at 14/2, Old Chaina Bazar Street, 3rd Floor, Room No. 225, Kolkata- 700 001 (**Plate No HL-429**) 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. Banerjee & Co.**, of P.T.R. Siding No. 10, Shalimar, Howrah - 711 103 And 5, Maharshi Debendra Road, Kolkata- 700 007 And also at 14/2, Old Chaina Bazar Street, 3rd Floor, Room No. 225, Kolkata- 700 001 (**Plate No HL-429**) 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

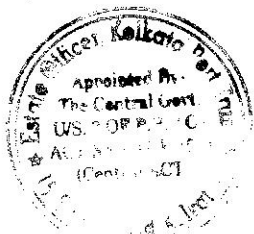
(Plate No HL-429) - The said piece or parcel of land msg.about 137.96 sq.m. or thereabouts is situated at PTR Siding No.10, Shalimar, Howrah, P.S. Shibpur Police Station, Dist:24-Parganas (South), Registration Dist:- Alipore. It is bounded on the North by the Trustees' land reserved for margin for safety alongside Siding No.10, on the East by the Trustees' land occupied by M/s. G.C. Banerjee & Co. Pvt.Ltd., on the South by the Trustees' open land reserved as passage and on the West by the Trustees' land occupied by M/s. Ajodharam.

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

Dated: 19.11.2019


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

1st Floor, 6, Fairlie Place Warehouse,

Kolkata-700001

Form " E "

PROCEEDINGS NO.1414/R OF 2013

ORDER NO. 34 DATED: 19.11.2019

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

To
M/s. Banerjee & Co.,
P.T.R. Siding No. 10
Shalimar, Howrah - 711 103
And
5, Maharshi Debendra Road,
Kolkata- 700 007
And also at
14/2, Old Chaina Bazar Street,
3rd Floor, Room No. 225,
Kolkata- 700 001

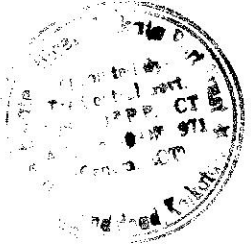
WHEREAS you are in occupation of the public premises described in the
Schedule below. (Please see on reverse).

AND WHEREAS, by written notice dated 27.06.2018 you were called upon
to show cause on/or before 20.07.2018 why an order requiring you to pay a
sum of Rs. 987.89/- (Rupees Nine Hundred Eighty Seven and paise Eighty
Nine 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. 987.89/- (Rupees Nine
Hundred Eighty Seven and paise Eighty Nine only) for the period 01.12.1984 to
31.05.1985 (both days inclusive) to Kolkata Port Trust by 15.10.2019.

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 simple interest @~~6~~7.5% 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) payable from the date of incurrance of liability, on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978. 2

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 137.96 sq.m. or thereabouts is situated at PTR Siding No.10, Shalimar, Howrah, P.S. Shibpur Police Station, Dist:24-Parganas (South), Registration Dist:- Alipore. It is bounded on the North by the Trustees' land reserved for margin for safety alongside Siding No.10, on the East by the Trustees' land occupied by M/s. G.C. Banerjee & Co. Pvt.Ltd., on the South by the Trustees' open land reserved as passage and on the West by the Trustees' land occupied by M/s. Ajodharam.

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

Dated: 19.11.2019


Signature and seal of the
Estate Officer



**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

Form G

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

PROCEEDINGS NO.1414/D OF 2013
ORDER NO. 34 DATED: 19.11.2019

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-

M/s. Banerjee & Co

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. Banerjee & Co.
P.T.R. Siding No. 10,
Shalimar, Howrah-711 103
And
5, Maharshi Debendra Road,
Kolkata-700 007.
And also at
14/2, Old China Bazar Street,
3rd Floor, Room No. 225,
Kolkata-700 001.

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 27.06.2018 you were called upon to
show cause on/or before 20.07.2018 why an order requiring you to pay
damages of sum of Rs. 6,34,896.73/- (Rupees Six Lakhs Thirty Four Thousand
Eight Hundred Ninety Six and paise Seventy Three only.) for Plate No. HL-429
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.

PLEASE SEE ON REVERSE



: 2 :

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. 6,34,896.73/- (Rupees Six Lakhs Thirty Four Thousand Eight Hundred Ninety Six and paisa Seventy Three only.) for Plate No. HL-429 for the period 01.06.1985 to 30.06.2017 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust by 26.11.2019.

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 @ 6.75% 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.

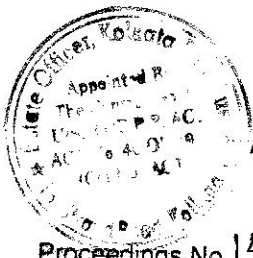
SCHEDULE

The said piece or parcel of land msg. about 137.96 Sq.m or thereabouts is situated at PTR Siding No. 10, Shalimar, Howrah, P.S: Shibpur Police Station, Dist.: 24 Parganas (South), Registration Dist. : Alipore under Plate No. HL-429. It is bounded on the North by the Trustees' land reserved for margin for safety alongside Siding No. 10, on the East by the Trustees' land occupied by M/s. G.C. Banerjee & Co. Pvt. Ltd., on the South by the Trustees' open land reserved as passage and on the West by the Trustees' land occupied by M/s. Ajodharam.

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

Dated: 19.11.2019


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. 1414, 1414/R, 1414/D of 2013

Order Sheet No. 26

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Banerjee & Co. **VS** (Plate no. HL-429)

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19.11.2019

FINAL ORDER

The instant Proceedings No. 1414, 1414/R and 1414/D all of 2013 arises out of the application bearing No. Lnd.3915/1/12/3125 dated 01.10.2012 filed by the Kolkata Port Trust (KoPT), the Applicant herein, praying for order of eviction and recovery of rental dues/damages/compensation etc. along with interest against M/s. Banerjee & Co., the O.P. herein, under the relevant provisions of the Public Premises (Eviction of Unauthorised Occupants) Act 1971.

It is the case of KoPT that the O.P. came into the possession of KoPT's piece or parcel of land measuring 137.96 sqm situated at P.T.R. Siding No. 10, Shalimar, Howrah morefully described under Schedule A of the said application dated 01.10.2012 as a month to month lessee. It is the case of KoPT that the O.P. has defaulted in payment of monthly rent, taxes and also accrued interest thereon from December, 1985, parted with the possession of the premises to rank outsiders namely M/s. S.M. Trading Corporation, M/s. Mahendra Traders, has unauthorisedly erected construction on the premises and unauthorisedly changed the purpose of the lease. It is the case of KoPT that the breaches were not remedied despite notice to O.P. even after issuance of a final notice dated 07.01.1985 to O.P. It is the case of KoPT that the Ejectment Notice dated 19.03.1985 was issued to the O.P. determining the lease and asking the O.P. to quit, vacate and deliver up peaceful possession of the public premises on 31.05.1985. It is also the case of KoPT that even after issuance of the notice to quit dated 19.03.1985, O.P. failed and neglected to hand over possession of the Public Premises to KoPT. It is alleged by KoPT that the premises is being occupied by the O.P. wrongfully, in unauthorised manner for which KoPT is entitled to have the O.P. evicted from the premises and recover the arrear rent/compensation charges and the accrued interest thereon from the O.P. till the date of delivery/ taking over of the vacant peaceful possession from the O.P. . 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 19.03.1985.



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. 1414, 1414/R, 1414/D of 2013 Order Sheet No. 27

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Banerjee & Co. VS (Plate no #L-429)

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19.11.2019

This Forum of Law formed its opinion to proceed against the O.P. under the relevant provisions of the P.P. Act and issued show cause notice/s under Sec. 4 & 7 of the Act both dated 27.06.2018 as per the Rules made under the Act. 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 of answering all material questions in connection with the matter along with the evidence which the opposite party intends to produce in support of their support.

The Notices were served to the recorded addresses of the O.P. at 14/2, Old China Bazar Street, 3rd Floor, Room No. 225, Kolkata- 700 001 through Speed Post and the same was returned to the Office of the undersigned by the Postal Department with the remark 'No such Company in the address'. It appears from the report of the Process Server dated 03.07.2018 that the Notice/s were affixed at the subject premises by the Process Server of this Office on 03.07.2018 as per the mandate of the Public Premises Act.

During the course of hearing on 19.09.2018 one M/s S.M. Trading Corporation appeared before this Forum through their Ld. Advocate. It was submitted by the Ld. Advocate that M/s S.M. Trading Corporation is in occupation of the subject premises. Upon hearing the said Ld. Advocate, this Forum has directed the sitting occupant M/s S.M. Trading Corporation to file reply to the Show Cause Notice/s and to explain with what authority of law they have come in possession of the property in question. It appears that one Sri Santosh Kumar Singh has filed reply/ application on behalf of M/s S.M. Trading Corporation before this Forum on 21.02.2019. A perusal of the said reply/application reveals that there has been an admission in the said reply/ application that M/s S.M. Trading Corporation is in occupation of the subject premises since the year 1984. It appears from the said reply/application that prayer has been made for accepting the company as a tenant under KoPT as the company is ready and willing to pay all the dues and/or ordered amount to KoPT. It was further stated in the said

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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. 1414, 1414/R, 1414/D Of 2013 Order Sheet No. 28

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/s Banerjee & Co.

(Plate no HL-429)

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19.11.2019

reply/application that in case the Order of eviction is passed the company will suffer irreparable loss and injury as the company is in occupation at the subject premises and is being conducting their business since the year 1984. Since none is appearing on behalf of O.P., the Notice/s under Section 4 and 7 of the P.P. Act was published in the classified column of 'The Times of India' on 01.04.2019 and the same was also hoisted at the official website of Kolkata Port Trust. However, on 30.05.2019 a supplementary application has been filed by said Sri Santosh Kumar intimating that an amount of Rs 2,816/- was paid through cheque no 155415 to KoPT towards payments of 2 no of Bills of KoPT dated 30.09.2009 and 31.10.2009 and the cheques have been duly accepted and encashed by KoPT. It is stated in the said application that the reply to the Show cause has been filed by M/s S.M. Trading Corporation on behalf of M/s Banerjee & Co. Finally, as none is appearing on behalf of O.P. or on behalf of M/s S.M. Trading Corporation the matter was reserved for passing the Final Order on 04.06.2019.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of the parties. It appears that none appeared on behalf of O.P. inspite of service of notice/s in all available modes as well as after the said newspaper publication. It is claimed by KoPT that the Notice to Quit dated 19.03.1985 was served through the Registered Post with A/D, under Certificate of Posting and through hand service at the recorded address of O.P. at that point of time. In my view a notice served in the official course of business cannot be ignored unless some evidence in the contrary is produced. A letter /notice issued in 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. This takes me to the question whether a lessee like O.P. can continue in occupation when the lease has been terminated by serving a Notice to Quit by KoPT. As per the Transfer of Property Act, a lessee is under legal obligation to hand over possession of the property to its landlord/lessor in its original condition after

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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. 1414, 1414/R, 1414/D Of 2013 Order Sheet No. 29

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Banerjee & Co. VS (Plate no. HL-429)

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19.11.2019

determination of tenancy under lease. It is a settled question of law that a lessee like O.P. cannot claim any legal right to hold the property after expiry of the period as mentioned in the notice of ejection, unless O.P. is succeeded in making a case of "Tenant Holding Over". In this case I find no consent on the part of KoPT to let the O.P. occupy the Public Premises, unconditionally in order to fulfill the essential ingredient of holding over. Further I am consciously of the view that KoPT never recognized O.P. as a lawful user/tenant in respect of the property in question after the issuance of the said Quit Notice. However, filing of application before this Forum of Law with the prayer to evict O.P. from the public premises is sufficient to establish KoPT's intention to get back possession of the public premises from O.P. 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. As per Transfer of Property Act, a lease of immovable property determines either by efflux of time limited thereby or by implied surrender or on expiration of notice to determine the lease or to quit or of intention to quit, the property leased, duly given by one party to another.

It is the claim of KoPT O.P. has unauthorisedly parted with the possession of the public premises to the rank outsiders. In support of such contention KoPT has produced a copy of the letter dated 17.04.1989 from M/s S.M. Trading Corporation addressed to KoPT intimating that M/s Banerjee & Co. (the O.P. herein) had allowed them to occupy the subject public premises for the last 5 years. M/s S.M. Trading Corporation has appeared before this Forum through their Ld. Advocate and contested the case by filing reply/ application representing itself as the sitting occupant of the public premises in question since the

Q



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. 1414, 1414/R, 1414/D of 2013 Order Sheet No. 30

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Bamerjee & Co. ^{VS}

(Plate no HL-429)

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19.11.2019

year 1984. I find that the public premises is being used only for the purpose of making unlawful gains by way of renting out to unauthorised entity who is enjoying a prime property thereby depriving the statutory authority vis-à-vis the exchequer. I cannot allow such unlawful activities to flourish at the cost of public money. In my view, enough opportunity has been allowed to M/s S.M. Trading Corporation to defend itself but it has failed to establish how and under what authority M/s S.M. Trading Corporation is occupying the public premises in question. Further, it is my considered view that M/s S.M. Trading Corporation cannot dictate the terms and conditions of Port Authority for grant of lease/allotment of the property in any manner whatsoever either by making application for accepting them as tenants or by paying the outstanding dues or by any other method. Grant of tenancy in favour of any person is the sole prerogative of the landlord/ KoPT and this Forum while adjudicating a case under the provisions of the P.P. Act is not empowered to direct KoPT for such grant, unless KoPT shows their willingness in this regard. Be that as it may, it is seen that KoPT wrote numerous letters to the O.P. such as letters dated 07.01.1983, 26.03.1983 etc vide which KoPT repeatedly requested the O.P. to pay the arrears of rent as well as requested to remedy the breach of unauthorized parting of possession. It is also evident from the statement of accounts produced by KoPT, that O.P. did not liquidate the dues for a considerable period. In my view, there is nothing to disbelieve the claim of the statutory authority. In such a situation, I have no hesitation to uphold the Notice to Quit dated 19.03.1985 issued by KoPT and I am of the view that after issuance of the notice to quit dated 19.03.1985, the occupation of the O.P. is nothing but "unauthorized" in terms of the P.P. Act 1971.

In view of the circumstances, as there is no reply to the Show Cause Notice/s under Section 4 & 7 of the Act, from or on behalf of the O.P., and being satisfied as above, I am left with no other alternative but to issue the Order of Eviction against O.P., as prayed for on behalf of KoPT, on the following grounds/reasons:-

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. 1414, 1414/R of 2013 Order Sheet No. 31

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Banerjee & Co. VS (Plate no HL-429)

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19.11.2019

- 1) That O.P. has failed to liquidate the estate dues of KoPT.
- 2) That O.P. has inducted unauthorised occupant/stranger in the public premises without any authority of law.
- 3) That O.P. has failed to file Reply to the Show Cause Notice/s and also failed to justify how it is entitled to occupy the premises after issuance of Notice to Quit dated 19.03.1985.
- 4) That the sitting occupant M/s S.M. Trading Corporation also failed to justify how it is entitled to occupy the premises in terms of Section 2(g) of the P.P. Act.
- 5) That O.P. has failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 6) That O.P. or any other person/s asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation", inspite of sufficient chances being provided.
- 7) That the notice to quit dated 19.03.1985 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P's occupation, and that of any other occupant of the premises, has become unauthorised in view of Section 2(g) of the P.P Act.
- 8) That O.P. is liable to pay damages for wrongful use and occupation of the Public Premises 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



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. 1414, 1414/R, 1414/D of 2013 Order Sheet No. 32

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Banerjee & Co.

VS

(Plate no. HL-429)

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19.11.2019

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 the Law upto 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 can be taken for execution of the order of eviction u/s 5 of the Act, as per Rule made under the Act. KoPT is further directed to submit a report regarding its claim on account of damages against O.P., indicating there-in, the details of the computation of such damages with the rate of charges so claimed for the respective periods (details of computation with rates applicable for the relevant periods) for my consideration in order to assess the damages as per the Act and the Rules made thereunder.

It is my considered view that a sum of Rs. 987.89/- for the period 01.12.1984 to 31.05.1985 (both days inclusive) is due and recoverable from O.P. by the Port Authority on account of rental dues and O.P. must have to pay the rental dues to KoPT on or before 05.10.2019. In terms of Section 7 (2-A) of the PP Act, 1971, such dues attract simple interest @ 6.75 % 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 incurrance 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 for Rs. 6,34,896.73/- against Plate No. HL-429 (excluding interest for delayed payment) upto December, 2017 for





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. 1414, 1414/R, 1414/D of 2013 Order Sheet No. 33

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

(Plate no. HL-429)

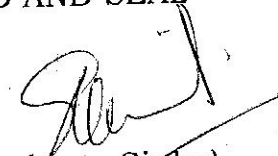
M/s Banerjee & Co.

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19.11.2019

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.

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 01.06.1985 to 30.06.2017 as Rs 6,34,896.73/- (principal amount). In terms of Section 7 (2-A) of the PP Act, 1971, such dues attract simple interest @ 6.75 % 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


(Satyabrata Sinha)
ESTATE OFFICER

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