

**REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY**

THE ESTATE OFFICER, KOLKATA PORT TRUST
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
Public Premises (Eviction of Unauthorized Occupant) Act 1971
OFFICE OF THE ESTATE OFFICER
6, Fairley Place (1st Floor)
KOLKATA - 700 001

Court Room At the 1st Floor
of Kolkata Port Trust's
Fairlie Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER No.8 DT 25.11.2019
PROCEEDINGS NO. 1686 OF 2019

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/S Radha Krishna Gopi Krishna (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 Radha Krishna Gopi Krishna, C/O M/S Spices(India) Ltd, 67/28
Strand Road, Cross Road No.12, Kolkata -700006** is in unauthorized
occupation of the Public Premises specified in the Schedule below:

REASONS

1. That O.P. has failed to file any Reply to the Show Cause/ papers/ documents inspite of repeated sufficient chances being provided and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P. dated 12.10.1999.
2. That occupation of O.P. beyond the period of expiry of the Quit Notice is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question.
- 3) That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.
- 4) That the Quit notice dated 12.10.1999 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.
- 5) That O.P. is liable to pay damages/ mesne profit along with the accrued interest thereon for wrongful enjoyment of the Port Property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

Please see on reverse



(2)

A copy of the reasoned order No. 8 dated 25.11.2019 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 **M/S Radha Krishna Gopi Krishna, C/O M/S Spices(India) Ltd, 67/28 Strand Road, Cross Road No.12, 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 Radha Krishna Gopi Krishna, C/O M/S Spices(India) Ltd, 67/28 Strand Road, Cross Road No.12, 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

Land msg.about 203.985 Sq.m on the North side of Jorabagan Cross Road at Nimtollah, Thana: Jorabagan Police Station, in the presidency town of Kolkata, under Plate No.SB-234.It is bounded on the North by trustees' land occupied by Iswar Prosad Singh, on the East by Trustees' land occupied by Hare Krissan Singh, On the South by Jorabagan Cross Road and on the West by Trustees' land occupied by Laxmi Kanta Kashiram.

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

Date- 26.11.2019.


Signature & Seal of the
Estate Officer.

26-11-19

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

REGISTERED POST WITH A/D.
HAND DELIVERY
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THE ESTATE OFFICER, KOLKATA PORT TRUST
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Court Room At the 1st Floor
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Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.1686/D OF 2019
ORDER NO. 8 DATED: 25.11.2019

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
M/S Radha Krishna Gopi Krishna,
C/O M/S Spices(India) Ltd,
67/28 Strand Road, Cross Road No.12,
Kolkata -700006

26.11.19

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 21.02.2019 you are/were
called upon to show cause on/or before 18.03.2019 why an order
requiring you to pay damages of **Rs.35,99,558.50** (Rupees Thirty five
lakhs Ninety nine thousand Five hundred fifty eight and paise fifty only)
for **Plate No.SB-234** 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.35,99,558.50 (Rupees Thirty five lakhs Ninety nine thousand Five
hundred fifty eight and paise fifty only) for **Plate No.SB-234** as damages
on account of your unauthorised occupation of the premises for the
period from 01.12.1999 to 31.01.2019 to Kolkata Port Trust by
09.12.2019.

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PLEASE SEE ON REVERSE

(2)

I also hereby require you to pay 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 on the above sum from the date of incurrence of liability till its final payment in accordance with Kolkata Port Trust's Notification published in the Official Gazette/s.

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

Land msg.about 203.985 Sq.m on the North side of Jorabagan Cross Road at Nimtollah, Thana: Jorabagan Police Station, in the presidency town of Kolkata, under Plate No.SB-234. It is bounded on the North by trustees' land occupied by Iswar Prosad Singh, on the East by Trustees' land occupied by Hare Krissan Singh, On the South by Jorabagan Cross Road and on the West by Trustees' land occupied by Laxmi Kanta Kashiram.

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



Date 26.11.2019.

Signature & Seal of the
Estate Officer.

26.11.19.

**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. 1686, 1686/D Of 2019 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Radha Krishna, Gopi Krishna (SB-234) **VS**

FINAL ORDER

The instant proceedings No. 1686, 1686/D of 2019 arises out of the application bearing No. Lnd.3710/28/17/305 dated 22.03.2017 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of eviction and recovery of dues /damages and other charges etc. along with accrued interest in respect of the public premises as defined in the 'Schedule A' of said application, against M/S Radha Krishna Gopi Krishna, 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 measuring 203.985 sq.mtrs. or thereabout situated on the North side of Jorabagan Cross Road at Nimtollah, Kolkata (under Plate Nos.SB-234) Thana- Jorabagan Police Station in the presidency town of Kolkata as a Lessee on monthly term, morefully described in the 'Schedule of Property' of the said KoPT's application dated 22.03.2017. The allegations levelled by KoPT against the O.P is that while in possession of Port property as Lessee, the O.P has defaulted in payment of Compensation/damages and also accrued interest thereon the details of which has given in 'Schedule-B' of the KoPT's application dated 22.3.2017.

It is also the case of KoPT that the tenancy with the O.P. was determined w.e.f. 01.12.1999 and the O.P. failed and neglected to vacate/ hand over the possession of the premises after service of the said Notice to Quit dated 12.10.1999.

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 21.02.2019(vide Order No.04 dated 19.02.2019) 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.

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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. 1686, 1686/D Of 2019 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S. Rodfa Krishna, Gopi Krishna. (SB-234)
VS

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25.11.2019

It is placed on record that the said Notices were sent to the recorded address of O.P. vide Speed Post, hand delivery as well by affixing the same in the Public Premises in question as per mandate of the Act. The Notice/s sent by Speed Post were returned back to this Forum with a mark 'left'. However, it appears from the report of Process Server dated 05.03.2019 that the said notice/s were affixed on the subject premises as per the mandate of the P.P Act. As none appeared on behalf of O.P or any other person interested in the property in spite of service in all available modes and affixation of the Notice/orders on subject premises, a publication was made in the classified column of "The Times of India(Kolkata)" on 28.05.2019 fixing the penultimate date of O.P's appearance on 13.06.2019. Finally as the O.P failed to appear on 13.06.2019 the final Order was reserved in the matter.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of KoPT. The question now arises is how far the service of the Show Cause Notice/s deserves merit in the facts and circumstances of the case. After a through perusal of all the records in the case, I have left with no other alternative but to accept that the said notice/s have duly been served upon O.P. through Speed Post at the recorded address of O.P. at that point of time. In my view, the importance of a notice served in the official course of business of India Post cannot be ignored by mere non appearance of the O.P. During the entire proceedings, no justification came from the O.P. inspite of providing repeated chances as to how the O.P. is entitled to enjoy the property after Notice to Quit. No attempt has been made on behalf of O.P. to satisfy this Forum of Law about any consent on the part of KoPT in occupying the public premises after expiry of the quit Notice. No paper/document was ever produced on behalf of O.P., contradicting/ disputing the claim of KoPT inspite of repeated chances being given. Further the occupation of O.P. beyond the period of expiry of the Quit Notice is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question; In view of the discussion mentioned above, I am left with no other alternative but to issue an order of eviction u/s 5 of the Act against O.P. on the following grounds/reasons :-

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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. 1686, 1686/D Of 2019 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. *Rudra Krishna* ^{VS} *Gopi Krishna* - (SB-234)

08
25-11-2019

1. That O.P. has failed to file any Reply to the Show Cause/ papers/ documents inspite of repeated sufficient chances being provided and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P. dated 12.10.1999.
2. That occupation of O.P. beyond the period of expiry of the Quit Notice is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question.
- 3) That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.
- 4) That the Quit notice dated 12.10.1999 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.
- 5) That O.P. is liable to pay damages/ mesne profit along with the accrued interest thereon for wrongful enjoyment of the Port Property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

ACCORDINGLY, Department is directed to draw up formal order of eviction u/s.5 of the Act as per Rule made there under, giving 15 days time to O.Ps' and any person/s whoever may be in occupation to vacate the premises. I make it clear that all person/s whoever may be in occupation are liable to be evicted by this order and the Port Authority is entitled to claim damages for unauthorized use and enjoyment of the property against O.Ps' in accordance with Law up to the date of recovery of possession of the same.

Regarding payment of compensation/damages/Mesne profit dues to KoPT, I must say that Rs 35,99,558.50 (for Plate No SB-234) as claimed by the Port Authority in relation to the Plates in question, is correctly payable by O.P. for the period 01.12.1999 to 31.01.2019 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 09.12.2019. Such dues attract simple interest @ 6.75 % per annum, which is the current

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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. 1686, 1686/D Of 2019 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s- Radha Krishna, ^{VS} Gopi Krishna. (SB-234)

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25-11-2019

26-11-19

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.

I make it clear that KoPT is entitled to claim further damages against O.P. for unauthorized use and occupation of the public premises right upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law, and as such I am not in a position to assess the damages which is payable by the O.P. in total at this stage when possession of the premises is still with the O.P. KoPT is directed to submit a statement comprising details of its calculation of damages indicating there-in, the details of the rate of such charges, and the period of the damages (i.e. till the date of taking over of possession) together with the basis on which such charges are claimed against O.P., for my consideration for the purpose of assessment of damages as per Rule made under the Act.

I make it clear that in the event of failure on the part of O.P. to comply with this Order, Port Authority is entitled to proceed further for recovery of possession in accordance with law.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL



(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 ***