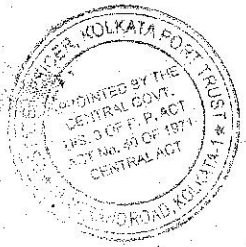


SCANNED
ofc



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
Fairlie Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. ¹⁸ DT 26.11.2019
PROCEEDINGS NO. 1241 OF 2011

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
Shri Paresh Nath Roy (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**

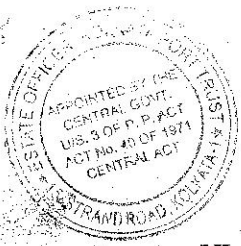
WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **Shri Paresh Nath Roy, 116/2B, Circular Garden Reach Road, Kidderpore, Kolkata -700023, AND ALSO AT Plot No.11, Taratala Staff Colony(Western End) Taratala Road, Kolkata-700088** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

- I. That O.P has failed to file reply to the Show Cause Notice under Section 4 of the Act inspite of sufficient chances for a considerable period.
- II. That O.P has violated the condition of tenancy under monthly term lease as granted by the Port Authority by way of not making payment of rental dues to KoPT.
- III. That O.P has parted with possession of the Public Premises unauthorisedly without having any authority under law.
- IV. That O.P has failed to make out any case in support of their occupation as "authorised occupation" inspite of sufficient chances being provided.
- V. That O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation" inspite of sufficient chances being provided.

BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST
OFFICE OF THE ESTATE OFFICER
6, FAIRLEY PLACE
KOLKATA - 700 001

Please See on Reverse



(2)

VI. That the notice to quit dated 24.06.2004 as served upon O.P by the Port Authority is valid, lawful and binding upon the parties and O.P's occupation has become unauthorised in view of Section 2(g) of the P.P Act.

VII. 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.

A copy of the reasoned order No. 18 dated 26.11.2019 is attached hereto which also forms a part of the reasons.

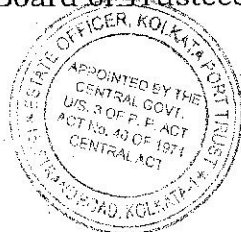
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **Shri Paresh Nath Roy, 116/2B, Circular Garden Reach Road, Kidderpore, Kolkata -700023, AND ALSO AT Plot No.11, Taratala Staff Colony(Western End) Taratala Road, Kolkata-700088** 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 **Shri Paresh Nath Roy, 116/2B, Circular Garden Reach Road, Kidderpore, Kolkata -700023, AND ALSO AT Plot No.11, Taratala Staff Colony(Western End) Taratala Road, Kolkata-700088** 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

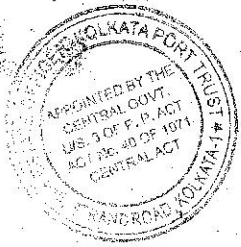
The subject piece or parcel of land msg.18.583 Sq.m, or thereabouts (under Plate No.D-378/4) situated at Western end of Taratala Staff Colony, Taratala Road, P.S- Taratala, District- 24 Parganas, Regr. District : Alipore. It is bounded on the North by the Trustees' land leased to Swaminath Singh, on the South Trustees' open land, on the North east by Trustees' land leased to Rajaram Yadav, on the West by the Trustees' strip of open land.

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

Date-28/11/19



Signature & Seal of the
Estate Officer.



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

Court Room At the 1st Floor
6, Fairlie Place Warehouse

Form "E"

PROCEEDINGS NO.1241/R OF 2011
ORDER NO. 18 DATED: 26.11.2019

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

To
Shri Paresh Nath Roy
116/2B, Circular Garden Reach Road,
Kidderpore,
Kolkata -700023,
AND ALSO AT
Plot No.11, Taratala Staff Colony(Western End)
Taratala Road,
Kolkata-700088.

By Order of
THE ESTATE OFFICER
KOLKATA PORT TRUST
IN OBEYANCE OF THE ORDER
OF THE TRIEBUNAL
KOLKATA PORT TRUST
26/11/19
KOLKATA PORT TRUST

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

AND WHEREAS, by written notice dated 05.07.2018 you were called upon to show cause on/or before 31.07.2018 why an order requiring you to pay a sum of Rs. 1,02,960.12 (Rupees One lakh Two thousand nine hundred sixty and paise Twelve) 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. 1,02,960.12 (Rupees One lakh Two thousand nine hundred sixty and paise Twelve) for the period 01.06.1988 to 31.07.2004(both days inclusive) to Kolkata Port Trust by 10.12.2019.

(Handwritten signature)

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 Gazette/s.

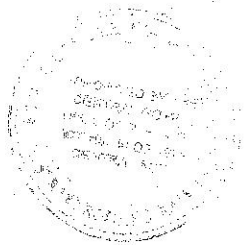
In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

SCHEDULE

The subject piece or parcel of land msg.18.583 Sq.m, or thereabouts (under Plate No.D-378/4) situated at Western end of Taratala Staff Colony, Taratala Road, P.S- Taratala, District- 24 Parganas, Regr. District : Alipore. It is bounded on the North by the Trustees' land leased to Swaminath Singh, on the South Trustees' open land, on the North east by Trustees' land leased to Rajaram Yadav, on the West by the Trustees' strip of open land.

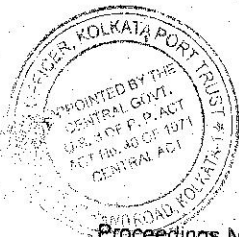
Trustees' means the Board of Trustees' for the Port of Kolkata.

Dated: 28/11/19



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. 1241, 1241/R, 1241/D Of 2011 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

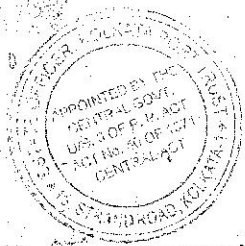
Shri Parash Nath Roy ^{VS}

18

26.11.19

FINAL ORDER

The matter is taken up today for final disposal. The factual aspect involved in this matter is fairly straight forward and does not require an elaborate discussion. It is the case of Kolkata Port Trust (KoPT), applicant herein, that one Parash Nath Roy (O.P. herein) came into occupation of KoPT's land measuring 18.583 sqm situated at Taratala Staff Colony, comprised under occupation No. D-378/4 being the Public Premises in question as short term lessee and O.P violated the condition for tenancy under short term lease as granted by KoPT. By application dated 26.07.20006 bearing no. Lnd.2669/3/18/06/6227, KoPT prays for order of eviction and recovery of arrear rent, taxes, compensation along with interest etc. against the O.P. under relevant provision of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 on the ground that O.P. has defaulted in making payment of rental dues etc and has parted with possession of the public premises unauthorisedly. It is strongly argued on behalf of KoPT that O.P has no authority under law to occupy the public premises after expiry of the period as mentioned in the notice to quit dated 24.06.2004 and O.P is liable to pay damages for wrongful use and occupation of the Port property upto the date of handing over of vacant possession of the same.



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. 1241, 1241 | R-D Of 2011 Order Sheet No. 14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Parash Nath Roy,

18
26.11.19,

Section 2 of the PP Act, 1971 defines the properties belonging to any Board of Trustees constituted under the Major Port Trust Act, 1963 as "Public Premises". According to sub-sections (1), (1A) and (1B) of Sec 4 of the Act, as amended in 2015, if the Estate Officer has information that any person is in unauthorised occupation of any public premises and that he should be evicted or if the Estate Officer knows or has reasons to believe that any person is in unauthorised occupation of any public premises, the Estate Officer shall issue a notice calling upon the person concerned to show cause why an order of eviction should not be made and any delay in issuing such notice shall not vitiate the proceedings under the Act. Further, Sec 15 of the Act puts a bar on Court's jurisdiction to entertain any matter relating to eviction of unauthorized occupants from the public premises and recovery of rental dues and/or damages, etc. Therefore, adjudication process by serving Notice/s u/s 4 & 7 of the Act in respect of KoPT's property is maintainable before this Forum of Law. Keeping the above in view, this forum of law formed its opinion to proceed against O.P and issued three Show Cause notice/s under Sections 4 & 7 of the Act (for adjudication of the prayer for issuance of Order of Eviction, and prayer for recovery of rental dues and damages, respectively) all dated 08.05.2018.

Handwritten signature/initials

Handwritten signature



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. 1241, 1241/R-D Of 2011 Order Sheet No. 15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Paresh Nath Roy. VS

18

26.11.19

It is seen from record that inspite of repeated attempts, the O.P. did not appear before this Forum. It is seen that the Notices issued by this Forum were sent to the O.P. by Speed Post but they were returned back by the Postal department with the endorsement "not known". It is also seen from the report of the Process Server dated 10.07.2018 and the Office copy of the notice/s that the O.P. was not found at the premises in question, but one Raju Sing received the notices. All these attempts of the Process Server were coupled with Affixation of the Notice/s and the Orders of this Forum on the property, as confirmed by the Process Server in said reports. Finally, on 25.09.2018 this Forum reserved the Final Order. As nobody represented before this Forum either on behalf of O.P or on behalf of any person/s interested in the property in question inspite of numerous service, I am satisfied with the service of notice to all concerned as mandated under law.

In view of the circumstances, as there is no Reply to the Show Cause Notice/s under Sections 4 & 7 of the Act, either on behalf of O.P or on behalf of any person/s interested in the property in question, inspite of sufficient chances being given, I am left with no other alternative but to decide the matter ex-parte and issue Order of Eviction against O.P. as

(Signature)

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. 1241, 1241/R-D Of 2011 Order Sheet No. 16

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Shri Parash Nath Roy.

18
26.11.18

prayed for on behalf of KoPT, on the following grounds/reasons.

- I. That O.P has failed to file reply to the Show Cause Notice under Section 4 of the Act inspite of sufficient chances for a considerable period.
- II. That O.P has violated the condition of tenancy under monthly term lease as granted by the Port Authority by way of not making payment of rental dues to KoPT.
- III. That O.P has parted with possession of the Public Premises unauthorisedly without having any authority under law.
- IV. That O.P has failed to make out any case in support of their occupation as "authorised occupation" inspite of sufficient chances being provided.
- V. That O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation" inspite of sufficient chances being provided.
- VI. That the notice to quit dated 24.06.2004 as served upon O.P by the Port Authority is valid, lawful and binding upon the parties and O.P's occupation has become unauthorised in view of Section 2(g) of the P.P Act.

(Signature)



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. 1241, 1242 R-D of 2011 Of 2011 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Paresh ^{VS} Nath Roy.

18

26.11.19

VII. 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, 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 can be taken for execution of the order of eviction u/s 5 of the Act, as per Rule made under the Act. It is my considered view that a sum of Rs. 1,02,960.12/- for the period 01.06.1988 to 31.07.2004 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 10.12.2019 Such dues attracts interest at the rate of 15% per annum upto 18.09.1996 and thereafter at the rate of

By Order of
THE ESTATE OFFICER
KOLKATA PORT TRUST
GROUP OFFICE

1



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. 1241, 1242/R-D Of 2011 Order Sheet No. 18

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Shri Parash Nath Roy.

18
26.11.18

18% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum till its liquidation of the same from the date of incurrance 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. I sign the formal order as per Rule u/s 7 of the Act.

In my opinion KoPT's claim for damages upto May, 2018 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 incurrance of liability by O.P. as per KoPT's Rule. KoPT is accordingly directed to submit a statement comprising details of its calculation of damages indicating therein the details of the rate of such charges together with the basis on which such charges are claimed against O.P. for my

By Order of
THE ESTATE OFFICER
KOLKATA PORT TRUST
RECEIVED BY THE BOARD
OF TRUSTEES OF THE PORT
OF KOLKATA
26/11/18

R

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. 1241, 1241/R-D Of 2011 Order Sheet No. 19

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Paresh Nath Roy. VS

18

26.11.19

consideration for the purpose of assessment of damages as per Rule made under the Act.

I must reiterate that KoPT's total claim against O.P. on account of rental dues and charges for compensation for wrongful use and enjoyment of the property for Rs 3,37,340.41/- upto May, 2018 has made out an arguable claim based on sound reasoning for such claim against O.P.

I make it clear that in the event of failure on the part of O.P. to pay the amounts to KoPT as aforesaid, Port Authority is entitled to proceed further for recovery of its claim 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

RECEIVED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

KOLKATA PORT TRUST

