

SCAN
of
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. 16 DT 26.11.19
PROCEEDINGS NO. 1316 OF 2012

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
Estate Ram Bachan Singh (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 Estate Ram Bachan Singh of 16/1, Sibtola Lane, Kolkata-700015 and of Plot No. 50, Chetla Railway Siding, Kolkata - 700 027 being represented by the following legal heirs 1.Smt.Santi Devi 2. Miss Mira Singh, 3.Kumari Sabita 4. Kumari Babita, 5.Shri Tarun Kanti Singh 6. Shri Chandra Kanta Singh, all of 16/1, Sibtola Lane, Kolkata-700015 is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

1. That O.P. has violated the condition of monthly lease as granted by the Port authority by failed to pay dues to KoPT, for a prolonged period of time.
2. That O.P. have failed to make out any case in support of its occupation as "authorised occupation".
3. That O.P. or any other persons asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation"
4. That the notice to quit dated 11.04.1996 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 Sec.2 (g) of the P.P. Act.
5. That O.P. is liable to pay damages for wrongful use and occupation of the public premises up to the date of handing over the clear, vacant and unencumbered possession to the port authority.

Please see on reverse

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A copy of the reasoned order No. 16 dated 26.11.19 is attached hereto which also forms a part of the reasons.

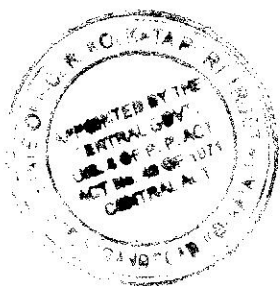
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **Estate Ram Bachan Singh of 16/1, Sibtola Lane, Kolkata-700015 and of Plot No. 50, Chetla Railway Siding, Kolkata - 700 027** being represented by the following legal heirs **1.Smt.Santi Devi 2. Miss Mira Singh, 3.Kumari Sabita 4. Kumari Babita, 5.Shri Tarun Kanti Singh 6. Shri Chandra Kanta Singh, all of 16/1, Sibtola Lane,Kolkata-700015** 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 **Estate Ram Bachan Singh of 16/1, Sibtola Lane, Kolkata-700015 and of Plot No. 50, Chetla Railway Siding, Kolkata - 700 027** being represented by the following legal heirs **1.Smt.Santi Devi 2. Miss Mira Singh, 3.Kumari Sabita 4. Kumari Babita, 5.Shri Tarun Kanti Singh 6. Shri Chandra Kanta Singh, all of 16/1, Sibtola Lane,Kolkata-700015** 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. 137.032 sq.m. or thereabouts is situated at Chetla Station Yard, Thana-New Alipore, District-24 Parganas, Registration District-Alipore. It is bounded on the **North** by the Trustees' land leased partly to Mahalaxmi Coal Concern and partly to Ascu Hicson Ltd, on the **East** by the Trustees' land partly leased to Ranjit Traders and partly used as passage on the **South** by the Trustees' open land alongside their Railway Siding and on the **West** by the Trustees' land leased to Sushila Devi.

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

Date- 29/11/19



Signature & Seal of the Estate Officer.

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

SPEED-POST
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AFFIXATION ON PROPERTY

THE ESTATE OFFICER, KOLKATA PORT TRUST
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
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OFFICE OF THE ESTATE OFFICER
6, Fairlie Place (1st Floor)
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Court Room At the 1st Floor
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Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.1316/D OF 2012
ORDER NO 16 DATED : 26.11.19

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

Estate Ram Bachan Singh
16/1, Sibtola Lane, Kolkata-700015 and
Plot No. 50, Chetla Railway Siding, Kolkata - 700 027
represented by the following legal heirs
1.Smt.Santi Devi 2. Miss Mira Singh,
3.Kumari Sabita 4. Kumari Babita,
5.Shri Tarun Kanti Singh 6. Shri Chandra Kanta Singh,
And also all of
16/1, Sibtola Lane, Kolkata-700015

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 15.05.2018 you are called upon to show cause on/or before 12.06.2018 why an order requiring you to pay damages of **Rs.5,48,633.31/-** (Rupees five lakhs fourty eight thousand six hundred thirty three and paisa thirty one only) for **Plate No.D-491/1** 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.5,48,633.31/-** (Rupees five lakhs fourty eight thousand six hundred thirty three and paisa thirty one only) for **Plate No.D-491/1** as damages on account of your unauthorised occupation of the premises for the period from 14.05.1996 to 30.06.2017 to Kolkata Port Trust by 06.12.2019.

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

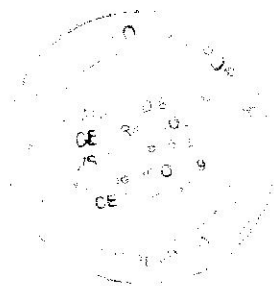
: 2 :

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. 137.032 sq.m. or thereabouts is situated at Chetla Station Yard, Thana-New Alipore, District-24 Parganas, Registration District-Alipore. It is bounded on the **North** by the Trustees' land leased partly to Mahalaxmi Coal Concern and partly to Ascu Hicson Ltd, on the **East** by the Trustees' land partly leased to Ranjit Traders and partly used as passage on the **South** by the Trustees' open land alongside their Railway Siding and on the **West** by the Trustees' land leased to Sushila Devi. Trustees' means the Board to Trustees' for the Port of Kolkata.

Date 24.11.19




Signature & 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. 1316, 1316/D Of 2012 Order Sheet No. AD 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Ram Bachan Singh VS

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26/11/19

FINAL ORDER

The matter is taken up today for final disposal. It is the case of Kolkata Port Trust (KoPT), applicant herein, that Estate Ram Bachan Singh represented by his legal heirs (O.P. herein) came into occupation of the Port property measuring about 137.032 sq.mtr. at Chetla Station Yard (Plate No. D-491/1) as a short term monthly lessee and had defaulted in making payment of the arrear dues in clear violation of the terms and conditions of the lease in question.

It is submitted by KoPT that O.P. has no authority under law to occupy the public premises after issuance of notice to quit dated 11.04.1996. This forum issued Show Cause Notice under section 4 & 7 of Public Premises (Eviction of Unauthorised Occupants) Act 1971 for adjudication of the prayer of passing of Order of Eviction, recovery of dues etc. The matter was heard on different occasions.

On behalf of O.P. Sri Tarun Kanti Singh appeared through his Ld Advocate. However neither the reply to the show cause notice nor the proper proof of identification had been filed even after several occasions had been granted. No attempt has been made out on behalf of 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 KoPT that by notice dated 11.04.1996, O.P. was directed to hand over possession. A letter /notice issued in official course of business has definitely got an evidentiary value unless there is material, sufficient to contradict.

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 expiry of the lease in question and after giving the Notice to Quit dated 11.04.1996. 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

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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

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
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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 a settled question of law that O.P. cannot claim any legal right to hold the property after expiry of the lease in question, without any valid grant or allotment from KoPT's side.

Now while delivering the final order, I have carefully gone through the documents on record. It is seen from the statement of accounts produced by the Port Authority that the O.P. is a clear defaulter of payment for a considerable period. It is seen from record that no attempts were made on behalf of the said legal heirs of the Estate Ram Bachan Singh to clear the arrear dues. In such a situation, I am of the firm view that there is no bar to uphold the contention of the Port Authority as brought out in its Notice to Quit dated 11.04.1996.

As such, 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 ground/ reasons:

1. That O.P. has violated the condition of monthly lease as granted by the Port authority by failed to pay dues to KoPT, for a prolonged period of time.
2. That O.P. have failed to make out any case in support of its occupation as "authorised occupation".
3. That O.P. or any other persons asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation" *l*

1316
28/11/19



Estate Officer, Kolkata Port Trust

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

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Ram Bachan Singh VS

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4. That the notice to quit dated 11.04.1996 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 Sec.2 (g) of the P.P. Act.
5. That O.P. is liable to pay damages for wrongful use and occupation of the public premises up to the date of handing over the 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 occupation. As such, I must say that Rs. 5,48,633.31/- as claimed by the Port Authority as damages in relation to the Plate in question, is correctly payable by O.P. for the period 14.05.1996 to 30.16.2017 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by 04.10.2019. 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. I sign the formal orders u/s 7 of the Act.

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16/11/19
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

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Estate Renu Bachan Singh.

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26.11.19

I make it clear that KoPT is entitled to claim 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 the liability of O.P. to pay damages extends beyond 30.06.2017 as well, till such time the possession of the premises continues to be under the unauthorised occupation with the O.P.. KoPT is directed to submit a statement comprising details of its calculation of damages after 30.06.2017, 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 such 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 execution of this order 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 ***

Handwritten notes and stamps:
RECEIVED
26/11/19
ESTATE OFFICER
KOLKATA PORT TRUST