

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.28 DT 05.12.2019  
PROCEEDINGS NO. 1272 OF 2012

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-  
**Shyam Narayan Dudhnath 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 **Shyam Narayan Dudhnath Singh, 7B, Raja Brojendra Street, Kolkata- 700007 AND ALSO 58, Chetla Railway Siding Kolkata-700027** is in unauthorized occupation of the Public Premises specified in the Schedule below:

**REASONS**

1. That occupation of O.P. beyond the period of 'Quit Notice' is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question.
2. That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.
3. That the Quit notice dated 27.08.2009 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.
4. That O.P. has failed to make out any case in support of its occupation as "authorised occupation".

Please see on reverse

(2)

A copy of the reasoned order No. 28 dated 05.12.2019 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 **Shyam Narayan Dudhnath Singh, 7B, Raja Brojendra Street, Kolkata-700007 AND ALSO 58, Chetla Railway Siding Kolkata-700027** 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 **Shyam Narayan Dudhnath Singh, 7B, Raja Brojendra Street, Kolkata-700007 AND ALSO 58, Chetla Railway Siding Kolkata-700027** 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.

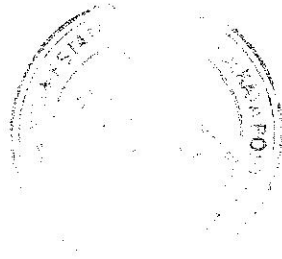
#### SCHEDULE

**Plate No.D-475/1/A**

The said piece or parcel of land msg.282.43 sq.m or thereabouts is situated at Chetla Station Yard, Thana-Chetla, Dist: 24Parganas, Registration District-Alipore. It is bounded on the North by the lessor's roadway, on the East by the lessor's land occupied by Sinha & Co, on the South by the lessor's strip of open land alongside their drain and on the West by the lessor's land occupied by Bhagiroti Singh.

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

Date- 9/12/19



  
Signature & Seal of the  
Estate Officer.

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

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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.1272/R OF 2012  
ORDER NO. 28 DATED: 05.12.2019

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

To  
**Shyam Narayan Dudhnath Singh,**  
**7B, Raja Brojendra Street,**  
**Kolkata- 700007**  
**AND ALSO**  
**58, Chetla Railway Siding**  
**Kolkata-700027.**

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

AND WHEREAS, by written notice dated 10.05.2018 you were called upon to show cause on/or before 07.06.2018 why an order requiring you to pay a sum of Rs 1,40,455.17/- (Rupees One Lakh Forty Thousand Four Hundred Fifty Five and paisa Seventeen only) being the rent payable together with compound interest in respect of the said premises should not be made;

AND WHEREAS, I have considered your objections and/or evidence produced before this Forum.

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 1,40,455.17/- (Rupees One Lakh Forty Thousand Four Hundred Fifty Five and paisa Seventeen only) for the period 01.02.1988 to 30.09.2009 (both days inclusive) to Kolkata Port Trust by 10.12.2019.

PLEASE SEE ON REVERSE

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 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.

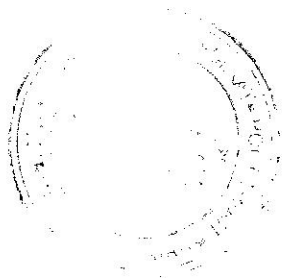
**SCHEDULE**

**Plate No.D-475/1/A**

The said piece or parcel of land msg.282.43 sq.m or thereabouts is situated at Chetla Station Yard, Thana - Chetla, Dist: 24Parganas, Registration District-Alipore. It is bounded on the North by the lessor's roadway, on the East by the lessor's land occupied by Sinha & Co, on the South by the lessor's strip of open land alongside their drain and on the West by the lessor's land occupied by Bhagirothi Singh.

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

Dated: 9/12/19



  
Signature and seal of the  
Estate Officer

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

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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.1272/D OF 2012  
ORDER NO.28 DATED : 05.12.2019

**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

**Shyam Narayan Dudhnath Singh,  
7B, Raja Brojendra Street,  
Kolkata- 700007  
AND ALSO  
58, Chetla Railway Siding  
Kolkata-700027.**

Whereas I, the undersigned, am satisfied that you were in unauthorised occupation of the public premises mentioned in the Schedule below:

And whereas by written notice dated 10.05.2018 you are/were called upon to show cause on/or before 07.06.2018 why an order requiring you to pay damages of Rs. **6,89,806.71** (Rupees Six lakhs Eighty Nine thousand Eight hundred Six and paisa Seventy One only) for **Plate No.D-475/1/A** together with compound interest should not be made; for unauthorised use and occupation of the said premises.

And whereas I have considered your objections and/or evidence produced before this Forum.

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. **6,89,806.71** (Rupees Six lakhs Eighty Nine thousand Eight hundred Six and paisa Seventy One only) for **Plate No.D-475/1/A** as damages on account of your unauthorised occupation of the premises for the period from 01.10.2009 to 30.06.2017 to Kolkata Port Trust by 10.12.2019.

**PLEASE SEE ON REVERSE**

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 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 by Collector.

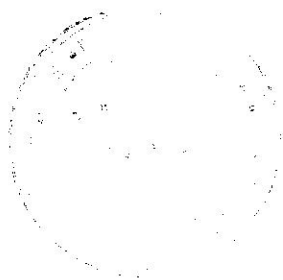
**SCHEDULE**


Plate No.D-475/1/A

The said piece or parcel of land msg.282.43 sq.m or thereabouts is situated at Chetla Station Yard, Thana – Chetla, Dist: 24Parganas, Registration District-Alipore. It is bounded on the North by the lessor's roadway, on the East by the lessor's land occupied by Sinha & Co, on the South by the lessor's strip of open land alongside their drain and on the West by the lessor's land occupied by Bhagirothi Singh.

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

Date 9/12/19



  
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. 1272, 1272/R, 1272/D Of 2012 Order Sheet No. 22

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

**VS**  
*Shyam Narayan Dudhnath Singh*

#### FINAL ORDER

The instant proceedings No. 1272, 1272/R, 1272/D of 2012 arises out of the application bearing No. Lnd.3184/31/11/10/38 dated 07.04.2010 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of eviction and recovery of 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 Shyam Narayan Dudhnath Singh, the O.P herein, under relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971. Be it mentioned here that Proceeding No.1272 of 2012 is inadvertently recorded as 1241 of 2011 from page No.9 to 21 of the daily Orders which shall be read as 1272, 1272/R,1272/D of 2012 instead of 1241, 1241/R, 1241/D of 2011.

The fact of the case in a nutshell is that the O.P. came into occupation of the port property being land measuring 282.43 sq.mtrs. or thereabout at Chetla Station Yard (under Plate No.D-475/1/A) Thana-Chetla, District-24 Parganas as a monthly Lessee, morefully described in the Schedule 'A' of the KoPT's application dated 07.04.2010. 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 monthly rent, Compensation/damages and also accrued interest thereon the details of which has given in 'Schedule-B' and 'C' of the KoPT's application dated 07.04.2010.

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05.12.2019

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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. 1272, 1272/R, 1272/D Of 2012 Order Sheet No. 23

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*VS*  
*Shyam Narayan Dudhnath Singh*

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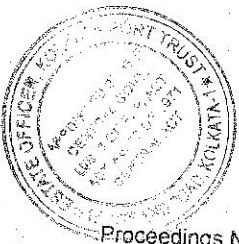
05.12.2019

It is also the case of KoPT that O.P. has erected unauthorised construction in clear violations of the terms and conditions of the lease in question and without taking the prior approval of KoPT. It is further the case of KoPT that the said lease with O.P. was determined by way of a Quit Notice dated 27.08.2009 and the O.P. was asked to vacate the premises on 30.09.2009 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 10.05.2018(vide orderNo.10 dated 22.02.2018) 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 address of O.P. at 7B, Raja Brojendra Street, Kolkata-700007. It appears from records that the Notice/s sent to the address of O.P. at 7B, Raja Brojendra Street, Kolkata-700007 was not returned back. 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 07.06.2018 that





## 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. 1272, 1272/R, 1272/D Of 2012 Order Sheet No. 24

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*Shyam Narayan VS  
Duchhath Singh*

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05.12.2019

order could not have been served upon O.P as the door was closed. However, the copy of the said Notice/s have been affixed on the property under schedule on 22.02.2018 at about 12 P.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 07.06.2018 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 10.07.2018 to provide chances to the O.P. for effective representation before this Forum. On 10.07.2018 O.P again failed to appear before the Forum and O.P was given another chance to appear before the Forum. Finally on 31.07.2018 son of O.P appeared and prayed for time to file his reply. On 30.08.2018 Advocate of O.P filed her Vokatnama to represent the matter before the Forum and prayed for further time to file their reply to the Show Cause. Thereafter dated 07.02.2019 Advocate of O.P filed her reply and craves leave to file documents supporting the Statement made in the reply in chronological manner. In reply O.P submitted that averments made in the Show Cause Notice/s are based on misconception of the factual aspects thus on the face of it, incorrect, untenable, unwarranted and bad ab-initio. After that KoPT filed their rejoinder dated 28.03.2019 and



## 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. 1272, 1272/R, 1272/D of 2012 Order Sheet No. 25

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*VS*  
*Shyam Narayan Duetnair Singh*

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05.12.2019

contended that Show Cause Notice is sent by Ld' Estate Officer which categorically mentions the breaches as per legal mandate and saying that there is no ingredient disclosed in it is nothing but an insult to this Forum. Thereafter on 18.04.2019 the matter was taken up for final hearing and representative of O.P has failed to appear on that scheduled date of Final hearing and consecutively on 02.05.2019 thereafter.

As none appeared on behalf of O.P in final hearing in spite of repeated chances, the matter was finally reserved for passing Order on 09.05.2019.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of both the parties. 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 to Quit, right of lessee to continue possession wholly depends on active willingness of land lord. Therefore, O.P's occupation after expiry of Quit Notice is wholly unauthorised. Further, I must say that Final Notice being No. Lnd.3184/31/II/09/956 dated 08.07.2009 clearly shows that as per the sketch plan No.8251-D-1 dated 23.03.09 O.P made construction over the subject premises which is unauthorised.

Considering all the points mentioned above I have left with no other alternative but to accept that Paper/documents produced on behalf of O.P., contradicting/ disputing the claim of KoPT are baseless and have no weightage in the eye of Law, therefore this Forum was not constrained to proceed with 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

Proceedings No. 1272, 1272/R, 1272/D Of 2012 Order Sheet No. 26

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

*Shyam Narayan Duhkhatri Singh*

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05.12.2019

matter. 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 period mentioned in the Notice to Quit dated 27.08.2009. Further the occupation of O.P. beyond the period of Quit Notice is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question; In view of the deliberations 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 :-

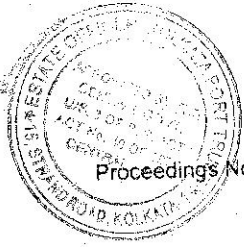
1. That occupation of O.P. beyond the period of 'Quit Notice' is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question.
2. That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.
3. That the Quit notice dated 27.08.2009 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.
4. That O.P. has failed to make out any case in support of its occupation as "authorised occupation".

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

# 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. 1272, 1272/R, 1272/D Of 2012 Order Sheet No. 27

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

<sup>VS</sup>  
Shyam Narayan Dudhnath Singh

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05.12.2019

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 rental dues to KoPT, I must say that Rs. 1,40,455.17/- as claimed by the Port Authority in relation to the Plate in question, is correctly payable by O.P. for the period 01.02.1988 to 30.09.2009 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 10.12.2019. O.P. shall be liable 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 the relevant notification/s published in Official Gazette. The formal order u/s 7 of the Act is signed accordingly.

During the course of hearing, 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 and in this regard a sum of Rs.6,89,806.71 for the period 01.10.2009 to 30.06.2017 is due and recoverable from O.P. by the Port authority on account of compensation /Damages and O.P. must have to pay such 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 18% per annum upto 06.04.2011 and thereafter at the rate of



## 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. 1272, 1272/R, 1272/D Of 2012 Order Sheet No. 28

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*VS*  
*Shyam Narayan Dudhnath Singh*

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05.12.2019

14.25% per annum till its liquidation of the same from the date of incurrance of liability in accordance with the relevant notification/s published in Official Gazette. The formal order u/s 7 of the Act is signed accordingly.

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\*\*\*

