

Scanned copy  
on 13.12.2019



**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.30 DT 03.12.2019  
PROCEEDINGS NO. 361 OF 1999

**BOARD OF TRUSTEES OF THE PORT OF KOLKATA**  
-Vs-  
**Saraswati Devi (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  
**Smt. Saraswati Devi, Chetla Station Yard, Kolkata-700027 AND 5, Chetla  
Road, Alipore Kolkata- 700027** is in unauthorized occupation of the Public  
Premises specified in the Schedule below:

**REASONS**

- 1) That O.P. has failed to file reply to the Show Cause Notice under the Act inspite of sufficient chances being given.
- 2) That O.P. has failed to liquidate the estate dues of KoPT.
- 3) That O.P. has made construction unauthorizedly by encroaching upon KoPT's Land.
- 4) That O.P. has parted with possession to rank outsiders in clear violation of the terms and conditions.
- 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.

**PLEASE SEE ON REVERSE**

BY ORDER OF  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
REASONED ORDER NO. 30  
DT 03.12.2019  
PROCEEDINGS NO. 361 OF 1999  
J. K. S. (12-12-19)  
ESTATE OFFICER  
KOLKATA PORT TRUST

- 7) That the notice to quit dated 09.09.1994 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.

A copy of the reasoned order No. 30 dated 03.12.2019 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 **Smt. Saraswati Devi, Chetla Station Yard, Kolkata-700027 AND 5, Chetla Road, Alipore 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 **Smt. Saraswati Devi, Chetla Station Yard, Kolkata-700027 AND 5, Chetla Road, Alipore 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.

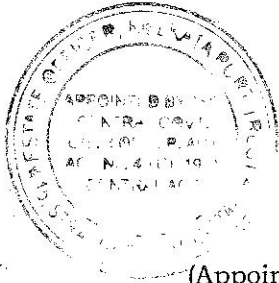
#### SCHEDULE

Piece or parcel of land msg. about 94.297 sq.m or thereabouts (under Plate No.D-533/1/A) which is situated at Chetla Station Yard, P.S. New Alipore, Dist. 24 Parganas. It is bounded on the North, East and West by the Trustees' vacant Land and on the South by the Trustees' Roadway. Trustees' means the Board to Trustees' of the Port of Kolkata.

Date- 10.12.2019.

  
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  
1<sup>st</sup> Floor, 6, Fairlie Place Warehouse,  
Kolkata-700001  
\*\*\*\*\*

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

**Form " E"**

PROCEEDINGS NO.361/R OF 1999  
ORDER NO.30 DATED: 03.12.2019

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

To  
**Smt. Saraswati Devi,**  
**Chetla Station Yard,**  
**Kolkata-700027.**  
AND  
**5, Chetla Road, Alipore**  
**Kolkata- 700027.**

BY ORDER OF  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
OFFICE OF THE ESTATE OFFICER  
KOLKATA PORT TRUST  
12.12.19  
OFFICE OF THE ESTATE OFFICER  
KOLKATA PORT TRUST

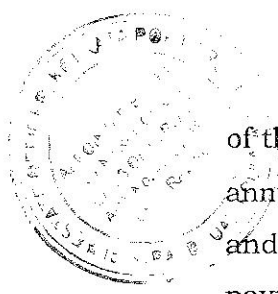
WHEREAS you are in occupation of the public premises described in the Schedule below. (Please see on reverse).

AND WHEREAS, by written notice dated 27.08.2015 you were called upon to show cause on/or before 17.09.2015 why an order requiring you to pay a sum of Rs. 41,020.00/- (Forty one Thousand and Twenty only) being the rent payable together with simple interest in respect of the said premises should not be made;

And whereas I have considered your objection and/or the evidence produced by you.

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. 41,020.00/- (Forty one Thousand and Twenty only) for the period 01.06.1988 to 15.09.1994 (both days inclusive) to Kolkata Port Trust by 15.12.2019.

**PLEASE SEE ON REVERSE**



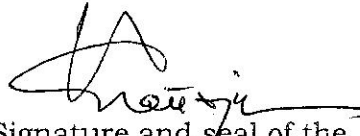
In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest @ 15% per annum upto 18.09.1996 and thereafter @ 18% per annum upto 06.04.2011 and thereafter @ 14.25% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Calcutta Gazettee/s as per Kolkata Port Trust's Rule.

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**

Piece or parcel of land msg. about 94.297 sq.m or thereabouts (under Plate No.D-533/1/A) which is situated at Chetla Station Yard, P.S. New Alipore, Dist. 24 Parganas. It is bounded on the North, East and West by the Trustees' vacant Land and on the South by the Trustees' Roadway. Trustees' means the Board to Trustees' of the Port of Kolkata.

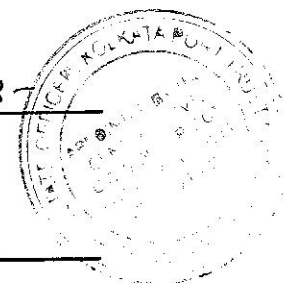
Dated: 10.12.2019.

  
Signature and seal of the  
Estate Officer

*(Tilted stamp)*  
KOLKATA PORT TRUST  
OFFICE  
12-12-2019  
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



Proceedings No. 361A361/R Of 1999 Order Sheet No. -28-

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*Saraswati Devi* VS *Delle*

### FINAL ORDER

The matter is taken up today for final disposal. It is the case of Kolkata Port Trust (KoPT), applicant herein, that Smt Saraswati Devi, O.P. herein, came into occupation of KoPT's land measuring about 94.297 sqm or thereabouts situated at Chetla Station Yard, Kolkata, comprised under occupation No. D- 533/1/A, being the Public Premises in question, as a licensee on certain terms and conditions. A case has been made out by KoPT that O.P. failed to pay the license fees and taxes, has unauthorisedly parted with the possession of the premises to the rank outsiders, has made construction unauthorisedly by encroaching upon KoPT's land in gross violation of the terms and conditions of the license in question. The application being No. Lnd. 3184/138/A/14/1753 dated 04.09.2014 filed by KoPT is relied upon at the time of hearing. 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 09.09.1994 and O.P. is liable to pay damages for wrongful use and occupation of the Port property upto the date of handing over of peaceful vacant and unencumbered possession of the same.

This forum of law formed its opinion to proceed against O.P. on the basis of submission and materials on record and issued show cause notice u/s 4 of the Act (for adjudication for the prayer for issuance of order of eviction etc.) and show cause notice u/s 7 of the Act (for adjudication for prayer of recovery of license fees, interest etc.), both dated 27.08.2015.

O.P. appeared before this Forum and contested the case. It appears from records that O.P. has filed an application dated 05.11.2015 praying for liquidation of dues of KoPT. In the said letter O.P. has unconditionally undertaken to pay the monthly installments for liquidation of arrear dues/ charges as payable to KoPT in addition to the monthly charges for compensation as demanded by KoPT from time to time. It is seen from record that O.P. did not file the reply to the Show cause / or in defence of herself, inspite of numerous opportunities granted to her. It appears from the detailed statement of accounts dated 01.09.2016 that O.P. did not bother to pay the said amounts as well despite specific commitments of payments made suo motu by O.P. on the various dates of hearing. In my view, the conduct of the O.P. does

30  
03-12-2019

by Order of  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
12-12-19



# Estate Officer, Kolkata Port Trust

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



361 & 361/R Of 1999 Order Sheet No. - 29-

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS  
*Saraswati Devi*

30  
03-12-2019

By Order of  
THE ESTATE OFFICER  
KOLKATA PORT TRUST  
12-12-19

not inspire confidence and I am not at all inclined to protect the occupation of the O.P., beyond the period of authorization as brought out by the ejection notice of KoPT, even for the sake of natural justice. In my considered view, the Port Authority has lodged a definite and legitimate claim to get its revenue involved into the Port Property in question as per the KoPT's Schedule of Rent Charges for the relevant period and O.P. cannot claim continuance of its occupation without making payment of requisite charges as mentioned in the Schedule of Rent Charges. I take note of the fact that the irregular payments made by O.P. after the expiry of the period mentioned in the Notice to Quit dated 09.09.1994 in question has been accepted by KoPT as part-payment of compensation/damages for wrongful use and occupation of the Port Property in question and without prejudice to the Notice dated 09.09.1994. As such, I have no hesitation to accept the contentions of KoPT. It appears to me that the O.P. is not at all interested in the public premises in question. Under such circumstances, I am of the view that after issuance of the notice to quit dated 09.09.1994, the occupation of the O.P. is nothing but "unauthorized" in terms of the P.P. Act 1971.

As regards the allegation of unauthorized construction and encroachment leveled against O.P., KoPT vide its sketch plan being No. 8104-D-I dated 21.02.2008 distinctly shows the area which is encroached upon by O.P. and also highlighted the structure erected by O.P. without taking any approval from the concerned authority. During the course of hearing, O.P. could not produce a single scrap of paper/evidence by which the allegations of KoPT could be questioned. Therefore, this Forum has nothing to disbelieve the allegations of KoPT and the sketch plan produced by them is the corroboration of what KoPT has stated in their original application filed before this Forum and the ejection notice issued to O.P..

In view of the circumstances, as there is no reply to the Show Cause Notice under Section 4 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:-





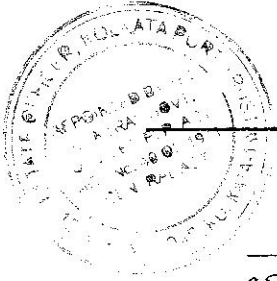
# Estate Officer, Kolkata Port Trust

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

Proceedings No. 361 & 361/R Of 1999 Order Sheet No. -31-

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS  
*Saraswati Devi*



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03.12.2019

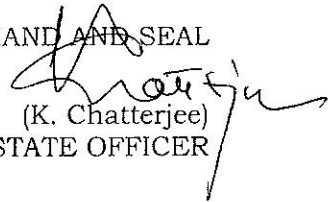
01.06.1988 to 15.09.1994 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of rental dues and O.P. must have to pay the rental dues to KoPT on or before 15.12.2019. Such dues attract interest @ 15% per annum upto 18.09.1996 and thereafter @ 18% per annum upto 06.04.2011 and thereafter @ 14.25% per annum, till the liquidation of the same, from the date of incurrence 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., in terms of KoPT's books of accounts. Department is directed to draw up formal order as per Rule u/s 7 of the Act.

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 dues and damages against O.P., indicating there-in, the details of the computation of such dues and damages with the rate of charges so claimed for the respective periods (details of computation with rates applicable for the relevant periods, i.e. upto the date of taking over of possession) for my consideration in order to assess the damages as per the Act and the Rules made thereunder.

I make it clear that in the event of failure on the part of O.P. to comply with this order as aforesaid, 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

  
(K. Chatterjee)  
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

ORDERED BY THE ORDER  
PASSED BY THE ESTATE OFFICER  
KOLKATA PORT TRUST

12.12.19  
J. ...  
ESTATE OFFICER  
KOLKATA PORT TRUST