

**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 30.01.2020
PROCEEDINGS NO. 354 OF 1999

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/S Ram Awatar & Co (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 Ram Awatar & Co, sole prop. Deoki Devi Shaw, 30, Watgunge Street, Calcutta-700023 AND ALSO OF 4, Garden Reach Road, (Watgunge Railway Siding) KP Dock, Calcutta-700023** is in unauthorized occupation of the Public Premises specified in the Schedule below:

R E A S O N S

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 26.07.1983 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".
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.

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PLEASE SEE ON REVERSE

(2)

A copy of the reasoned order No. 18 dated 30.01.2020 is attached hereto which also forms a part of the reasons.

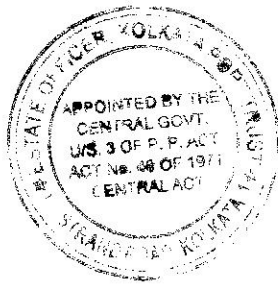
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **M/S Ram Awatar & Co, sole prop. Deoki Devi Shaw, 30, Watgunge Street, Calcutta-700023 AND ALSO OF 4, Garden Reach Road, (Watgunge Railway Siding) KP Dock, Calcutta-700023** 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 Ram Awatar & Co, sole prop. Deoki Devi Shaw, 30, Watgunge Street, Calcutta-700023 AND ALSO OF 4, Garden Reach Road, (Watgunge Railway Siding) KP Dock, Calcutta-700023** 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-19/A

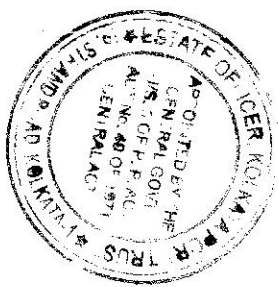
The said piece or parcel of land measuring about 66.89 sq.m or thereabouts is situated at Watgunge, Old RIM Dock Yard, P.S. South Port, District-24 Parganas. It is bounded on the north by the Trustees' land leased to Banerjee Trading on the east by the Trustees' land leased to P.P Banerjee and Sons on the south by the Trustees vacant land and on the west by the Trustees' land leased to Rupnarian Singh. Trustees' means the Board of Trustees' for the Port of Kolkata.

Date- 31-01-2020




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
OFFICE OF THE ESTATE OFFICER
6, Fairlie Place (1st Floor)
KOLKATA - 700 001

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

PROCEEDINGS NO.354/D OF 1999
ORDER NO.18 DATED : 30.01.2020

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 Ram Awatar & Co,
sole prop. Deoki Devi Shaw,
30, Watgunge Street,
Calcutta-700023
AND ALSO OF
4, Garden Reach Road,
(Watgunge Railway Siding) KP Dock,
Calcutta-700023

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

And whereas by written notice dated 11.04.2017 you are/were called upon to show cause on/or before 04.05.2017 why an order requiring you to pay damages of Rs. **3,30,327.35** (Rupees Three Lakhs Thirty thousand Three hundred Twenty Seven and paisa Thirty five only) together with [compound interest] 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. **3,30,327.35** (Rupees Three Lakhs Thirty thousand Three hundred Twenty Seven and paisa Thirty five only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.02.1991 to 31.01.2017 to Kolkata Port Trust by 07.02.2020.

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.

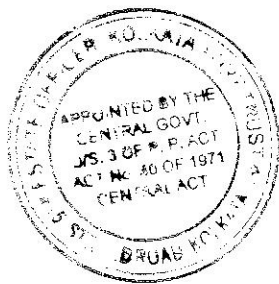
In the event of your refusal or failure to pay the damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue by Collector.


SCHEDULE

Plate No.D-19/A

The said piece or parcel of land measuring about 66.89 sq.m or thereabouts is situated at Watgunge, Old RIM Dock Yard, P.S. South Port, District-24 Parganas. It is bounded on the north by the Trustees' land leased to Banerjee Trading on the east by the Trustees' land leased to P.P Banerjee and Sons on the south by the Trustees vacant land and on the west by the Trustees' land leased to Rupnarian Singh. Trustees' means the Board of Trustees' for the Port of Kolkata.

Date 31-07-2020




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. 354, 354/D of 1999 Order Sheet No. 18

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Ram Awatar ^{VS} & Co

18
30.01.2020

FINAL ORDER

The instant proceedings No.354, 354/D of 1999 arisen out of the application bearing No. Lnd.3406/5/III dated 23.08.1995 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of eviction as well as order of recovery of dues and other charges etc. along with accrued interest in respect of the public premises as defined in the Schedule of said application, against M/S Ram Awatar & Co, Sole Prop.Deoki Devi Shaw, 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 66.89sq.mt. or thereabout at Watgunge, Old RIM Dockyard, Thana- SPPS (under Plate Nos.D-19/A) as monthly term Lessee, more fully described in the 'Schedule of Property' of the KoPT's application. The allegations levelled by KoPT against the O.P is that while in possession of Port property as monthly term Lessee, the O.P has defaulted in making payment of damages / compensation/ mesneprofits and taxes and also accrued interest thereon the details of which has given in 'Schedule-C' of the KoPT's application.

It is submitted by KoPT that the said lease with O.P. was determined by way of a Quit Notice dated 26.07.1983 and the O.P. was asked to vacate the

By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST

DEPOTTED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER

KOLKATA PORT TRUST

OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

A



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. 354, 354/D Of 1999 Order Sheet No. 19

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/s Ram Awatar & Co

18
30.01.2020

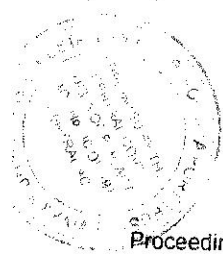
premises on 01.09.1983 but O.P failed and neglected to vacate/ hand over the possession of the premises after service of the said Notice to Quit.

Considering the submission and documents as submitted by KoPT, Notice/s to Show Cause dated 11.04.2017(vide Order-5 dated 28.02.2017) was issued by this Forum to the O.P. U/s 4 and 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 to show cause as to why an order requiring to pay arrear damages/compensation together with interest should not be made against the O.P. The O.P. was also called upon to appear before this forum in person or through authorized representative capable to answer of material question connected with the matter along with the evidence which the opposite party intends to produce in support of this case.

After issuance of the aforesaid notice/s, on 04.05.2017, O.P. did not appear before the Forum for giving reply to the Shaw Cause. However, the record depicts that such Notice had been sent to O.P both by hand and Registered Post as per address available on record. It is seen that the communications sent through speed post has been returned back to the Forum with the endorsement "Addressee can not be located ". However, the Report of the Process Server dated 27.04.2017 depicted that the copy of the Order dated 28.02.2017 along with notice/s has been duly

By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
KOLKATA PORT TRUST

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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. 354, 354/D Of 1999 Order Sheet No. 20

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/S Ram Awatar & Co

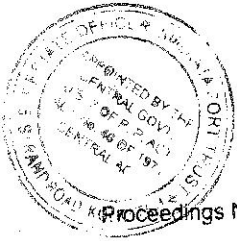
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30.01.2020

served on O.P. and affixation has also been made on the same day at about 4:14 P.M.

As none appeared on behalf of O.P or any other person interested in the property, 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. Thereafter a publication was made in the classified column of Times of India, on 04.08.2017 fixing the ultimate date of O.P's appearance on 17.08.2017. Thereafter, dated 17.08.2017 one Shyam Sundar Shaw, claiming himself as a son of O.P appeared and the Forum directed O.P to file his reply to Show Cause on the next date of hearing. Thereafter dated 26.10.2019 O.P prayed for further time to file his reply and O.P again failed to appear before the Forum. Thereafter dated 04.01.2018, O.P filed his reply along with a Scheme for liquidation. In his reply, O.P submitted that he is bonafide tenant of KoPT, therefore his unwilling mistake to pay the dues of KoPT be condoned. Thereafter, dated 25.01.2018, KoPT filed their comment on such application and liquidation Scheme filed by O.P. KoPT contended that O.P's prayer vide letter dated 04.01.2018 for payment of KoPT dues in instalment is nothing but an admission of the breach of non payment. Therefore, O.P be evicted for non payment of such dues. Thereafter on repeated call when O.P failed to appear before the Forum, dated 22.02.2018 final Order was reserved in the instant matter.

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RECEIVED
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
[Signature]
30/01/2020
OFFICE OF THE ESTATE OFFICER
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. 354, 354/D Of 1999 Order Sheet No. 21

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

MIS Ram Awalan & Co

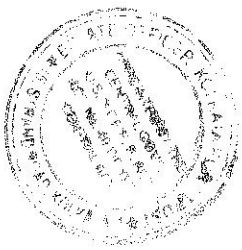
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30.01.2020

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 O.P's non-payment of KoPT dues cannot be considered as his unwilling mistake because when a tenant is under lawful occupation of a premises it is his primary responsibility to pay the rent timely to the landlord. As O.P failed to pay such due in time, no question of condonation comes.

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 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 26.07.1983. Further the occupation of O.P. beyond the period of Quit Notice is unauthorised 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

By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
30.01.2020
OFFICE OF THE ESTATE OFFICER
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. 354, 354/D Of 1999 Order Sheet No. 22

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

MIS Ram Awatar ^{VS} & Co

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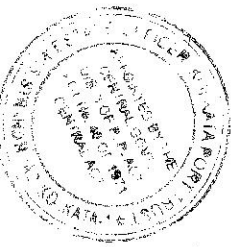
30.01.2020

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 26.07.1983 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".
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, 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.P in accordance with Law



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. 354,354/D of 1999 Order Sheet No. 23

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
MIS Ram Awatar & Co

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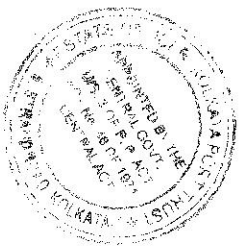
30.01.2020

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 3,30,327.35/- as claimed by the Port Authority in relation to the Plates in question, is correctly payable by O.P. for the period 01.02.1991 to 31.01.2017 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 07.02.2020. 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.

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,

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Estate Officer, Kolkata Port Trust

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(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 354, 354/D of 1999 Order Sheet No. 24

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Ram Awatan ^{VS} & Co

18

30.01.2020

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.

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***

By order
ESTATE OFFICER
Kolkata Port Trust
30/1/2020

