



**REGISTERED POST WITH A/D.
HAND DELIVERY/AFFIXATION ON
PROPERTY**

ESTATE OFFICER, KOLKATA PORT TRUST

(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
Public Premises (Eviction of Unauthorised Occupants) Act 1971

OFFICE OF THE ESTATE OFFICER
15, STRAND ROAD (4TH FLOOR) KOLKATA-700001
COURT ROOM AT THE 2ND FLOOR (OLD BLDG.)
15. STRAND ROAD, KOLKATA-700 001

Form " G "

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

PROCEEDINGS NO. 1183 & 1183/D OF 2011
ORDER NO. 23 DT 25.06.2020

To

**Estate Pankaj Kr. Singh (represented by Sri Niranjan Kr.Singh)
of 37, Chetla Railway Siding, Kolkata 700027
and 8-A, Beliaghata Road, Kolkata- 700 015 and also of
Village -Takina, P.O. Terha, District- Saran, Bihar, Pin- 841418**

f.s-de
26.06.2020

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 15.02.2018 you were called upon to show- cause on/or before 21.03.2018 why an order requiring you to pay a sum of Rs. 13,03,367.21/- (Rupees Thirteen Lakhs Three Thousand Three Hundred Sixty Seven and paisa Twenty One only) being damages payable together with compound interest for unauthorised use and occupation 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 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. 13,03,367.21/- (Rupees Thirteen Lakhs Three Thousand Three Hundred Sixty Seven and paisa Twenty One only) for the period 01.06.1991 to 30.06.2017 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust, by 24.07.2020.

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 @ 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 with effect from the date of incurrance of liability, till its final payment in accordance with Notification Published in Official Gazette/s.

A copy of the reasoned order no. 23 dated 25.06.2020 is attached hereto.

PLEASE SEE ON REVERSE



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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.

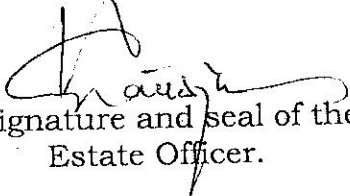
**** The amount of Rs 1,00,000/-, in terms of 2 bank drafts as tendered by O.P. and had remained unadjusted in KoPT's statement of accounts, as was directed vide the order dated 22.06.2018 of this Forum, shall be duly adjusted from the aforesaid amount, if paid in the meantime.**

SCHEDULE

All that piece or parcel of land msg. about 313.92 sqm or thereabout is situated at Chetla Station Yard, P.S. New Alipore, Now Chetla, P.S. District- 24 Parganas. It is bounded on the North by the Trustees' strip of open land reserved as margin of safety alongside a Port Trust railway siding on the East by the Trustees' land leased to Raj Kishore Singh, on the South by the Trustees' land beyond which is Boat Canal and on the West by the Trustees' land leased to Arjun Singh and Arun Kumar Singh.

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

Dated: 25.06.2020


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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**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
15, STRAND ROAD
(4th Floor)
KOLKATA - 700 001

Court Room At the 2nd Floor
of Kolkata Port Trust's
Head Office, Old Buildings
15, Strand Road, Kolkata- 700 001.
REASONED ORDER NO. 23 DT 25.06.2020
PROCEEDINGS NO. 1183 & 1183/D OF 2011

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
Estate Pankaj Kr. Singh, represented by Sri Niranjana Kr. Singh, as 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 Pankaj Kr. Singh (represented by Sri Niranjana Kr. Singh) of 37, Chetla Railway Siding, Kolkata 700027 and 8-A, Beliaghata Road, Kolkata-700 015 and also of Village -Takina, P.O. Terha, District- Saran, Bihar, Pin- 841418** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

1. That O.P. has been a defaulter of the legitimate estate dues of KoPT for a considerable period.
2. That defence taken by O.P. regarding withdrawal of railway facility, seeking a downward revision of rates, has no bearing on the facts and circumstances of the case.
3. That no case has been made out on behalf of O.P., contradicting the ground as mentioned in the Show Cause Notice u/s 4 of the Act, particularly in respect of "unauthorised parting with possession", as mentioned in the said Show Cause Notice.
4. That O.P. has failed to bear any witness or adduce any evidence in support of its occupation into the public premises as 'authorized occupant'.
5. That the ejection notice as served upon O.P., demanding possession of the public premises by KoPT is valid, lawful and binding upon the parties.
6. That occupation of O.P. beyond the period of the ejection notice is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question;

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7. That O.P. is liable to pay damages for its unauthorized use and occupation of the public premises upto the date of handing over of clear, vacant and unencumbered possession to KoPT.

A copy of the reasoned order No. 23 dated 25.06.2020 is attached hereto which also forms a part of the reasons.

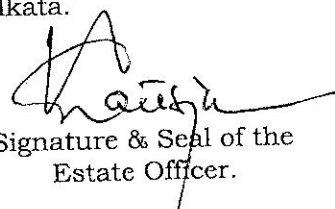
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **Estate Pankaj Kr. Singh (represented by Sri Niranjan Kr.Singh) of 37, Chetla Railway Siding, Kolkata 700027 and 8-A, Beliaghata Road, Kolkata- 700 015 and also of Village -Takina, P.O. Terha, District- Saran, Bihar, Pin- 841418** 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 Pankaj Kr. Singh (represented by Sri Niranjan Kr.Singh) of 37, Chetla Railway Siding, Kolkata 700027 and 8-A, Beliaghata Road, Kolkata- 700 015 and also of Village -Takina, P.O. Terha, District- Saran, Bihar, Pin- 841418** 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

All that piece or parcel of land msg. about 313.92 sqm or thereabout is situated at Chetla Station Yard, P.S. New Alipore, Now Chetla, P.S. District- 24 Parganas. It is bounded on the North by the Trustees' strip of open land reserved as margin of safety alongside a Port Trust railway siding on the East by the Trustees' land leased to Raj Kishore Singh, on the South by the Trustees' land beyond which is Boat Canal and on the West by the Trustees' land leased to Arjun Singh and Arun Kumar Singh.

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

Dated:25.06.2020


Signature & Seal of the
Estate Officer.

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

f.c.d.
26.06.2020



Estate Officer, Kolkata Port Trust

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

No. 1183 & 1183/D of 2011 Order Sheet No. 22

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Pankaj Kumar Singh ^{VS}

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25.06.2020.

FINAL ORDER

The matter is taken up for final disposal today. It is the case of Kolkata Port Trust (KoPT), the applicant herein, vide their original application dated 18.01.2006, filed under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (here-in-after referred to as 'the Act'), that Shri Pankaj Kr Singh came into occupation of the Port Property in question (land Msg. about 313.92 Sq.m under occupation No. D 453/A at Chetla Station Yard, P.S. Chetla, District - 24 Parganas) on a monthly lease basis and that the said Shri Pankaj Kr Singh defaulted in payment of monthly rent and taxes. KoPT has made out a case that the said Shri Pankaj Kr Singh was served with an ejection notice dated 26.03.1991, and consequently, it is averred by KoPT that Shri Pankaj Kr Singh has no right to occupy the public premises after determination of the lease in question.

Subsequently, vide application dated 09.05.2011, KoPT intimated about the demise of Shri Pankaj Kr Singh and prayed for substitution of the party in the matter. Prayer was allowed and the proceedings continued against the legal heirs and representatives of the deceased i.e. "Estate Pankaj Kr Singh" as O.P. KoPT, vide another application dated 22.05.2017, prayed for inclusion of additional ground of parting of possession, against the O.P.

In the backdrop of the said circumstances, this Forum of Law formed its opinion to proceed against O.P. under the relevant provisions of the P.P. Act and issued show cause notices under Sec. 4 & 7 of the Act, both dated 15.02.2018, as per Rules made under the Act. The matter was heard extensively on several occasions and finally on 22.06.2018 when the parties stated to have completed

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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. 1183, 1183/D of 2011 Order Sheet No. 23

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Pankaj Kumar Singh ^{VS}

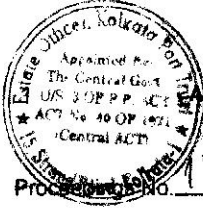
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25.06.2020

their respective pleadings and submissions, and the matter was reserved for passing the Final Order.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions advanced before me. During the course of hearing, one Sri Niranjan Kr Singh appeared before this Forum as the representative of O.P. and filed Reply on 21.03.2018. In this connection, the Report of the Police Authorities dated 27.01.2011 filed under the cover of KoPT's application dated 09.05.2011 has been perused. It reveals from the said Report that Sri Pankaj Kumar Singh had expired on 29.08.2010 and Sri Niranjan Singh is the younger brother of Sri Pankaj Kumar Singh. Hence, I find no bar to accept Sri Niranjan Kr Singh as the representative of the deceased lessee, Sri Pankaj Kumar Singh and no contradictory evidence has been submitted before this Forum, negating the relationship between Sri Niranjan Kr Singh and Sri Pankaj Kumar Singh, since deceased.

It has been admitted in the said Reply that the rent and taxes of the KoPT have not been paid by O.P. i.e. "Estate Pankaj Kr Singh", allegedly due to some litigation. However, no details of any such litigation or any restraining order from any competent Court of Law have been produced before the Forum. As such, it is very difficult to accept that the O.P. is entitled to pay KoPT at a rate different from the other users of the port property. In fact O.P. cannot claim differential treatment from other occupier/user of the Port Property for making payment of charges in terms of the notification/s in a similarly placed situation. In my considered view, the rates as fixed by the Tariff Authority for Major Ports (TAMP) from time to time, vide Gazette notifications, are uniformly applicable on all leases/licenses on the port property and there is no scope

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Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises
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for allowance of any differential treatment to anyone. More so, when O.P. is unable to produce any iota of evidence as to its authority or legitimacy to pay rent at the old rate. In fact, OP's communication dated 21.3.2018, submitted in response to the Show Cause Notice doesn't make any reference to payment of rent as per old rate. Be that as it may, it is the submission of the port authority that the last payment was made by the O.P. in the year 2016. As against this, it is claimed by the O.P. that they had paid Rs 1,00,000/- by way of two bank drafts of Rs 50,000/- each, to KoPT which has not been reflected in the statement of accounts produced by KoPT. In order to allay the concerns of either party as well as to ensure the principle of natural justice, this Forum gave direction for a joint reconciliation of accounts which took place on 15.06.2018. As per the minutes of the said exercise, the statement of accounts (barring the account of the said Rs 1,00,000/-) has been explained to O.P. to its satisfaction. So far as the said Rs 1,00,000/- is concerned, the same were found to be lying un-encashed and were returned by KoPT to O.P. on 22.06.2018 when direction was passed by this Forum on O.P. to submit the revalidated drafts to KoPT, who shall have the liberty of accepting the same, without prejudice to the rights and contentions of the concerned parties. Such being the situation, there cannot be any doubt about the correctness or accuracy of the statement of accounts produced by KoPT, which shows that huge amount is still due from the O.P. and consequently, I have no alternative but to uphold the claim of the Port Authority on this count.

An attempt was made on behalf of O.P. that the rail facility from Chetla Railway Siding area having been removed, the rate of rent for the same should have been re-fixed. As against this, it is the categorical submission of

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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. 1183, 1183/D Of 2011 Order Sheet No. 25

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Pankaj Kumar VS Singh

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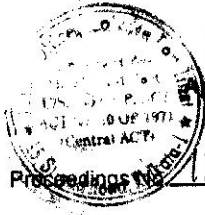
the Port Authority that no extra charges are being levied by KoPT for railway siding as on date. Moreover, the O.P. failed to produce a single document before this Forum which establishes that any additional amount had been charged by the Port Authority specifically for the Railway sidings. As such, the defence taken by the O.P. seems to have little merit.

As nothing has been contradicted by O.P. against the allegation of KoPT which relates to "unauthorised parting with possession", barring a mere verbal denial made during the course of hearing on 21.03.2018 etc., I have no bar to accept KoPT's contention regarding "unauthorised parting with possession", against O.P. It is my considered view that O.P. has parted with possession of the Public Premises in clear violation of the conditions, as laid down in KoPT's short term lease in question. I am constrained to point out that in absence of any specific reply on the question of "unauthorised parting with possession", by OP, seeking or succeeding to demolish the ground as specified in the Show Cause Notice u/s 4 of the Act, I am left with no other alternative but to accept KoPT's allegation regarding "unauthorised parting with possession", against O.P.

Discussions against the foregoing reveal that there is sufficient merit behind the determination of lease of the O.P. by the Port Authority and consequently, I have no alternative but to declare the occupation of the O.P. and all other occupants as "unauthorised", under Sec. 2 (g) of the P.P. Act, 1971.

In the aforementioned circumstances, being satisfied as above, I am inclined to issue the order of eviction against O.P. on the following grounds :-

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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.

1183, 1183/D of 2011

Order Sheet No. 26

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Pankaj ^{VS} Kumar Singh

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1. That O.P. has been a defaulter of the legitimate estate dues of KoPT for a considerable period.
2. That defence taken by O.P. regarding withdrawal of railway facility, seeking a downward revision of rates, has no bearing on the facts and circumstances of the case.
3. That no case has been made out on behalf of O.P., contradicting the ground as mentioned in the Show Cause Notice u/s 4 of the Act, particularly in respect of "unauthorised parting with possession", as mentioned in the said Show Cause Notice.
4. That O.P. has failed to bear any witness or adduce any evidence in support of its occupation into the public premises as 'authorized occupant'.
5. That the ejection notice as served upon O.P., demanding possession of the public premises by KoPT is valid, lawful and binding upon the parties.
6. That occupation of O.P. beyond the period of the ejection notice is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question;
7. That O.P. is liable to pay damages for its unauthorized use and occupation of the public premises upto the date of handing over of clear, vacant and unencumbered possession to KoPT.

Accordingly, I sign the formal order of eviction under Sec. 5 of the Act as per Rules made there-under, giving 15 days time to O.P. to vacate the premises. I make it clear that all person/s whoever maybe in occupation, are liable to be evicted by this order as their occupation into the Public Premises is/are unauthorised in view of sec. 2(g) of the Act. KoPT is directed to submit a comprehensive status report of the Public Premises in question on

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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

Estate Pankaj ^{VS} Kumar Singh

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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. 13,03,367.21/- as claimed by the Port Authority as damages, is correctly payable by O.P. for the period 01.06.1991 to 30.06.2017 (both days inclusive) for the Plate in question and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 24.07.2020. The said damages shall carry compound 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 amount of Rs 1,00,000/-, in terms of 2 bank drafts as tendered by O.P. and had remained unadjusted in KoPT's statement of accounts, as was directed vide the order dated 22.06.2018 of this Forum, shall be duly adjusted from the aforesaid amount, if paid in the meantime. The formal order u/s 7 of the Act is signed accordingly.

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, as the possession of the premises is still lying unauthorisedly

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[Signature]



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 Pankaj Kumar Singh ^{VS}

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25-06-2020

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


(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 ***

15.7.20
26-06-2020