



# Estate Officer, Kolkata Port Trust

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

1782

Of

2020

Order Sheet No.

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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Mahesh Roy <sup>VS</sup> Satyendra Sharma

### FINAL ORDER

The matter is taken up today for final disposal. Relevant facts are required to be put forward in a nutshell in order to understand the chain of events leading to the proceedings. It is the case of Kolkata Port Trust (KoPT), applicant, herein, that land msg. 6 Sq.m. situate at Strand Bank Road, near Jagannath Ghat, passing underneath the Jagannath Ghat 'A' Shed Warehouse Thana- North Port Police Station, was allotted to Mahesh Roy & Satyendra Sharma (O.P.) as a licensee for the purpose of running a shop for bakery goods w.e.f. 11.07.2014. It is the case of KoPT that O.P. undertook vacate the said 6 sqm area at the need of Port Trust at anytime in terms of letter from O.P. praying for giving space of 6 sqm. area on taking licence fees. It appears from the application of KoPT dated 04.06.2020 as well as the Notice of Kolkata Municipal Corporation (KMC) issued under section 411(1) of Kolkata Municipal Corporation Act, 1980 that a major fire broke out on 08.06.2019 at the subject premises and consequently a huge portion of the subject premises under 'A' shed Jagannath Ghat was gutted by fire. It appears that major portion of the roof of the Warehouse had collapsed and several cracks had developed in the said Warehouse. It appears that the fire and the resulting collapse of the roof have severely damaged the entire Warehouse and made the same structurally unstable. It appears that the warehouse has become unsafe and is not safe for use or occupation in any manner. It also appears that there is a high chance of the entire structure collapsing at any time. Considering the precarious condition of the building caused by the aforementioned fire incident, KMC has issued statutory notice to KoPT. The said notice issued under Section 411(1) of Kolkata Municipal Corporation Act, 1980 as addressed to the

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Secretary, Kolkata Port Trust directed KoPT to 1) demolish and removal of debris from the 1<sup>st</sup> Floor, 2) to demolish dangerous portion at ground floor. It further states that all the above works should be done under the supervision of the ESE & LBS of the empanelled list of KMC. The said notice also states that " Failing to comply with the above requisitions steps will be taken by the Municipal Commissioner under Section 558 to execute the works required, subject to the provisions of Rule 6 of Schedule XVII of the Act....."

It appears that KoPT on 06.08.2019 served a notice for termination of licence with the O.P. with immediate effect. The said notice was served upon the O.P. and the same was accepted by Satyendra Sharma, one of the O.P.

It is strongly argued on behalf of KoPT that O.P. has got no authority to occupy the public premises after termination of licence as granted by Kolkata Port Trust.

As O.P. failed to vacate the premises in terms of the notice of termination of licence dated 06.08.2019, an application was filed by KoPT, praying for eviction and recovery of dues/ damages from O.P. Accordingly, Show Cause notice was issued by this Forum to the O.P on 17.06.2020 in terms of the provisions of the Public Premises Act, 1971 and the rules made thereunder which was duly accepted by O.P. Satyendra Sharma on 17.06.2020, wherein O.P. was directed to file their Reply to the Show Cause Notice on or before 25.06.2020 in terms of the said Act. It appears from the report of the Process Server dated 17.06.2020 that the said Notice dated 17.06.2020 was affixed on the Public Premises in question in terms of the provisions of the said Act. Mahesh Roy appeared thorough Advocate on 25.06.2020 and prayed for time to file his Reply to the Show Cause Notice on the next sate of hearing.

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Satyendra Sharma the other O.P. to the proceedings though was in receipt of the notice did not appear before the Forum on the said date. Thereafter, two more opportunities were provided to O.P. on 30.06.2020 and 09.07.2020 to file their Reply to the Show Notice for the sake of Natural Justice. On 30.06.2020, the Advocate who appeared on behalf of O.P., by filing his Vakalatnama withdrew the same as he had no instructions from Mahesh Roy. It is seen from report of the Process Server dated 02.07.2020 that the order dated 30.06.2020 was affixed at a conspicuous place of the premises for notice to all concerned as O.P. refused to take service of the order. Under such circumstances, vide order 30.06.2020 O.P. was granted last opportunity to appear before the Forum and represent their case. But still none appeared on the next date of hearing. No papers/ documents have also been filed on behalf of O.P. in answer to the Show Cause Notice. Finally, on 03.07.2020 this Forum reserved the matter for passing the Final Order.

It is seen from record that inspite of repeated attempts, the O.P. though appeared before the Forum failed to file their Reply to the Show Cause Notice. As nobody represented before this Forum either on behalf of O.P or on behalf of any person/s interested in the property in question inspite of sufficient opportunities and repeated service of notice of hearing I find no reason to withhold passing of the Order in the instant matter. In other words, I am satisfied with the service of notice to all concerned as mandated under law.

In view of the aforementioned circumstances, as there is no Reply to the Show Cause Notice/s under Sections 4 of the Act, either on behalf of O.P or on behalf of any person/s interested in the property in question, inspite of sufficient chances being given, I am left with no other alternative but to decide the matter ex-parte and issue the Order of Eviction



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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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against O.P. as prayed for on behalf of KoPT, on the following grounds/reasons.

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- I. That O.P has failed to file reply to the Show Cause Notice under Section 4 of the Act inspite of sufficient chances for a considerable period.
- II. That O.P has failed to make out any case in support of their occupation as "authorised occupation" inspite of sufficient chances being provided in terms of Sec 2(g) of the said Act.
- III. That O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation" inspite of sufficient chances being provided.
- IV. That the premises has become dangerous for use after the same was gutted by fire on 08.06.2019.
- V. That the A Shed Jagannath Ghat Warehouse requires to be demolished as per the notice issued by KMC under section 411(1) of Kolkata Municipal Corporation Act, 1980, failing which requisite steps would be taken against KoPT by the Municipal Commissioner under Section 558 of the KMC, Act 1980 to execute the work.
- VI. That the notice of termination dated 06.08.2019 as served upon O.P by the Port Authority is valid, lawful and binding upon the parties and O.P's occupation has become unauthorised in view of Section 2(g) of the P.P Act.
- VII. That vide letter praying for giving of 6 sqm. space on taking licence fees, O.P. had undertaken to vacate the said premises of 6 sqm. area at the need of Port Trust at any time.

*[Signature]*



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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

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VIII. 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.

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 can be taken for execution of the order of eviction u/s 5 of the Act, as per Rule made under the Act.

I make it clear that Kolkata Port Trust is entitled to claim damages against O.P. for unauthorized use and occupation of the public premises upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law and KoPT is entitled to claim interest upon dues/charges right from the date of incurrence of liability by O.P. as per KoPT's Rule.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

*P. Ghosh Majumdar*  
(P. Ghosh Majumdar)  
ESTATE OFFICER.

\*\*\* ALL EXHIBITS AND DOCUMENTS  
ARE REQUIRED TO BE TAKEN BACK  
WITHIN ONE MONTH FROM THE DATE  
OF PASSING OF THIS ORDER\*\*\*



**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  
(4<sup>th</sup> Floor)  
KOLKATA-700 001  
\*\*\*\*\*

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

REASONED ORDER NO<sup>18</sup> DT 20.07.2020  
PROCEEDINGS NO.1782 of 2020

**BOARD OF TRUSTEES OF THE PORT OF KOLKATA**  
-Vs-  
**Mahesh Roy & Satyendra Sharma**

**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 **Mahesh Roy of Vill : Bharampur, Totala Batouar, Thank-Bachouara, Dist.: Bagusarai, Bihar and Satyendra Sharma of Vill : Uber, Anchal-Ghosal, Dist.: Jahanabad -804405** is in unauthorized occupation of the Public Premises specified in the Schedule below:

**R E A S O N S**

- I. That O.P has failed to file reply to the Show Cause Notice under Section 4 of the Act inspite of sufficient chances for a considerable period.
- II. That O.P has failed to make out any case in support of their occupation as "authorised occupation" inspite of sufficient chances being provided in terms of Section 2(g) of the said Act.
- III. That O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation" inspite of sufficient chances being provided.
- IV. That the premises has become dangerous for use after the same was gutted by fire on 08.06.2019.
- V. That the A Shed Jagannath Ghat Warehouse needs to demolished as per the notice issued by KMC under section 411(1) of Kolkata Municipal Corporation Act, 1980, failing which requisite steps would be taken against KoPT by the Municipal Commissioner under Section 558 of the KMC, Act 1980 to execute the work.
- VI. That the notice of termination dated 06.08.2019 as served upon O.P by the Port Authority is valid, lawful and binding upon the parties and O.Ps occupation has become unauthorised in view of Section 2(g) of the P.P Act.



Please see reverse

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- VII. That vide letter dated 4.03.2014, O.P. had undertaken to vacate the said 6 sqm area at the need of Port Trust at any time.
- VIII. 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.

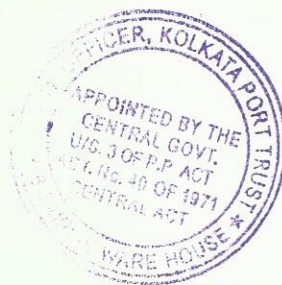
A copy of the reasoned order No. \_\_\_\_\_ dated \_\_\_\_\_ is attached hereto which also forms a part of the reasons.

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 **Mahesh Roy of Vill : Bharampur, Totala Batouar, Thank-Bachouara, Dist.: Bagusarai, Bihar and Satyendra Sharma of Vill : Uber, Anchal-Ghosal, Dist.: Jahanabad -804405** 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 **Mahesh Roy of Vill : Bharampur, Totala Batouar, Thank-Bachouara, Dist.: Bagusarai, Bihar and Satyendra Sharma of Vill : Uber, Anchal-Ghosal, Dist.: Jahanabad -804405** 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

Land/ structure msg 6 sqm at Strand Bank Road, near Jagganath Ghat (under Plate No. A Shed or thereabouts within the Presidency town of Kolkata under North Port Police Station butted and bounded by the Strand Road in the North, by Trustees' land used as a platform in the East, by Strand Bank Road in the south and by Strand Bank Road alongside 'A' shed Jagganath Ghat in the west. Trustees' means the Board of Trustees for the Port of Kolkata.

Dated: 20.07.2020



*Poonika Choudhary Agrewala*  
Signature & Seal of the  
Estate Officer.

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