

**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. 13 DT 04.08.2020
PROCEEDINGS NO. 1193 OF 2011

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
Nawab Shaw & Roghunath Shaw (O.P.)

THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
TRUST
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
TRUST
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
TRUST

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 **Nawab Shaw & Roghunath Shaw, both sons of Late Gati Shaw of Village & P.O - Barjea, District Chapra, Bihar AND ALSO OF 83/2, Chetla Road, 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 13.03.1984 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.
4. That O.P. is liable to pay damages/ mesne profit along with the accrued interest thereon for wrongful enjoyment of the Port Property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

A

PLEASE SEE ON REVERSE

(2)

A copy of the reasoned order No. 13 dated 04.08.2020 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 **Nawab Shaw & Roghunath Shaw, both sons of Late Gati Shaw of Village & P.O - Barjea, District Chapra, Bihar AND ALSO OF 83/2, Chetla Road, 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 **Nawab Shaw & Roghunath Shaw, both sons of Late Gati Shaw of Village & P.O - Barjea, District Chapra, Bihar AND ALSO OF 83/2, Chetla Road, 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-496/B

All that piece or parcel of land msg.13.47 sq.m or thereabouts is situate at Chetla Road, Thana-New Alipore, District-24 Parganas. It is bounded on the North partly by Chetla Road and partly by Nikashi Drain on the South by the partly by the said Trustees' land lease to you and partly by said Trustees' low land alongside the Nikashi drain on the East by the Nikashi drain and on the West partly by the said Trustees' land leased to you and partly by the said Trustees' land occupied by Sri Anjan Kumar Naskar.

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



Signature & Seal of the
Estate Officer.

Date- 10.8.2020

By Order of
THE ESTATE OFFICER
SWAMI PRASAD MOOKHERJEE PORT
CERTIFIED COPY OF THE ORDER
MADE BY THE ESTATE OFFICER
SWAMI PRASAD MOOKHERJEE PORT
10/8/2020

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.1193/D OF 2011
ORDER NO.13 DATED: 04.08.2020

Form- G

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

RECEIVED
COURT ROOM
FAIRLIE PLACE
KOLKATA
04/08/2020

To
Nawab Shaw & Roghunath Shaw,
both sons of Late Gati Shaw of
Village & P.O - Barjea,
District Chapra, Bihar
AND ALSO OF
83/2, Chetla Road,
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 12.03.2018 you are called upon to show cause on/or before 10.04.2018 why an order requiring you to pay damages of Rs. 74,925.70 (Rupees Seventy Four thousand Nine hundred Twenty Five and paise Seventy only) together with [compound interest] for unauthorised use and occupation 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 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. 74,925.70 (Rupees Seventy Four thousand Nine hundred Twenty Five and paise Seventy only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.03.2001 to 21.03.2017 (both days inclusive) to Kolkata Port Trust by 05.09.2020

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 @ 6.20 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) 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 through the Collector.

SCHEDULE

Plate No.D-496/B

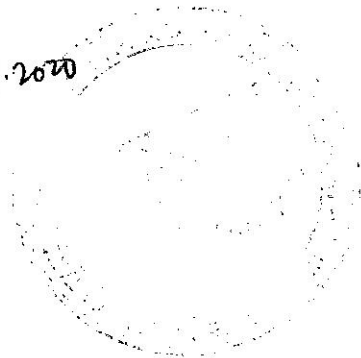
All that piece or parcel of land msg.13.47 sq.m or thereabouts is situate at Chetla Road, Thana-New Alipore, District-24 Parganas. It is bounded on the North partly by Chetla Road and partly by Nikashi Drain on the South by the partly by the said Trustees' land lease to you and partly by said Trustees' low land alongside the Nikashi drain on the East by the Nikashi drain and on the West partly by the said Trustees' land leased to you and partly by the said Trustees' land occupied by Sri Anjan Kumar Naskar.

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



Signature & Seal of the
Estate Officer.

Date 10-8-2020



By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOHANTY
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOHANTY
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

**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. 1193, 1193/D of 2011 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Nawab Shaw & Roghunath Shaw (O.P.) ^{VS}

13
04.08.2020

FINAL ORDER

The instant proceedings No. 1193, 1193/D of 2011 arises out of the application bearing No. Lnd.3184/P/II/09/1525 dated 21.08.2009 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of eviction and recovery of dues /damages and other charges etc. along with accrued interest in respect of the public premises as defined in the 'Schedule A' of said application, against Nawab Shaw & Roghunath 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 being land measuring 13.47 sq.mtrs. or thereabout situated at Chetla Road (under Plate No.D-496/B) Thana- Chetla Police Station District-Kolkata as short term Lessee, morefully described in the 'Schedule of Property' of the said KoPT's application dated 21.08.2009. 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 Compensation/damages and also accrued interest thereon the details of which has given in 'Schedule-C' of the KoPT's application dated 21.08.2009.

It is also the case of KoPT that O.P. has made encroachment of 31.00 Sq.m of land in clear violations of the terms and conditions of the lease in question and without taking the prior approval of KoPT.

[Handwritten signature]

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

9

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. 1193, 1193/D Of 2011 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Nawab Shaw X Raghunath Shaw

13
04.08.2020

Further the said lease with O.P was determined by way of a Quit Notice dated 13.03.1984 and the O.P was asked to vacate the premises on the expiry of the month of May but the O.P. has failed and neglected to vacate/ hand over the possession of the said 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 12.03.2018 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 of answering all material questions in connection with the matter along with the evidence which the opposite party intends to produce in support of their case.

It is placed on record that the said Notice/s were sent to the recorded addresses of O.P. vide Speed Post, hand delivery as well as by affixing the same in the Public Premises in question as per mandate of the Act. The Notice/s sent by Speed Post were not returned back to this Forum. However, it appears from the report of Process Server dated 02.04.2018 that said notices were served upon O.P personally and affixation was also done on the same day at about 11.25 A.M over the subject premises as per the mandate of the PP Act. As a result, on 10.04.2018 i.e on the scheduled date of filing reply, one Sri Lallan Shaw claiming himself as Nephew of O.P appeared. He has

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
[Signature]
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Handwritten mark]

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. 1193, 1193(D) Of 2011 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Nawab Shaw & Raghunath Shaw (O.P.)

B 13
04.08.2020

submitted before the Forum that he has been residing and carrying a tea stall there. However, the Forum directed him to file his reply to Show Cause along with proof of identity and authority. Thereafter, dated 08.05.2018 Lallan Shaw, son of Nawab Shaw and another one Kuldeep Shaw, Grand Son of Raghunath Shaw, appeared and both the representatives have filed the Photostat Copies of Death Certificates of O.P's along with the reply to the Show Cause. In their reply they submitted that due to demise of Nawab Shaw and Roghunath Shaw their premises was totally stopped and due to that reason they could not clear up the dues of KoPT in time. But now they are promising to clear up such dues if KoPT allowed them to pay on the basis of 24 equal monthly instalments and regularize their tenancy on the acceptance of the same. Representatives of O.P also denied the allegation of encroachment charges as levelled by KoPT in their original application. But on the same day the Forum again directed both the parties to carry out a joint inspection on 14.05.2018 and file a joint minutes accordingly. Thereafter, on 03.07.2018 KoPT filed their rejoinder to such reply along with the copy of Joint inspection report as held on 16.05.2018. In their rejoinder, refuting the claim of the representatives of O.P, KoPT contended that their claim is baseless. O.P was a short term lessee in respect of said land for the purpose of shop. O.P has failed to pay the dues of KoPT since long time and also made unauthorised encroachment upon that land. As Nawab Shaw & Raghunath Shaw both have passed away and the

By Order of
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
BY MA PRASAD MOOKERJEE
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

(Signature)

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. 1193, 1193/D of 2011 Order Sheet No. 14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Narab Shaw VS Raghnath Shaw (O.P)

13
04.08.2020

tenancy has not been mutated in favour of Lallan Shaw And Kuldip Shaw, KoPT cannot accept rent from them but it may be accepted if such dues are tendered on behalf of both the original O.P. However, on the very same day Lallan Shaw prayed for liquidation of such dues on behalf of O.P and accordingly the forum has directed him to pay 50,000 as arrear outstanding payment along with the current monthly compensation. Finally as the O.P has failed to make such payment and fails to appear on two consecutive hearings, on 13.09.2018 the final Order was reserved in the matter.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of the parties. With regard to the issue of KoPT's demand for rent and taxes, O.P has not specifically denied his liability vide reply/written objection as filed on 08.05.2018. I must say that KoPT's allegation is justifiable because the rejoinder dated 03/07/2018 as filed by KoPT clearly shows that O.P is still liable to pay such dues for unauthorized use & occupation of the subject premises in question. There is no reason to disbelief such submission of a statutory authority.

Similarly with regard to the issue of encroachment, although KoPT has tried to substantiate their encroachment charges as levelled against O.P by submitting the joint inspection report. However, such Joint inspection Report has not clearly mentioned that O.P has committed any encroachment. But the Sketch

BY MEANS OF
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED TRUE COPY OF THE ORIGINAL
FILED IN THE OFFICE OF THE
ESTATE OFFICER
KOLKATA PORT TRUST
10/8/2020

(Handwritten mark)

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. 1193, 1193/D Of 2020 Order Sheet No. 15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Narab Shaw ^{VS} Raghunath Shaw (O.P.)

13
04.08.2020

plan being No.8081-1 D-I dated 24.05.2018 as filed by KoPT clearly shows that O.P has committed such encroachment upon the KoPT land. Moreover, 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 :-

RECEIVED
OFFICE OF THE
ESTATE OFFICER
KOLKATA PORT TRUST
04/08/2020

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 13.03.1984 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.
4. That O.P. is liable to pay damages/ mesne profit along with the accrued interest thereon for wrongful enjoyment of the Port Property in question upto the date of handing over of 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

(Signature)

9

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. 1193, 1193/D Of 2011 Order Sheet No. 16

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Nanab Shaw ^{VS} Raghunath Shaw (O.P.)

13
04.08.2020

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.Ps' in accordance with Law 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 74,925.70 as claimed by the Port Authority in relation to the Plates in question, is payable by O.P. for the period 01.03.2001 to 21.03.2017 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 05.09.2020. Such dues attract compound interest @ 6.20 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrence of liability, till the liquidation of the same, as per the adjustment of payments, if any made so far by O.P., in terms of KoPT's books of accounts. I sign the formal order u/s 7 (2) & (2-A) of the Act.

By Order of:
THE ESTATE OFFICER
SKAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SKAMA PRASAD MOOKERJEE PORT
Head Assistant
OFFICE OF THE ESTATE OFFICER
SKAMA PRASAD MOOKERJEE PORT

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, the details

d

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. 1193, 1193)D Of 2021 Order Sheet No. 17

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Nawab Shaw ^{VS} Raghunath Shaw (OP)

13
04.08.2020

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.

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 ***

10/8/2020