

**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.21 DT 04.08.2020
PROCEEDINGS NO. 1311 OF 2012

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-

Sri Vijay Kumar Yadav, (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 **Sri Vijay Kumar Yadav, Plot No.P-74,Chetla Station Yard, Kolkata-700027** is in unauthorized occupation of the Public Premises specified in the Schedule below :

R E A S O N S

1. That O.P. has failed to file reply to the Show Cause Notice/s inspite of sufficient chances and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P., demanding possession dated 25.01.2011.
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 O.P. has made unauthorized construction over the said public premises in question without having any authority under law.
4. That O.P has made unauthorized encroachment over the said public premises in question without having any authority under law.
5. That the Quit notice dated 25.01.2011 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties and O.P's occupation into the Public Premises has become unauthorized in view of Sec.2(g) of the P.P. Act.

PLEASE SEE ON REVERSE

(2)

6. That O.P. has violated the condition of month to month lease as granted by the Port authority by way of not making payment of rental dues and taxes to KoPT, for a prolonged period.
7. 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.

A copy of the reasoned order No. 21 dated 04.08.2020 is attached hereto which also forms a part of the reasons.

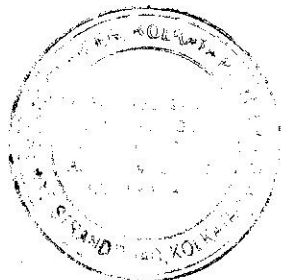
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **Sri Vijay Kumar Yadav, Plot No.P-74, Chetla Station Yard, Kolkata-700027**, and all persons who may be in occupation 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 **Sri Vijay Kumar Yadav, Plot No.P-74, Chetla Station Yard, 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-528

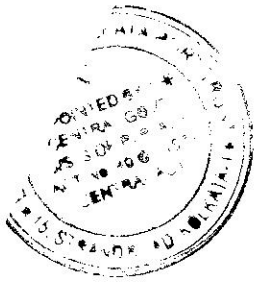
The said piece or parcel of land msg.178.281 sq.m or thereabouts is situated at Chetla Station Yard, Thana-Chetla Police Station, District-24Parganas, Registration District-Alipore. It is bounded on the North by the 'Trustees' strip of open land, on the East by the Chetla Road, on the South by the Trustees' strip of open land and on the West by the Trustees' open land. Trustees' means the Board of Trustees' for the Port of Kolkata.

Date- 10.8.2020




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
1st Floor, 6, Fairlie Place Warehouse,
Kolkata-700001

Court Room At the 1st Floor
6, Fairlie Place Warehouse

Form " E "

PROCEEDINGS NO.1311/R OF 2012
ORDER NO. 21 DATED: 04.08.2020

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

To
Sri Vijay Kumar Yadav,
Plot No.P-74, Chetla Station Yard,
Kolkata-700027

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

AND WHEREAS, by written notice dated 10.05.2018 you are called upon to
show cause on/or before 07.06.2018 why an order requiring you to pay a sum
of Rs 3,61,484.87 (Rupees Three Lakhs Sixty One Thousand Four hundred
Eighty Four and paisa Eighty Seven only) being the rent payable together with
compound interest in respect of the said premises should not be made;

AND WHEREAS you have not made any objections or produced any evidence
on/or before the said date.

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 3,61,484.87 (Rupees Three
Lakhs Sixty One Thousand Four hundred Eighty Four and paisa Eighty Seven
only) for the period 01.06.1988 to 28.02.2011(both days inclusive) to Kolkata
Port Trust by 05.09.2020

(Handwritten signature)

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 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 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 rent 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-528

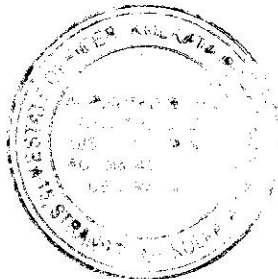
The said piece or parcel of land msg.178.281 sq.m or thereabouts is situated at Chetla Station Yard, Thana-Chetla Police Station, District-24Parganas, Registration District-Alipore. It is bounded on the North by the Trustees' strip of open land, on the East by the Chetla Road, on the South by the Trustees' strip of open land and on the West by the Trustees' open land. Trustees' means the Board of Trustees' for the Port of Kolkata.

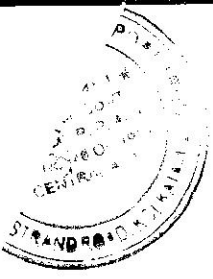
Dated: 10.8.2010



Signature and 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.1311/D OF 2012
ORDER NO.21 DATED : 04.08.2020

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

**Sri Vijay Kumar Yadav,
Plot No.P-74, Chetla Station Yard,
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 10.05.2018 you are called upon to show cause on/or before 07.06.2018 why an order requiring you to pay damages of Rs.4,00,315/- (Rupees Four Lakhs Three hundred Fifteen 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 on/or 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.4,00,315/- (Rupees Four Lakhs Three hundred Fifteen only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.03.2011 to 30.06.2017 (both days inclusive) to Kolkata Port Trust by 05.09.2020.

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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 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-528

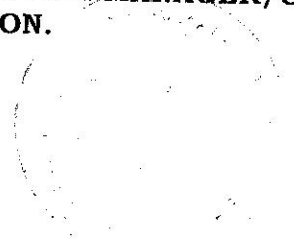
The said piece or parcel of land msg.178.281 sq.m or thereabouts is situated at Chetla Station Yard, Thana-Chetla Police Station, District-24Parganas, Registration District-Alipore. It is bounded on the North by the Trustees' strip of open land, on the East by the Chetla Road, on the South by the Trustees' strip of open land and on the West by the Trustees' open land. Trustees' means the Board of Trustees' for the Port of Kolkata.

Date 10.8.2020



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. 1311, 1311/R-D Of 2012 Order Sheet No. 17

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Sri Vijay Kumar VS Yadav

FINAL ORDER

21
04.08.2020

The instant proceedings No. 1311, 1311/R, 1311/D of 2012 arisen out of the application bearing No. Lnd.3184/134/12/482 dated 07.02.2012 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of eviction and recovery of rent, compensation/damages and other charges etc. along with accrued interest in respect of the public premises as defined in the Schedule of said application, against Sri Vijay Kumar Yadav, the O.P herein, under relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

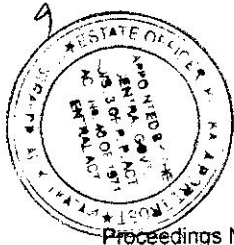
The fact of the case in a nutshell is that the O.P. came into occupation of the port property being land measuring 178.281 sq.m, or thereabout situated at Chetla Station Yard, (under Plate No.D-528) Thana-Chetla Police Station, District- 24 Parganas, as a month to month Lessee, morefully described in the Schedule 'A' of the KoPT's application dated 07.02.2012. The allegations levelled by KoPT against the O.P are that while in possession of Port property as lessee, the O.P has (a) defaulted in payment of monthly rent, taxes also accrued interest thereon the details of which has given in 'Schedule-B of the KoPT's application dated 07.02.2012 and in the Statement of Accounts generated on 07.11.2013 (b) made unauthorised construction & also (c) unauthorisedly encroached upon 88 Sq.m of land violating the term of such lease.

It is also the case of KoPT that the said lease with O.P. was determined by way of a Quit Notice dated 25.01.2011 and the O.P. was asked to vacate the premises on 28.02.2011 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 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 10.05.2018 (vide Order No.16 dated 22.02.2018) 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

By Order of
THE ESTATE OFFICER
SRI MA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
DATE: BY THE ESTATE OFFICER
SRI MA PRASAD MOOKERJEE PORT
OFFICE OF THE ESTATE OFFICER
SRI MA PRASAD MOOKERJEE PORT

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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. 1311, 1311 R-D Of 2012 Order Sheet No. 18

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Sri vijay kumar Yadav

29
04.08.2020

O.P. to appear before this forum in person or through authorized representative capable to answer all material questions in connection with the matter along with the evidence which the opposite party intends to produce in support of their case.

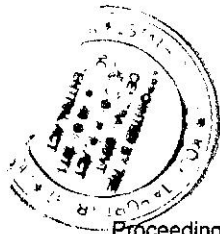
The said notice/s were served through Speed Post to the correct recorded address, of O.P. at Plot No.P-74, Chetla Station Yard, Kolkata-700027. It appears from records that the Notice/s sent to the recorded address of O.P. were not returned back. However, the Report of the Process Server depicts that The Notice/s have also been sent to the occupation of O.P. by hand delivery but O.P. was not found at above address. However, the copy of the said Notice/s have been affixed on the property under schedule in compliance with the provisions of the Act. On the day fixed for appearance and filing of reply to the Show Cause by the O.P. as none appeared on behalf of O.P, forum allowed another chance to O.P following the principles of natural justice. Thereafter dated 10.07.2018, O.P appeared before the forum and prayed for time to file his reply to the Show Cause. On 31.07.2018 O.P again appeared but further prayed for time to file his reply. Finally on 23.08.2018 when O.P has completely failed to turned up before the forum for filing his reply to the Show Cause, the final order was reserved in this matter.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of KoPT.

It is seen that no one appears on behalf of O.P. except 10.07.2018 and 31.07.2018 and no attempts has ever been made by the O.P. to satisfy this forum of law about any consent on the part of KoPT in occupying the public premises. Rather it is a case of KoPT that by notice dated 25.01.2011 O.P. was directed to hand over possession of the premises to KoPT. A letter /notice issued in official course of business has definitely got an evidentiary value unless there is no material, sufficient to contradict the case of KoPT on the basis of such letter/Notice. It is a settled question of law that O.P. cannot claim any legal right to hold the property after expiry of the notice in question, without any valid grant or allotment from KoPT's side.

BY DIRECTOR
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
BY *[Signature]* 04/08/2020

[Signature]
04/08/2020



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. 1311, 1311/R-D Of 2012 Order Sheet No. 19

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Sri vijay Kumar yadav

2)
04.08.2012

Further, as there is no reply to the Show Cause notice issued u/s 4 and u/s 7 of the Act inspite of sufficient chances provided to the O.P., I am left with no other alternative but to issue order of eviction u/s 5 of the Act against O.P. on the following grounds/reasons :-

1. That O.P. has failed to file reply to the Show Cause Notice/s inspite of sufficient chances and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P., demanding possession dated 25.01.2011.
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 O.P. has made unauthorized construction over the said public premises in question without having any authority under law.
4. That O.P. has made unauthorized encroachment over the said public premises in question without having any authority under law.
5. That the Quit notice dated 25.01.2011 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties and O.P's occupation into the Public Premises has become unauthorized in view of Sec.2(g) of the P.P. Act.
6. That O.P. has violated the condition of month to month lease as granted by the Port authority by way of not making payment of rental dues and taxes to KoPT, for a prolonged period.
7. 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

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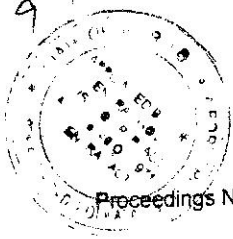
By Order of:

THE ESTATE OFFICER

SYAMA PRASAD MOOKERJEE PORT

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

**OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT**



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. 1311, 1311/R-D Of 2012 Order Sheet No. 20

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Sri vijay VS kumar yadav

21
04.08.2020

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.s in accordance with Law up to the date of recovery of possession of the same.

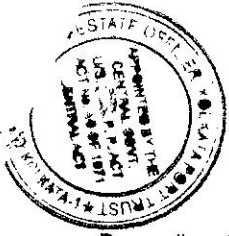
It is my considered view that a sum of Rs.3,61,484.87 for the period 01.06.1988 to 28.02.2011(both days inclusive) is due and recoverable from O.P. by the Port authority on account of rental dues and O.P. must have to pay such dues to KoPT on or before 05.09.2020. Such dues attracts compound interest @ 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.

Likewise, 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. 4,00,315/- as claimed by the Port Authority as damages in relation to the subject premises in question, is correctly payable by O.P. for the period 01.03.2011 to 30.06.2017 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by 5.9.2020. The said damages shall carry 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 orders u/s 7 of the Act.

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, till such

By Order of:
THE ESTATE OFFICER
BYAMA PRASAD MOOKERJEE COPT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
BYAMA PRASAD MOOKERJEE PORT

Head Assistant
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. 1311, 1311/R-D Of 2012 Order Sheet No. 21

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Sri vijay Kumar Yadav

21
04.08.2020

time the possession of the premises continues to be under the unauthorised occupation with the O.P. KoPT is directed to submit a statement comprising details of its calculation of damages after 30.06.2017, indicating therein, 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.

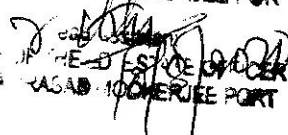
I make it clear that in the event of failure on the part of O.P. to comply with this Order, Port Authority is entitled to proceed further for execution of this order in accordance with law.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL.


(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 of
THE ESTATE OFFICER
KOLKATA PORT TRUST
FURNISHED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST