

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. 1162 & 1162/R Of 2011 Order Sheet No. 23

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Shibnath Chakraborty VS *Estate Shibnath Chakraborty* (Represented by)
(Legal heirs.)

FINAL ORDER

23
30.07.2011

The instant proceedings No. 1162, 1162/R and 1162/D arise out of the application bearing No. ind.3280/15/0/5011 dated 21.03.2011 filed by the Kolkata Port Trust (KoPT), the applicant herein, under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the Act) praying for an order of eviction and recovery of rental dues, compensation/damages and other charges etc. along with accrued interest in respect of the public premises as defined under Schedule- 'A' of said application, against Sri Shibnath Chakraborty, since deceased (hereinafter referred to as O.P.).

The fact of the case in a nutshell is that the O.P. came into occupation of the port property (under Plate Nos. D 316/3/C and DB 58/C) on a monthly lease at Coal Dock Road in the Presidency Town of Kolkata, morefully described in the Schedule 'A' of KoPT's application dated 21.03.2011. The allegations leveled by KoPT against the O.P. are that the O.P. has defaulted in payment of monthly rent and taxes with the accrued interest thereof, has unauthorisedly parted with the possession of the premises to the rank outsiders and has unauthorisedly encroached upon KoPT's land, in gross violation of the terms and conditions of the tenancy. It is the case of KoPT that the tenancy with the O.P. was determined w.e.f. 01.10.2010 in terms of the Notice to Quit dated 30.08.2010 and the O.P. failed and neglected to vacate/ hand over the possession of the premises after service of the said Notice to Quit. KoPT has made out a case that O.P. has no right to occupy the premises after the termination of the lease in question upon service of a quit notice dated 30.08.2010.

13.08.2011
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MUKHERJEE PORT

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Shibnath Chakraborty ^{VS} *Estate Shibnath Chakraborty. (Represented by legal heirs.)*

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This Forum of Law formed its opinion to proceed against O.P. under the relevant provisions of the Public Premises Act, 1971 and issued show cause notices under Sec. 4 & 7 of the said Act, both dated 16.03.2017, as per the Rules made under the Act.

Thereafter the matter was heard by this Forum extensively on different occasions. During the course of the hearings, it came to the knowledge of this Forum that the O.P. had expired on 24.06.2011. Thereafter, the instant proceedings were continued in the name of 'Estate Shibnath Chakraborty'. The case has been contested by one Smt. Shelly Chakraborty, the wife of O.P., (since deceased), through her Ld. Advocate in terms of filing of several applications.

The main contentions of O.P. during the course of hearing and as alleged, vide several applications, are summarised as follows:

1. That the proceedings u/s 4 and 7 of the Act are not maintainable etc.
2. That the notice to quit dated 30.08.2010 was never served upon O.P.
3. The Application has been filed by an officer of KoPT, who is not competent to file application for legal proceedings on behalf of KoPT.
4. The claim of KoPT is time barred.
5. The claim of KoPT for rent and taxes and the accrued interest thereon is false and baseless etc. That the claim of KoPT on the account of damages/ compensation is illegal, baseless and arbitrary etc.

Stamp: BOARD OF TRUSTEES OF THE PORT OF KOLKATA
Date: 13.03.2010

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS *(Represented by legal heirs)*
to take the benefit of occupancy.

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6. That the claims of KoPT regarding unauthorized parting with possession by the O.P. to the rank outsiders and encroachment upon KoPT's land by the O.P. is false and baseless etc.

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

Regarding the question of maintainability of the proceedings etc., I must say that P.P. Act, is very much clear about its intent and object. The Act is to provide speedy machinery for eviction of unauthorized occupants from the public premises and recovery of arrear rental dues, damages etc. arising out of occupations in the public premises as defined under the Act. The Act puts a complete bar of court's jurisdiction to entertain any matter in respect of the public premises in connection with order of eviction, recovery of rental dues and damages etc. in terms of sec. 15 of the Act. In a situation where there is no order of stay on the proceedings by any competent court of law, it is very difficult to accept the contention of anybody to dismiss or stay the proceedings. I am consciously of the view that P.P. Act operates in a field where the Act itself specifically provided the jurisdiction of this Forum of Law (Adjudicating Authority under the Act) and any question about the maintainability of the proceedings is not sustainable without any appropriate order, restraining the proceedings etc. from the writ court or from any competent court of law.

By Order
THE ESTATE OFFICER
Kolkata Port Trust
13.08.2020



Estate Officer, Kolkata Port Trust

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

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Estate Shikharth of Property ^{VS} *(represented by legal heirs)*

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KoPT has come up with an application for declaration of O.P.'s status as an unauthorized occupant into the public premises with the prayer for order of eviction, recovery of rental dues and damages against O.P. on the plea of determination of lease/ termination of authority to occupy the premises, as earlier granted to O.P. in respect of the premises in question. So long the property of the Port Authority is coming under the purview of "public premises" as defined under the Act, adjudication process by service of Show Cause Notice/s u/s 4 & 7 of the Act is very much maintainable before this Forum of Law and there cannot be any question about the maintainability of the same.

On the question of non-receipt of ejection notice dated 30.08.2010, I have considered the matter seriously. There is no dispute or objection from O.P.'s side regarding status of O.P.'s tenancy under monthly lease. Now the question that arises is how far the question of non-receipt of 'notice to quit' deserves merit in the facts and circumstances of the case. It is claimed by KoPT that the said notice was served upon the O.P. at the recorded address of O.P. at the relevant point of time. In fact, on the body of the said quit notice dated 30.08.2010, it is endorsed that the notice was affixed in front of the subject premises in presence of one Sri Ram Dayal Singh (with his LTI) on 27.09.2010. In my view, a notice served in official course of business cannot be contradicted/contested by a mere statement denying service of such notice. This takes me to the question of whether a lessee like O.P. can continue in occupation when the lease has been terminated vide a Notice to Quit. As per Transfer of Property Act, 1882, a lessee is under legal obligation to hand over the possession of the property to its landlord/lessor in its original condition

13.09.2020
OFFICE OF THE
SYARIA PRASANNAN



Kolkata Port Trust, Kolkata, renamed as
Syama Prasad Mukherjee Port, Kolkata
(GSR No. S.O. 2024 (8) dated 24.8.2020)

Estate Officer, Kolkata Port Trust

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after expiration of the period mentioned in the Notice to Quit. The tenancy of the O.P. automatically stands terminated upon expiry of period mentioned in the notice to Quit. During the course of entire proceedings, O.P. failed to justify how they are entitled to enjoy the public premises after expiry of the period mentioned in the notice to quit dated 30.08.2010. No attempt has been made on behalf of O.P. to satisfy this Forum of Law about any consent granted on the part of KoPT in occupying the public premises after expiry of the said Notice period. As such, in my view, the plea of non-receipt of the Notice dated 30.08.2010, assuming and not admitting its veracity, is quite insignificant in the eyes of law and I am not at all impressed by the submission of the O.P. regarding the matter. I take conscious note of the fact 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 and in fact, initiation of the instant proceedings, vide the original application dated 21.03.2011 of KoPT, was a logical culmination of KoPT's intent to obtain vacant and unencumbered possession of the public premises in question. It is a settled question of law that O.P. cannot claim any legal right to hold on to the property after expiry of the period mentioned in the Notice to Quit, without any valid grant or allotment from KoPT's side. The instant proceedings continued for a fairly long period of time and no intention was found on the part of KoPT to regularize the occupation of the O.P. Further, it is a settled question of law that a lessee like O.P. cannot claim any legal right to hold on to the property after expiry of the period as mentioned in the notice of ejectment, unless O.P. succeeds in making a case of "Tenant Holding Over". "Holding Over" means continuance of occupation with the same terms and

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Shibnath Chakraborty ^{VS} *(Represented by legal heirs)*

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conditions as per the expired Lease Deed. Evaluation of factual aspect and the papers/documents brought before me in course of hearing will certainly lead one to the conclusion that KoPT never consented in O.P's occupation into the public premises after expiry of the period as mentioned in the notice dated 30.8.2010. The essential element of "consent" for constituting the matter of holding over is absent and the O.P. has failed to adduce any evidence or bear any witness in support of his contention regarding holding over.

There was no element of "consent" on the part of the Port Authority, either by way of accepting rent from O.P. or by any other mode, expressing the assent for continuance in such occupation after expiry of the period as mentioned in the notice to vacate the premises.

No evidence has been laid on behalf of O.P. by way of producing any receipt for acceptance of any payment wherefrom it could at least be inferred that the Port Authority has any intention to the continuance in occupation by accepting any amount as rent for such occupation.

The O.P. has made no attempt to satisfy this Forum of law about any consent on the part of KoPT in occupying the public premises, unconditionally, in order to fulfill the essential ingredient of the holding over. Further as per Section 2 (g) of the P. P. Act, the "unauthorized occupation", in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed

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Kolkata Port Trust has been renamed as
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(GSR No. S.O. 2009 (3) dated 01.5.2009)

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to occupy the premises has expired or has been determined for any reason whatsoever. The status of O.P. in this case is that of a "tenant at sufferance" which does not create the relationship of landlord and tenant.

On the allegation of O.P. regarding signing of the application/s by an officer of KoPT, who is allegedly not competent to file application for legal proceeding on behalf of KoPT it is noted in the instant case that the Asst Land Manager - II of the Board of Trustees' of the Port of Kolkata filed the original application dated 21.03.2011 on behalf of the Land Manager, Kolkata port Trust. In this case the Land Manager of Kolkata Port Trust has issued the Notice to Quit dated 30.08.2010. In my view the Land Manager, Kolkata Port Trust is very much competent to serve ejection notice, acting on behalf of the Board of Trustees' of the Port of Kolkata (KoPT), particularly when specific approval of the Chairman, KoPT is obtained before serving such notice as per established practice of delegation of authority. The Land Manager, KoPT is merely communicating the decision on behalf of the Chairman, KoPT and such ministerial act on the part of the Land Manager cannot be said to be out of jurisdiction. I am also of the view that the Land Manager, KoPT has acted as an agent of Board of Trustees' of the Port of Kolkata and accordingly, the bonafide/locus standi of such an act cannot be questioned by O.Ps. on the plea of "incompetency". To take this view, I have borrowed my support from the decision of the Division Bench of Calcutta High Court delivered on 28.01.2013 by Their Lordship Hon'ble Mr. Justice Girish Chandra Gupta and Hon'ble Mr. Justice Tarun Kumar Dutta in A.P.O. No. 108 of 2010 (Kolkata Port Trust -Vs- M/s Universal Aircrafts Pvt. Ltd. &Anr.). It may be recalled that service of notice, determining a tenancy under lease, by the Land

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Manager, KoPT was the subject matter of challenge before the Hon'ble High Court, Calcutta and the Division Bench of Calcutta High Court confirmed that Land Manager is very much competent in serving ejection notice on behalf of Board of Trustees of the Port of Kolkata. The matter regarding competency in serving of ejection notice on behalf of Board of Trustees of the Port of Kolkata went till the Apex Court of India and the Hon'ble Apex Court by its judgment and order dated 16.04.2014 (In SLP (Civil) No.18347/2013- SidharthaSarawgi -Versus- Board of Trustees for the Port of Kolkata and Others With SLP (Civil) Nos.19458-19459/2013- Universal Autocrafts Private Limited and Another -versus-Board of Trustees for the Port of Kolkata and others) etc. upheld the authority of the Land Manager/Officer of Kolkata Port Trust in serving ejection notice by confirming the judgment of the Division Bench of Calcutta High Court in APO No. 108 of 2010 (Kolkata Port Trust -Vs- M/s Universal Autocrafts Pvt. Ltd. &Anr.). It has been decided by the Hon'ble Apex Court of India that lease/license can be terminated by the same authority who executed the lease/license deed and issuance of notice is a ministerial act for implementation. The Chairman, KoPT having duly authorized the Land Manager with regard to service of notice, it cannot be said that the ejection notice issued by the Land Manager, KoPT is without jurisdiction. On the same score, allegation of incompetency against the Asst. Land Manager-I for instituting the instant proceedings/ signing or filing of applications against the O.P., does not stand the test of legal scrutiny and cannot survive.

On the issue of time barred claim of KoPT on "limitation" and whether the proceedings a/s 4 and 7 of the Act are maintainable, I have borrowed my contention from the

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several decisions of the Hon'ble Judiciary, in particular the decisions of the Hon'ble Supreme Court, wherein it was decided that the Limitation Act has no application to the proceedings before the Estate Officer as it is not a "Court" to be governed by the Civil Procedure Code, keeping in view the bar under Sec.15 of the P.P. Act. The Limitation Act is applicable for Civil Courts to try suits unless barred by some other Act. Section 9 of the Civil Procedure Code reads as follows:

"The courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred."

There are provisions for filing of suit in Civil Court with regard to territorial and pecuniary jurisdiction, and jurisdiction with regard to subject matter of dispute. But in case of recovery of possession of public premises and recovery of arrears rental dues and damages etc. in respect of public premises, this Forum of Law is the only competent adjudicating authority and Civil Courts have no jurisdiction to entertain any matter in respect of the public premises as defined under the P.P. Act. Sec. 15 of the Act puts a complete bar on entertaining any matter before the Civil Court in respect of Public Premises. Regarding non-applicability of the Limitation Act in proceedings before this Forum we may take recourse to various decisions of the Hon'ble Apex Court of India and Calcutta High Court wherein it has been decided that Limitation Act has no application before quasi-judicial authorities like this Forum of Law which is not a civil court to be governed by the Civil Procedure Code. With the introduction of Sec 15 of the P.P. Act, 1971, there is no scope for the courts to entertain any matter regarding

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate. Shikharath of ^{VS} ~~Shikharath~~ (Represented by Legal Heirs)

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OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST



recovery of arrear rental dues and damages etc arising out of the public premises. In the present scenario, when the statute, in its own wisdom, has imposed a restriction upon the civil court, to adjudicate upon such matter it would be very difficult to accept the contention of O.P. with regard to application of Limitation Act in proceedings before this Forum of law, which is not a civil court to be governed by the civil procedure code. No period of limitation is proscribed under the P.P. Act, 1971. Thus the plea taken by O.P. regarding applicability of Limitation Act in the proceedings before the Estate Officer under P.P. Act has to my considered view, got no merit. Under such circumstances, I am unable to appreciate the suggestion of the O.P. on this count and I am firm in holding that Limitation Act has no application in the instant case and as such there is no bar in proceeding with the instant case.

KoPT's allegation of non-payment of rental dues, taxes by the O.P. does appear to have merit. No paper/document could be produced on behalf of O.P., contradicting/disputing the claim of KoPT, inspite of repeated chances being given. During the course of hearing, KoPT not only confirmed their claim on account of outstanding rent and damages but also asserted their right to claim interest for the delayed payment. The O.P., on the other hand, merely disputed the claim of the Port Authority without furnishing any material particulars. The O.P. did not bother to pay the said amounts as well. In my view, the conduct of the O.P. does not inspire any confidence and I am not at all inclined to protect the occupation of the O.P. even for the sake of natural justice. In my considered view, the Port Authority has a definite and legitimate claim to get its revenue involved into the Port Property in question as per the KoPT's Schedule of Rent Charges as laid down in the concerned official Gazettes

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OFFICE OF THE LEGAL OFFICER
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published as per provisions of the Major Port Trusts Act 1963, after obtaining sanction of the Central Govt. for the relevant period and O.P. cannot claim continuance of its occupation without making payment of requisite charges as mentioned in the Schedule of Rent Charges. KoPT's claim on account of interest involves a mixed question of fact and law as well. It is the case of Kolkata Port Trust that claim of interest for delayed payment is in accordance with the said Schedule of Rent Charges. The notification published under Authority of Law has statutory force of law and O.P. cannot deny the claim of KoPT on the strength of such notification. It is contended that continuing in occupation of the public premises must necessarily mean that O.P. is under legal obligation to pay KoPT's demand as per the Schedule of Rent Charges. Fixation of rent charges in respect of Port Properties by the Tariff Authority of Major Ports under the Major Port Trusts Act 1963 was the subject matter of consideration before the Hon'ble Apex Court of India. The Port Trust Authority from time to time by notification in the Official Gazette fixed scale of rates on which lands and structures belonging to Port Authority are to be let out. U/s 52 of the Major Port Trusts Act 1963, the Central Government was to approve such rate before it was made applicable. In 1997, Sec. 52 was repealed and a different mechanism was evolved by which power to fix rent was given to the Tariff Authority of the Major Ports (TAMP). Sec. 49 of Major Port Trusts Act was also amended by the Port Laws (Amendment) Act 1997 with effect from 09.01.1997. The validity of these provisions of the MPT Act was upheld by the Hon'ble Supreme Court in the case of **Luga Bay Shipping Corporation - Vs Board of Trustees of the Port of Cochin and Ors.** Reported in AIR 1997 SC 544 = 1997(1) SCC 631. It is also my considered view that payment of interest is a

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate S. K. Banerjee Chakrabarty (Represented by legal heirs) ^{VS}

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S. K. BANERJEE CHAKRABARTY
ESTATE OFFICER, KOLKATA PORT TRUST

natural fallout and one must have to pay interest in case of default in making payment of the principal amount, assessed as payable. For occupation and enjoyment of Port property, the charges leviable upon the tenants/occupiers are based on the Schedule of Rent Charges, as applicable for a tenant/occupier in respect of the concerned zone as indicated in the Schedule of Rent Charges. Every tenant/occupier of the Port property is under obligation to pay such charges for occupation and it has been specifically mentioned in the different Schedules of Rent Charges, as were notified from time to time. I am firm in holding that such notifications have a statutory validity of legal enforcement and tenants/occupiers cannot deny the charges on account of interest as per notification in the Official Gazette, until such rates of interest are modified/enhanced by further notification/s or are turned down by the competent Court of Law.

With regard to the allegation of KoPT of unauthorized sub-tenants/parting with possession and encroachment by the O.P. in violation of lease terms, no contesting, substantial and bankable piece of evidence to KoPT's allegation has been furnished from O.P.'s end in its reply to Show Cause. This act on the part of O.P. is not in keeping with its contentions of refusal/rebuttal of KoPT's claims and establishes its tacit admission to such allegations against O.P. Also sequel to inspection held by KoPT and report submitted thereafter, a specific instance of unauthorized encroachment committed by O.P. and marked as a major breach of the terms of tenancy etc. was brought to the notice of the Forum. As per established tenets of law, a mere and perfunctory denial of charge of breach brought against the O.P. by KoPT without evidentiary support does not stand the test of legal scrutiny.

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(Eviction of Unauthorised Occupants) Act 1971

Kolkata Port Trust (not to be construed as
Syama Prasad Mookerjee Port, Kolkata
(GSR No. S.O. 2100, Dated 11.0.2005)

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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In the aforementioned circumstances, being satisfied as above, I have no hesitation to uphold the claim of the Port Authority and I am inclined to hold the occupation of the O.P. as "unauthorized", and issue the order of eviction against O.P. on the following grounds,

1. That the proceedings against yourselves is very much maintainable and your plea with regard to non-maintainability of the proceedings has got no merit in the facts and circumstances of the case.
2. That O.P. has failed and neglected to hand over possession of the Public Premises in question after expiry of the lease and after issuance of the Notice to Quit dated 30.08.2010 duly issued by KoPT.
3. That the submission of O.P. as to the non-receipt of Notice to Quit dated 30.08.2010 has no basis both in law and in fact;
4. That O.P. has failed to make out any ground for waiver of the notice to quit;
5. That O.P. has failed to make out any ground with regard to the application of the law of Limitation to the present proceeding.
6. That O.P.'s allegation of incompetency of the Officer of KoPT for filing application for legal proceeding on behalf of KoPT against the O.P. has no basis in law and has gone unsubstantiated.
7. 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';
8. That ejection notice dated 30.08.2010 as served upon O.P., demanding possession of the public premises by KoPT is valid, lawful and binding upon the parties;
9. That occupation of O.P. beyond the period of expiry of the lease is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question;

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KOLKATA PORT TRUST
SYAMA PRASAD MOOKERJEE PORT

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Estate Shibmuth Chakrabarty ^{VS} *(Represented by Legal Heirs)*

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30.07.2020

10. 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 thereunder, giving 15 days time to O.P. 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 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 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.

Regarding payment of rental dues to KoPT, I must say that Rs. 5,17,274.47/- (DB-58/C -Rs. 3,39,362/- & D-315/3/C- Rs 1,77,912.47/- as claimed by the Port Authority in relation to the Plats in question, is correctly payable by O.P. for the period 01.07.1988 to 30.09.2010 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 30.08.2020. O.P. shall be liable 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 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.

During the course of hearing, I find that KoPT has made out an arguable claim against O.P., founded with sound

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KOLKATA PORT TRUST

Kolkata Port Trust nos. 1000/1001/1002 as
Syama Prasad Chatterjee Port, Kolkata
(CSR No. S.O. 2013 (2) dated 24.3.2020)

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Estate Shibnath Chakrabarty ^{VS} *(Represented by legal firm)*

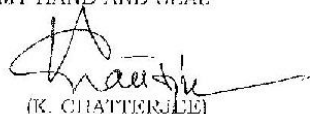
23
30.07.2020

reasoning, regarding the damages/compensation to be paid for unauthorised occupation. I make it clear that KoPT is entitled to claim damages against O.P. for unauthorised 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 inclined to assess the damages 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 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.

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 recovery of possession 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 ***

13.08.2020
STATE OF WEST BENGAL
D. MOOKERJEE



Kolkata Port Trust has been renamed as
Syama Prasad Mukherjee Port, Kolkata
(GSR No. S.O. 2020 (E) dated 24.8.2020)

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
Fairley Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 23 DT 30.07.2020
PROCEEDINGS NO. 1162 OF 2011

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
ESTATE SHIBNATH CHAKRABORTY

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 Shibnath Chakraborty (O.P.) of 15, Coal Berth, Kidderpore, Kolkata-
700043, represented by legal heirs/representatives of Shibnath Chakraborty
i.e. 1.Shelly Chakraborty, wife of O.P. at 21F,Prince Baktir Shah Road,2nd
Floor,Kolkata-700033, 2.Smt Nina Chakraborty Dey, daughter of O.P., at
21F,Prince Baktir Shah Road,3rd Floor,Kolkata-700033, 3. Mina Samaddar,
daughter of O.P., at 69T, Prince Baktir Shah Road, 2nd Floor,Kolkata-700033,
4.Ranjan Chakraborty, Son of O.P., at 21F,Prince Baktir Shah Road, Kolkata-
700033 is in unauthorized occupation of the Public Premises specified in the
Schedule below:

REASONS

1. That the proceedings against yourselves is very much maintainable and your plea with regard to non maintainability of the proceedings has got no merit in the facts and circumstances of the case.
2. That O.P. has failed and neglected to hand over possession of the Public Premises in question after expiry of the lease and after issuance of the Notice to Quit dated 30.08.2010 duly issued by KoPT.
3. That the submission of O.P. as to the non-receipt of Notice to Quit dated 30.08.2010 has no basis both in law and in fact;
4. That O.P. has failed to make out any ground for waiver of the notice to quit;
5. That O.P. has failed to make out any ground with regard to the application of the law of Limitation to the present proceeding.
6. That O.P.'s allegation of incompetency of the Officer of KoPT for filing application for legal proceeding on behalf of KoPT against the O.P. has no basis in law and has gone unsubstantiated.
7. 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';

Please see on reverse

o/c
14/8/20
1590
14.8.2020
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:: 2 ::

8. That ejection notice dated 30.08.2010 as served upon O.P., demanding possession of the public premises by KoPT is valid, lawful and binding upon the parties;
9. That occupation of O.P. beyond the period of expiry of the lease is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question;
10. 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 30.07.2020 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 Shibnath Chakraborty (O.P.) of 15, Coal Berth, Kidderpore, Kolkata-700043, represented by legal heirs/representatives of Shibnath Chakraborty i.e. 1. Shelly Chakraborty, wife of O.P. at 21F, Prince Baktir Shah Road, 2nd Floor, Kolkata-700033, 2. Smt Nina Chakraborty Dey, daughter of O.P., at 21F, Prince Baktir Shah Road, 3rd Floor, Kolkata-700033, 3. Mina Samaddar, daughter of O.P., at 69T, Prince Baktir Shah Road, 2nd Floor, Kolkata-700033, 4. Ranjan Chakraborty, Son of O.P., at 21F, Prince Baktir Shah Road, Kolkata-700033** 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 Shibnath Chakraborty (O.P.) of 15, Coal Berth, Kidderpore, Kolkata-700043, represented by legal heirs/representatives of Shibnath Chakraborty i.e. 1. Shelly Chakraborty, wife of O.P. at 21F, Prince Baktir Shah Road, 2nd Floor, Kolkata-700033, 2. Smt Nina Chakraborty Dey, daughter of O.P., at 21F, Prince Baktir Shah Road, 3rd Floor, Kolkata-700033, 3. Mina Samaddar, daughter of O.P., at 69T, Prince Baktir Shah Road, 2nd Floor, Kolkata-700033, 4. Ranjan Chakraborty, Son of O.P., at 21F, Prince Baktir Shah Road, Kolkata-700033** 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

Plat No. D-316/3/C

The said piece of parcel of land msg. 26.013 sq.m. at Coal Dock Road, Thana-South Port Police Station, Calcutta, District-24 Parganas (South), Registration District-Alipore. It is bounded on the North by the Trustees' land occupied by Shankarpada Chakraborty, on the East by the Trustees' open space then Trustees' Asbestos shed occupied by Shibnath Chakraborty, on the South by the Trustees' land occupied by Shankarpada Chakraborty and on the West by the Trustees' open land.

Please see on reverse

Kolkata Port Trust has been renamed as
Syama Prasad Mookerjee Port, Kolkata
(GSR No. S.O. 2020 (E) dated 24.3.2020)



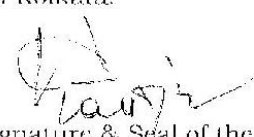
:: 3 ::

Plate No.DB-58/C

The said piece of parcel of Asbestos shed 39.38 sq.m. at Coal Dock Road, Thana-South Port Police Station, Calcutta, District-24 Parganas (South), Registration District-Alipore. It is bounded on the North by the Trustees' Asbestos shed occupied by Shankarpada Chakraborty, on the East by the Trustees' Coal Dock Road, on the South by the Trustees' open space and on the West by the Trustees' open space then Trustees' land occupied by Shibnath Chakraborty.

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

Dated: 30.07.2020


Signature & Seal of the
Estate Officer.

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

Kolkata Port Trust has been renamed as
Syama Prasad Mookerjee Port, Kolkata
(GSR No. S.O. 2020 (E) dated 24.3.2020)

Kolkata Port Trust has been renamed as
Syama Prasad Mookerjee Port, Kolkata
(GSR No. S.O. 2020 (E) dated 24.0.2020)

REGISTERED POST
HAND DELIVERY/ACKNOWLEDGEMENT



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

6, Fairley Place (1st FLOOR) KOLKATA-700001

Form " E "

PROCEEDINGS NO.1162/R OF 2011
ORDER NO. 23 DATED: 30.07.2020

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

To

Estate Shibnath Chakraborty (O.P.)

of 15, Coal Berth, Kidderpore. Kolkata-700043,

represented by legal heirs/representatives of Shibnath Chakraborty i.e.

1.Shelly Chakraborty, wife of O.P. at 21F,Prince Baktir Shah Road,2nd

Floor,Kolkata-700033, 2.Smt Nina Chakraborty Dey, daughter of O.P., at

21F,Prince Baktir Shah Road,3rd Floor,Kolkata-700033, 3. Mina

Samaddar, daughter of O.P., at 69T, Prince Baktir Shah Road, 2nd

Floor,Kolkata-700033, 4.Ranjan Chakraborty, Son of O.P., at 21F,Prince

Baktir Shah Road, Kolkata-700033

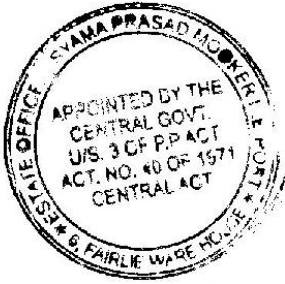
WHEREAS you are in occupation of the public premises described in the Schedule below. (Please see on reverse).

AND WHEREAS, by written notice dated 16.03.2017 you were called upon to show cause on/or before 30.03.2017 why an order requiring you to pay a sum of Rs. 5,17,274.47/ (DB-58/C-Rs.3,39,362/ & D-316/3/C-Rs.1,77,912.47) (Rupees Five Lakhs Seventeen thousand Two hundred Seventy Four and paisa Forty Seven only) being the rent payable together with compound interest in respect 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 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. 5,17,274.47/-(DB-58/C-Rs.3,39,362/- & D-316/3/C-Rs.1,77,912.47) (Rupees Five Lakhs Seventeen thousand Two hundred Seventy Four and paisa Forty Seven only) for the period 1st day of July'1988 upto the 30th day of September'2010 (both day inclusive) to Kolkata Port Trust by 30.08.2020.

PLEASE SEE ON REVERSE



: 2 :

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 at the rate of @ 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 till its final payment in accordance with Kolkata Port Trust Notification Published in Official Gazette/s.

In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

SCHEDULE

Plate No.D-316/3/C


The said piece of parcel of land msg. 26.013 sq.m. at Coal Dock Road, Thana-South Port Police Station, Calcutta, District 24 Parganas (South), Registration District-Alipore. It is bounded on the North by the Trustees' land occupied by Shankarpada Chakraborty, on the East by the Trustees' open space then Trustees' Asbestos shed occupied by Shibnath Chakraborty, on the South by the Trustees' land occupied by Shankarpada Chakraborty and on the West by the Trustees' open land.

Plate No.DB-58/C

The said piece of parcel of Asbestos shed 39.38 sq.m. at Coal Dock Road, Thana South Port Police Station, Calcutta, District-24 Parganas (South), Registration District-Alipore. It is bounded on the North by the Trustees' Asbestos shed occupied by Shankarpada Chakraborty, on the East by the Trustees' Coal Dock Road, on the South by the Trustees' open space and on the West by the Trustees' open space then Trustees' land occupied by Shibnath Chakraborty.

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

Dated: 30.07.2020


Signature and seal of the
Estate Officer