

Kolkata Port Trust has been renamed as
Syama Prasad Mookerjee Port, Kolkata
(GSR No. S.O. 2020 (E) dated 24.6.2020)

Kolkata Port Trust has been renamed as
Syama Prasad Mookerjee Port, Kolkata
(GSR No. S.O. 2020 (E) dated 24.6.2020)

Estate Officer, Kolkata Port Trust

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

Proceedings No. 1190, 1190/R & 1190/D of 2011 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S. M.L. Das & Co.

FINAL ORDER

13
24.09.2020.

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

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The instant proceedings No. 1190, 1190/R, 1190/D of 2011 arisen out of the application bearing No. Lnd.3406/A/15/10/1862 dated 30.08.2010 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 M/S M.L Das & Co represented by Prop: Narendra Lal Das, 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 69.956 sq.m, or thereabout situated at Old RIM Dock Yard, Watgunge (under Plate No. D-28/A) Thana- South Port Police Station, District- 24 Parganas, as a Lessee on short term, morefully described in the Schedule 'A' of the KoPT's application dated 30.08.2010. The allegations levelled by KoPT against O.P is that while in possession of Port property as lessee, the O.P has 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 30.08.2010 and application dated 10.05.2018.

It is also the case of KoPT that the said lease with O.P. was determined by way of a Quit Notice dated 09.12.1991 and the O.P. was asked to vacate the premises on 31.01.1992 but O.P has failed and neglected to vacate/ hand over the possession of such 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 31.05.2018 (vide Order No.07 dated

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. 1190, 1190/R & 1190/D Of 2011 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/s. M.L. Das & Co.

13
24.09.2020

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
28.09.2020
Head Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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31.05.2018) 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.

The said notice/s were served through Speed Post to the correct recorded address of O.P. at 13 No. Old RIM Dock Yard, Watgunge and also at 3/1, Monosatolla Lake, Kidderpore, Kolkata-700023. It appears from records that the Notice/s sent to the recorded address of O.P. were returned back by the postal department as the addressee was not located. The Notice/s have also been sent to the occupation of O.P. by hand delivery. It appears from the report of the Process Server dated 05.06.2018 that one Sri Prabhunath Singh has received the copy of such Notice/s on behalf of O.P and it is also seen that the copy of such Notice/s have been affixed on the property under schedule on the same day at about 2.15 P.M. in compliance of 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 further direction was given by this Forum for service and affixation of the previous order along with the instant order dated 05.07.2018 in compliance of the provision of natural justice. However, O.P again failed to appear on the ultimate date i.e on 16.08.2018, therefore, the final Order was reserved on that day. Now this forum has decided to adjudicate the matter ex-parte.

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. 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.

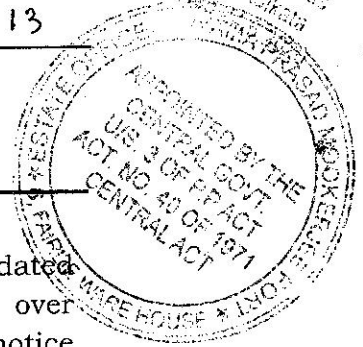
Estate Officer, Kolkata Port Trust

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

Proceedings No. 1190, 1190/R & 1190/D Of 2011 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/S. M.L. Das & Co.



13
24.09.2020

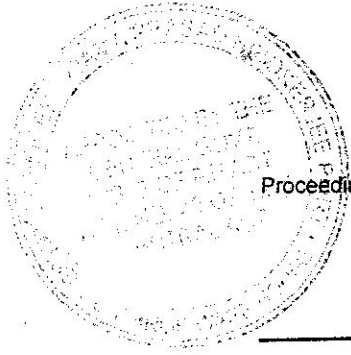
Rather it is a case of KoPT that by notice dated 09.12.1991 O.P. was directed to hand over possession of the premises to KoPT. A letter /notice issued in official course of business has definitely got an evidentiary value unless there is no material, sufficient to contradict the case of KoPT on the basis 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.

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 09.12.1991.
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 09.12.1991 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.
4. That O.P. has violated the condition of monthly short term lease as granted by the Port authority by way of not making payment of rental dues and taxes to KoPT, for a prolonged period.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF
PASSED BY THE BOARD OF TRUSTEES
SYAMA PRASAD MOOKERJEE PORT
28.09.2020
+ Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

J



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. 1190, 1190/R & 1190/D Of 2011 Order Sheet No. 14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S. M.L. Das & Co. **VS**

13
24.09.2020

5. 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 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.Ps' 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.15,402.00 for the period 01.06.1988 to 31.01.1992 (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 08.10.2020. 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.

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. 3,85,135.00 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 01.2.1992 to 30.04.2018 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by 08.10.2020. 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

By Order of
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
13 24.09.2020
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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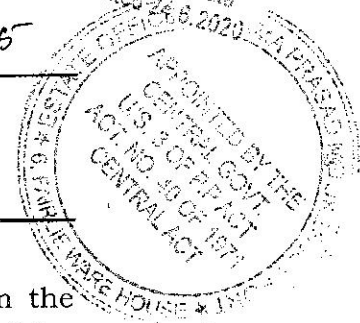
Estate Officer, Kolkata Port Trust

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

Proceedings No. 1190, 1190/R/1190/D Of 2011 Order Sheet No. 15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. M.L. Das & Co.
VS



13
24-09-2020

In Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THIS ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
24-09-2020
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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 30.04.2018 as well, till such 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 30.04.2018, indicating there-in, the details of the rate of such charges, and the period of the damages (i.e. till the date of taking over of possession) together with the basis on which such charges are claimed against O.P., for my consideration for the purpose of assessment of such damages as per Rule made under the Act.

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

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

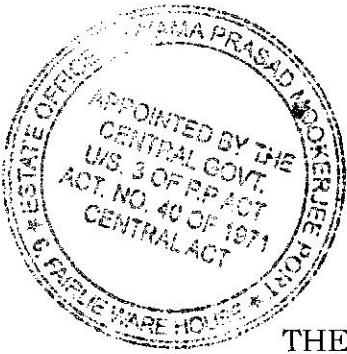
Sumon Mukhopadhyay

(Sumon Mukhopadhyay)

ESTATE OFFICER.

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

~~Ex-103~~
Web-Site



Kolkata Port Trust has been renamed as
Syama Prasad Mookerjee Port, Kolkata
(GSR No. S.O. 2020 (53) dated 24.09.2020)

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

REASONED ORDER NO. 13 DT 24.09.2020.
PROCEEDINGS NO. 1190 OF 2011

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/S M.L Das & Co, Prop: Narendra Lal Das (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 **M/S M.L Das & Co(Prop: Narendra Lal Das) of 13 No. Old RIM Dock Yard, Watgunge, Kolkata-700023 AND ALSO OF 3/1, Mansatalla Lane, Kidderpore, Kolkata-700023** is in unauthorized occupation of the Public Premises specified in the Schedule below :

REASONS

1. That O.P. has failed to file reply to the Show Cause Notice/s in spite 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 09.12.1991.
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 09.12.1991 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.
4. That O.P. has violated the condition of monthly short term lease as granted by the Port authority by way of not making payment of rental dues and taxes to KoPT, for a prolonged period.
5. 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.

PLEASE SEE ON REVERSE

A copy of the reasoned order No. 13 dated 24.09.2020 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 **M/S M.L Das & Co(Prop: Narendra Lal Das) of 13 No. Old RIM Dock Yard, Watgunge, Kolkata-700023 AND ALSO OF 3/1, Mansatalla Lane, Kidderpore, Kolkata-700023**, 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 **M/S M.L Das & Co(Prop: Narendra Lal Das) of 13 No. Old RIM Dock Yard, Watgunge, Kolkata-700023 AND ALSO OF 3/1, Mansatalla Lane, Kidderpore, Kolkata-700023** 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.

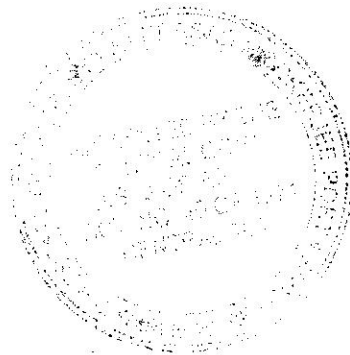
SCHEDULE

Plate No.D-28/A

The said piece or parcel of land msg.69.956 sq.m. or thereabouts is situate at Old RIM Dock Yard in mouza Watgunge, Thana-South Port Police Station, District-24 Parganas, Registration District-Alipore. It is bounded on the North by the said Trustees' Strip of open land alongside a Port Trust Railway lines on the East by the said Trustees land leased to M/S. Patit Paban Banerjee and Sons, on the South by the Trustees Roadway and on the West by the said Trustees land occupied by Jiten Singh.

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

Date- 24-09-2020.



Suman Mukherjee
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 24.8.2020)

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

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

Form " E "

PROCEEDINGS NO.1190/R OF 2011
ORDER NO. 13 DATED: 24.09.2020

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

To
M/S M.L Das & Co
(Prop: Narendra Lal Das),
13 No. Old RIM Dock Yard, Watgunge,
Kolkata-700023.
AND ALSO OF
3/1, Mansatalla Lane, Kidderpore,
Kolkata-700023,

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

AND WHEREAS, by written notice dated 31.05.2018 you are called
upon to show cause on/or before 21.06.2018 why an order requiring you
to pay a sum of Rs 15,402.00 (Rupees Fifteen Thousand Four hundred
Two 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 and failed to represent the instant
proceedings inspite of repeated chances being given to 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 Rs
15,402.00 (Rupees Fifteen Thousand Four hundred Two only) for the
period 01.06.1988 to 31.01.1992 (both days inclusive) to Kolkata Port
Trust by 08.10.2020.

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 rent within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue through the Collector.

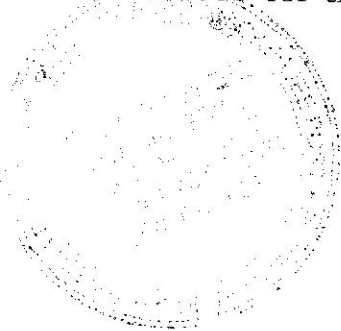
SCHEDULE

Plate No.D-28/A

The said piece or parcel of land msg.69.956 sq.m. or thereabouts is situate at Old RIM Dock Yard in mouza Watgunge, Thana-South Port Police Station, District-24 Parganas, Registration District-Alipore. It is bounded on the North by the said Trustees' Strip of open land alongside a Port Trust Railway lines on the East by the said Trustees land leased to M/S. Patit Paban Banerjee and Sons, on the South by the Trustees Roadway and on the West by the said Trustees land occupied by Jiten Singh.

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

Dated: 24.09.2020.



Suman Mukherjee
Signature and seal of the
Estate Officer

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



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(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. 1190/D OF 2011
ORDER NO.13 DATED: 24.09.2020

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
M/S M.L Das & Co
(Prop: Narendra Lal Das),
13 No. Old RIM Dock Yard, Watgunge,
Kolkata-700023.
AND ALSO OF
3/1, Mansatalla Lane, Kidderpore,
Kolkata-700023,

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 31.05.2018 you are called upon to show cause on/or before 21.06.2018 why an order requiring you to pay damages of Rs. 3,85,135.00 (Rupees Three Lakhs Eighty Five thousand One hundred Thirty Five 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 and failed to represent the instant proceedings inspite of repeated chances being given to you.

Now, therefore, in exercise of the powers conferred on me by Sub-section (2) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby order you to pay the sum of Rs. 3,85,135.00 (Rupees Three Lakhs Eighty Five thousand One hundred Thirty Five only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.02.1992 to 30.04.2018 (both days inclusive) to Kolkata Port Trust by 08.10.2020.

PLEASE SEE ON REVERS

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.

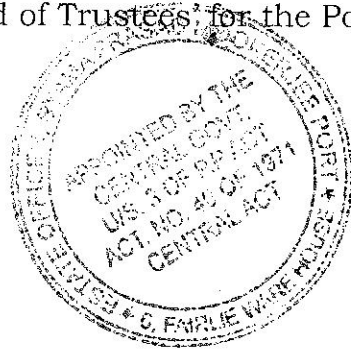
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SCHEDULE

Plate No.D-28/A

The said piece or parcel of land msg.69.956 sq.m. or thereabouts is situate at Old RIM Dock Yard in mouza Watgunge, Thana-South Port Police Station, District-24 Parganas, Registration District-Alipore. It is bounded on the North by the said Trustees' Strip of open land alongside a Port Trust Railway lines on the East by the said Trustees land leased to M/S. Patit Paban Banerjee and Sons, on the South by the Trustees Roadway and on the West by the said Trustees land occupied by Jiten Singh.

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



Date 24.7.2020

Suman Mukherjee
Signature & Seal of the
Estate Officer.

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