

REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY

**ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(erstwhile 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. 04 DT 13.11.2020
PROCEEDINGS NO. 1768 OF 2019

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-

Shri Kelu Charan Prodhan & Shri Nilmoni Prodhan (O.P.)

By Order of :

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

F O R M - "B"

**ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC
PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971**

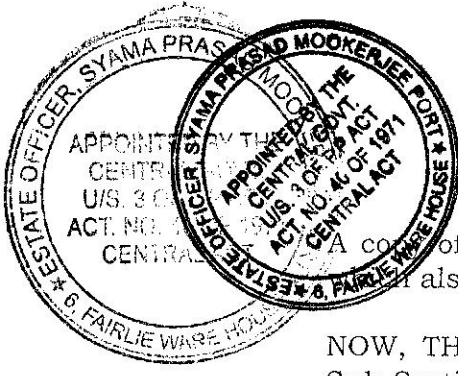
Head Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **Shri Kelu Charan Prodhan & Shri Nilmoni Prodhan of Plot No.6, Taratala Staff Colony(western side) Kolkata-700088 AND ALSO OF Village- Varogal, P.O-Kharapore, Thana-Cuttack Sartar, Dist-Cuttack, Orissa** is in unauthorized occupation of the Public Premises specified in the Schedule below :

REASONS

1. That O.P. has violated the condition of 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 of time.
2. That O.P. has failed to appear before the Forum and has failed to file any reply to Show cause Notice/s as issued by this Forum.
3. That the sitting occupant appearing before the Forum has failed to explain their authority to occupy the premises.
4. That O.P has clearly parted with possession of the public premises unauthorisedly without having any authority under law.
5. That unauthorized construction has been erected in public premises in question without having any approval of KoPT or other authority in question.
6. The O.P or any other person/occupant have failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation"
7. That the notice to quit dated 19.04.1995 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P.'s occupation and that of any other occupant of the premises has become unauthorised in view of Sec.2 (g) of the P.P. Act.
8. 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



(2)

A copy of the reasoned order No. 04 dated 18-11-2020 is attached hereto and 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 **Shri Kelu Charan Prodhan & Shri Nilmoni Prodhan of Plot No.6, Taratala Staff Colony(western side) Kolkata-700088 AND ALSO OF Village- Varogal, P.O-Kharapore, Thana-Cuttack Sartar, Dist-Cuttack, Orissa** 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 **Shri Kelu Charan Prodhan & Shri Nilmoni Prodhan of Plot No.6, Taratala Staff Colony(western side) Kolkata-700088 AND ALSO OF Village- Varogal, P.O-Kharapore, Thana-Cuttack Sartar, Dist-Cuttack, Orissa** 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-377/1/B

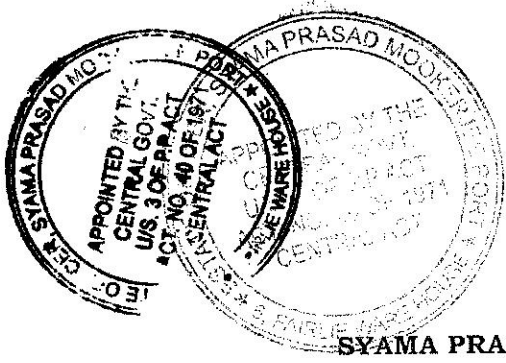
The said piece or parcel of land Msg.33.445 Sq.m or thereabouts is situated at the Western End of Trustees' Taratala Staff Colony. Thana : Taratala, Calcutta, Dist: Alipore. It is bounded on the North and South on the Trustees' land on the East by the Trustees' land leased to Brij Kumar Misra and on the West by the Trustees' land to Baikuntha Nayak.

Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

Date- 18-11-2020

Signature & Seal of the Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER, KOLKATA PORT
By **Trustee** FOR INFORMATION.
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
18/11/20
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY

ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(erstwhile 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
6, Fairlie Place Warehouse

Form " E "

PROCEEDINGS NO.1768/R OF 2019
ORDER NO. 04 DATED: 18-11-2020

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

To
Shri Kelu Charan Prodhan &
Shri Nilmoni Prodhan
Plot No.6, Taratala Staff Colony(western side),
Kolkata-700088.
AND ALSO OF
Village- Varogal, P.O-Kharapore,
Thana-Cuttack Sartar, Dist-Cuttack, Orissa,

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

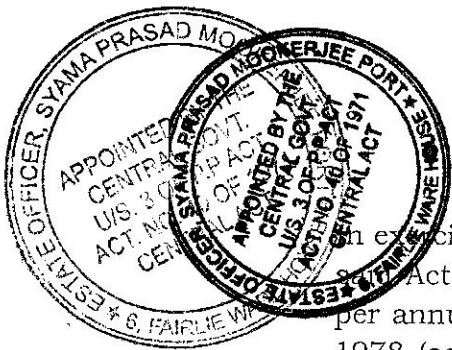
WHEREAS you are in occupation of the public premises described in
the Schedule below. (Please see on reverse).

AND WHEREAS, by written notice dated 18.09.2019 you are called
upon to show cause on/or before 27.09.2019 why an order requiring you
to pay a sum of Rs 53,122/- (Rupees Fifty Three Thousand One Hundred
Twenty 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 53,122/-
(Rupees Fifty Three Thousand One Hundred Twenty Two only) for the
period 01.06.1988 to 01.06.1995 (both days inclusive) to SMP, Kolkata
by 04.12.2020

PLEASE SEE ON REVERSE



: 2 :

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the 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 SMP, Kolkata'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-377/1/B

The said piece or parcel of land Msg.33.445 Sq.m or thereabouts is situated at the Western End of Trustees' Taratala Staff Colony. Thana : Taratala, Calcutta, Dist: Alipore. It is bounded on the North and South on the Trustees' land on the East by the Trustees' land leased to Brij Kumar Misra and on the West by the Trustees' land to Baikuntha Nayak.

Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

Dated: 18-11-2020

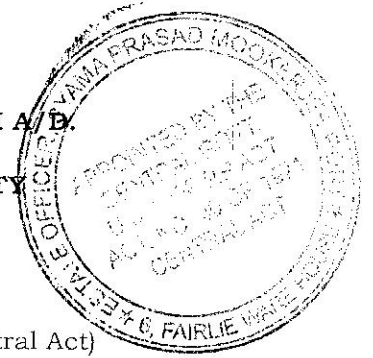
Signature and seal of the
Estate Officer

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

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



REGISTERED POST WITH A/B
HAND DELIVERY
AFFIXATION ON PROPERTY



**ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(erstwhile 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, Fairlie Place (1st FLOOR) KOLKATA-700001

Court Room At the 1st Floor
of Kolkata Port Trust's
Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO. 1768/D OF 2019
ORDER NO.04 DATED : 19-11-2020

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
**Shri Kelu Charan Prodhan &
Shri Nilmoni Prodhan
Plot No.6, Taratala Staff Colony(western side),
Kolkata-700088.
AND ALSO OF
Village- Varogal, P.O-Kharapore,
Thana-Cuttack Sartar, Dist-Cuttack, Orissa,**

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

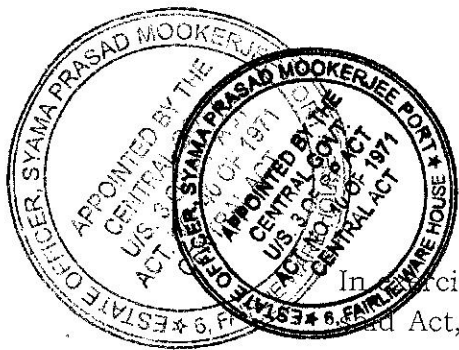
Whereas I, the undersigned, am satisfied that you are in unauthorised occupation of the public premises mentioned in the Schedule below:

And whereas by written notice dated 18.09.2019 you are called upon to show cause on/or before 27.09.2019 why an order requiring you to pay damages of Rs. 7,90,804.09 (Rupees Seven Lakhs Ninety thousand Eight hundred Four and paise nine 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. 7,90,804.09 (Rupees Seven Lakhs Ninety thousand Eight hundred Four and paise nine only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.07.1995 to 28.08.2018 (both days inclusive) to SMP, Kolkata by 04.12.2020.

PLEASE SEE ON REVERS



: 2 :

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the 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 SMP, Kolkata'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-377/1/B

The said piece or parcel of land Msg.33.445 Sq.m or thereabouts is situated at the Western End of Trustees' Taratala Staff Colony. Thana : Taratala, Calcutta, Dist: Alipore. It is bounded on the North and South on the Trustees' land on the East by the Trustees' land leased to Brij Kumar Misra and on the West by the Trustees' land to Baikuntha Nayak.

Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

Date 18-11-2020

Signature & Seal of the
Estate Officer.

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

By Order of :

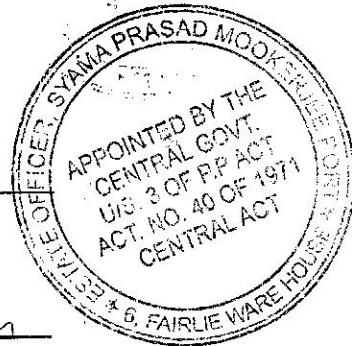
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Head Assistant
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. 1768, 1768/R, 1768/D of 2019 Order Sheet No. 05

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Kelu Charan Pradhan ^{VS} Shri Nilmoni Pradhan

4
18-11-2020

FINAL ORDER

The instant proceedings No. 1768, 1768/R, 1768/D of 2019 arises out of the application bearing No. Lnd.2669/3/A/8/07/3136 dated 02.11.2007 filed by Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust], hereinafter referred to as KoPT, the applicant herein, praying for order of eviction and recovery of arrear rent, taxes, compensation along with accrued interest against Kelu Charan Pradhan and Nilmoni Pradhan, O.P. herein, under relevant provision of the Public Premises (Eviction of Unauthorised 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 33.445 sq.m, or thereabout situated at Taratala Staff Colony (under Plate No. D-377/1/B) Thana- Taratala, District- Kolkata, as a Lessee on short term, morefully described in the Schedule 'A' of the KoPT's application dated 02.11.2007. The allegations leveled by KoPT against O.P is that while in possession of Port property as lessee, the O.P have defaulted to liquidate the KoPT's demand for rent, taxes also accrued interest thereon the details of which has been given in 'Schedule-B' of the KoPT's application dated 02.11.2007.

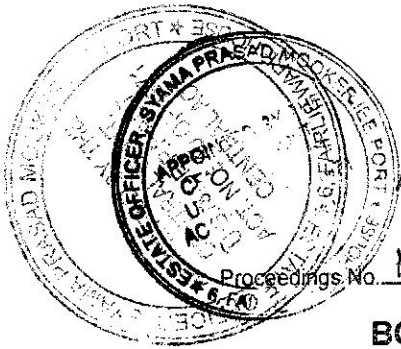
It is submitted by KoPT that O.P. has erected unauthorized construction on the demised land and committed parting with possession without taking any approval from KoPT in gross violation of the terms of tenancy.

In view of the aforesaid breaches committed by the O.P., KoPT had issued notice to quit dated 19.04.1995 asking the O.P. to hand over clear, vacant, peaceful and unencumbered possession of the property to KoPT on 30.06.1995. But O.P has

[Signature]

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
KOLKATA
CERTIFIED COPY OF THIS ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
KOLKATA
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
KOLKATA

[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. 1768, 1768/R, 1768/D of 2019 Order Sheet No. 06

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Kelu Charan Pradhan ^{VS} Shri Nilmoni Pradhan

4

18-11-2020

failed and neglected to vacate/ hand over the possession of such premises to KoPT 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 18.09.2019 (vide Order No.01 dated 18.09.2019) were issued by this forum to O.P. The Notice/s were issued in terms of the relevant 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 through the Speed post to the correct recorded addresses of O.P at plot no.6, Taratala Staff Colony (Western Side) Kolkata-700088 and also at Village-Varogal, P.O-Karapore, Thana-Cuttack Sartar, Dist-Cuttack, Orissa. It appears that the Notice/s have been sent to the recorded addresses of O.P. One of such Notice was returned back to this Forum by the Postal Department with the endorsement "insufficient address". However, the other notice did not return back to this Forum and hence it can be presumed that the same has been delivered to the correct address of O.P. The Report of the Process Server dated 19.09.2019 also depicts that said Notice/s have also been received by one shri Kameswar Lal Srivastava on behalf of O.P on 19.09.2019 and due affixation of the said Notice/s have also been made on the same day at about 4P.M.

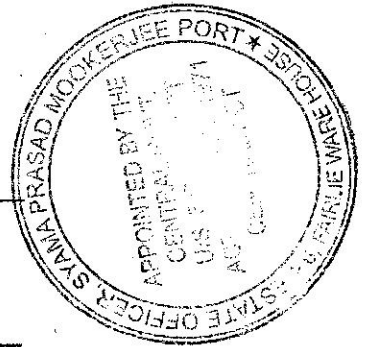
Thereafter, on the Scheduled date of appearance and filing of reply to the Show Cause Notice, the abovenamed Shri Kameswar Lal Srivastava

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Assent
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. 1768, 1768/R, 1768/D of 2019 Order Sheet No. 07

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Kaly Charan Pradhan ^{VS} Shri Nilmoni Pradhan

4

18-11-2020

appeared before the Forum and submitted that he along with his family are being presently occupying the subject premises on the strength of a registered Deed of Conveyance dated 11.08.1994 having Registration No.6683 of 1994 executed by and between the O.P. and one Smt. Indrawati Devi Srivastava, the wife of Shri Kameswar Lal Srivastava. Upon perusal of the said Deed of 1994, it appears that O.P. has sold out the structure as well as the unexpired portion of the lease to the Sitting Occupant vide registered Deed of Conveyance being No.6683 dated 1994 as Book No.I, Volume No.127 page No.466 to 478 in the Office of the District Sub registrar at Alipore, South 24 Parganas. During the course of hearing, the said Shri Kameswar Lal Srivastava (hereinafter referred to as the '**sitting occupant**') expressed his intention to file reply/written objection to the Show Cause Notice with all documentary evidences, which he intended to rely upon. On 23.10.2019 when O.P has again failed to appear before the Forum, upon appearance, such sitting occupant has filed the reply to the Show Cause Notice issued by this Forum as duly signed by Ajay Kumar Srivastava, son of Kameswar Lal Srivastava. It appears that the Sitting Occupant has relied upon the deed of Conveyance dated 11.08.1994 and submitted that after delivery of possession in favour of them the original tenant have left for their native place and now they are using the said place as their dwelling house. They made an effort to pay the rent but no response were received from the end of KoPT. If KoPT allowed them easy installments they can discharge their obligation.

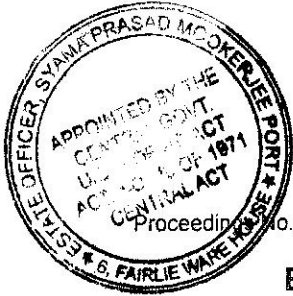
Thereafter, KoPT also filed their arguments on 23.10.2019 and submitted that in view of the admission made by the sitting occupants that they have been occupying the premises since long, it can easily be presumed that O.P. has parted with the possession of the subject premises to the said

By Order of:

THE ESTATE OFFICER,
SAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
MADE BY THE ESTATE OFFICER
SAMA PRASAD MOOKERJEE PORT

Head Assistant

OFFICE OF THE ESTATE OFFICER,
SAMA 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

Proceeding No. 1768, 1768/R, 1768/D, 2018 Order Sheet No. 08

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Kelu Charan Pradhan VS Nilmoni Pradhan

4

18-11-2020

sitting occupants in violation of the terms and conditions of tenancy. After giving opportunity to the parties for completion of their pleadings and after hearing the parties at length, the final order was reserved in this matter.

Now while passing the final order, upon considering the deliberations made by the parties and after carefully going through all the documents placed on record, I find that the allegations of KoPT against the O.P are three folds i.e nonpayment of rent and taxes, unauthorized construction on the public premises in question and unauthorized parting with possession to third party/s in violation of the lease condition and without prior approval of KoPT.

Upon holistic consideration of the entire facts and gamut of the case, my strong view is that O.P is neither in occupation of the public premises nor is in any way interested in the property in question. It is also my conclusion that said Kameswar Lal Srivastava cannot be said to be a present representative of O.P. He appeared solely on his personal capacity. My Conclusion is based on following facts:

- I) Originally the lease was entered between Kelucharan Prodhan & Nilmoni Prodhan with KoPT authority.
- II) The Show Cause notice/s sent through speed post (except was sent to O.P's home address) and hand delivery are all however, received by Kameswar Lal Srivastava, the sitting occupant of the public premises in question.
- III) Surprisingly, an Executed Deed of Conveyance has been produced by Kamaswar Lal Srivastava registered in the name of Smt. Indrawati Devi Srivastava in proof of their ownership which was done without any approval of KoPT.
- IV) More surprisingly, O.P does not even issue any single letter/Communication during

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
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PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Assistant
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

1768, 1768/R, 1768/D of 2018 Order Sheet No. 09

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Kulu Charan Pradhan ^{VS} Nilmoni Pradhan

4
18-11-2020

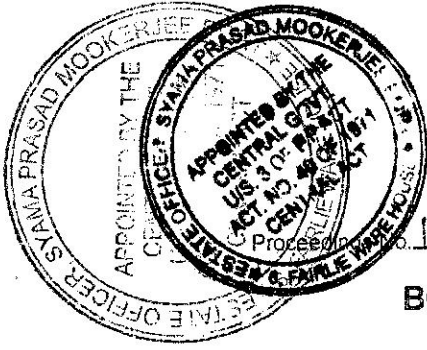
the entire Proceedings to defend themselves.

In such a situation, I am of the firm view that there is no bar to uphold the contention of the Port Authority as brought out in its Notice to Quit dated 19.04.1995 and also the presence of sitting occupant in the premises (admittedly, for 50 years) is sufficient enough to conclude "parting with possession" by the O.P. It is evident from the application filed by the sitting occupant on 23.10.2019 that they are occupying the said premises on the strength of a deed of Conveyance whatsoever and the said occupant has been using such premises at present for the purpose of dwelling. Therefore, he sought relief on "humanitarian ground". I must say that this forum is to adjudicate the matter strictly within the four corners of P.P Act while ensuring natural justice is not denied to anyone. In my view, lack of O.P's interest coupled with prolonged enjoyment of a public premises by sitting occupant, deserves no protection in all sense of law. As such, I am not at all inspired by the prayer of sitting occupant. Moreover, I find that transfer of such property without prior approval of KoPT by way of deed of Conveyance being No.6683 for the year 1994 in favour of Indrawati Devi Srivastava, W/O of Kameswar Lal Srivastava is wholly illegal and a clear case of parting with possession.

Discussion against the foregoing reveals that the contention of KoPT against the O.P of unauthorized parting with possession is very much true and correct. Such being the case, the submission of Kameswar Lal Srivastava cannot be treated as submission of O.P. as such the matter is decided exparte against O.P.

Discussion against the foregoing also reveals that Notice to Quit dated 19.04.1995 as issued by KoPT is very much valid, enforceable and in accordance

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

1768, 1768/R, 1768/D of 2018

Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Kulu Charan Pradhan ^{VS} Nilmoni Pradhan

04
18.11.2020

with law. As per Sec 2(g) of the P.P Act, 1971, 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 to occupy the premises has expired or has been determined for any reason whatsoever. In my view said provision is squarely attracted in this matter. Moreover, I find from the lease deed that KoPT is very much within its right to determine the relationship by virtue of this Notice to Quit. In such a situation when a rank outsider is carrying out commercial activity or dwelling in public premises belonging to the statutory authority that too by a deed of Conveyance, this Forum cannot sit silent. Therefore, considering all other allegations of KoPT as justifiable, I find that this is a fit case for passing order of eviction against O.P. and Kameswar Lal Srivastava, and hence, being satisfied as above I hereby, passing Order of eviction under Section 5 of the Act on following grounds.

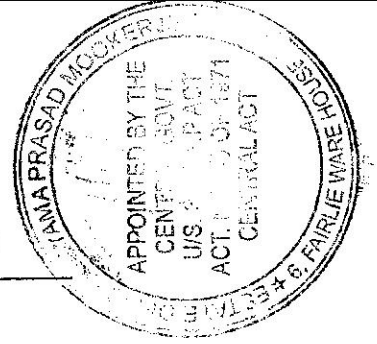
By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
18.11.2020
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

1. That O.P. has violated the condition of 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 of time.
2. That O.P. has failed to appear before the Forum and has failed to file any reply to Show cause Notice/s as issued by this Forum.
3. That the sitting occupant appearing before the Forum has failed to explain their authority to occupy the premises.
4. That O.P. has clearly parted with possession of the public premises unauthorisedly without having any authority under law.
5. That unauthorized construction has been erected in public premises in question without having



Estate Officer, Kolkata Port Trust

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



Proceeding No. 1768, 1768/R, 1768/D of 2018 Order Sheet No. 11

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Shri Kelu Charan Pradhan VS Nilmoni Pradhan

04
18-11-2020

- any approval of KoPT or other authority in question.
6. The O.P or any other person/occupant have failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation"
 7. That the notice to quit dated 19.04.1995 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P.'s occupation and that of any other occupant of the premises has become unauthorised in view of Sec.2 (g) of the P.P. Act.
 8. 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.

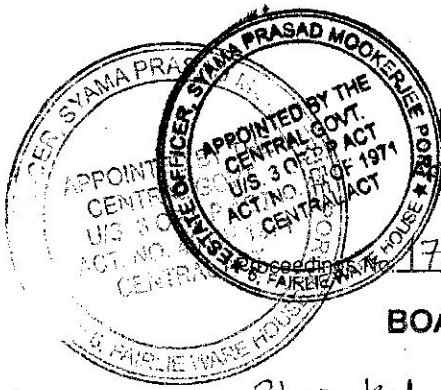
ACCORDINGLY, I sign the formal order of eviction u/s 5 of the Act as per Rule made there under, giving 15 days time to O.P. and any person/s whoever may be in occupation to vacate the premises. I make it clear that all person/s whoever may be in occupation are liable to be evicted by this order and the Port Authority is entitled to claim damages for unauthorized use and enjoyment of the property against O.P. in accordance with Law up to the date of recovery of possession of the same. KoPT is directed to submit a comprehensive status report of the Public Premises in question on inspection of the property after expiry of the 15 days as aforesaid so that necessary action could be taken for execution of the order of eviction u/s. 5 of the Act as per Rule made under the Act.

[Handwritten signature]

By Order of:
THE ESTATE OFFICER
 SYAMA PRASAD MOOKERJEE PORT
 CERTIFIED COPY OF THE ORDER
 DATED BY THE ESTATE OFFICER
 SYAMA PRASAD MOOKERJEE PORT
 18.11.20
 Head Assistant
 D. ESTATE OFFICER
 SYAMA PRASAD MOOKERJEE PORT

It is my considered view that a sum of Rs 53,122/- for the period 01.06.1988 to 30.06.1995 (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 the rental dues to KoPT on or before 04.12.2020 Such

[Handwritten signature]



Estate Officer, Kolkata Port Trust

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

1768, 1768/R, 1768/D 2018

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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 incurrance 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. 7,90,804.09 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 01.07.1995 to 28.08.2018 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by 04.12.2020. The said damages shall 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 incurrance 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.

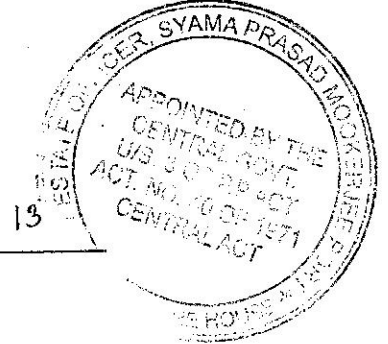
By Order of :
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
18.11.2020
Filed Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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 28.08.2018 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



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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04
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details of its calculation of damages after 28.08.2018, 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

(Kausik Kumar Manna)
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
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