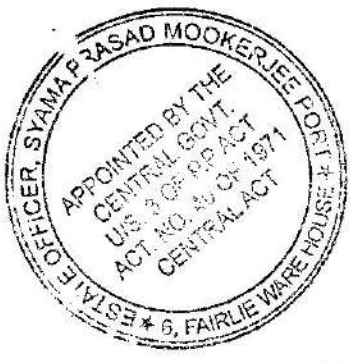


SCANNED COPY



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, 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.

REASONED ORDER NO.15 DT 11.12.2020
PROCEEDINGS NO. 1579 OF 2017

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
Estate Andrew Chowdhury (O.P.)

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

F O R M - "B"

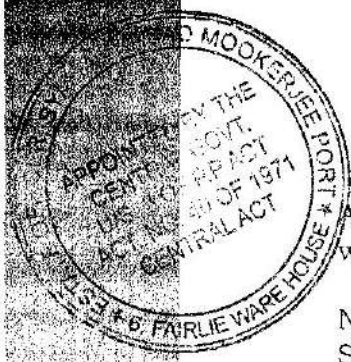
**ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC
PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971**

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that
**Estate Andrew Chowdhury, Jai Jawan Stall of Taratala Road (Opp. CESC
Office), Kolkata-700088 And 18/8, Biren Roy Road (East), Kolkata-700008**
is in unauthorized occupation of the Public Premises specified in the Schedule
below :

REASONS

1. That the licence was determined with the death of the Licensee.
2. That O.P. has failed to appear before the Forum and has failed to file any reply to Show cause Notice.
3. That the sitting occupant appearing before the Forum has failed to explain their authority to occupy the premises.
4. That O.P has unauthorisedly encroached 5.3 sq.m of Trustee's land in violation of the condition of such licence.
5. 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"
6. That the notice of revocation dated 05.01.2015 as served upon the 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.
7. That the 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. 15 dated 11.12.2020 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 Andrew Chowdhury, Jai Jawan Stall of Taratala Road (Opp. CESC Office), Kolkata-700088 And 18/8, Biren Roy Road (East), Kolkata-700008** 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 Andrew Chowdhury, Jai Jawan Stall of Taratala Road (Opp. CESC Office), Kolkata-700088 And 18/8, Biren Roy Road (East), Kolkata-700008** 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-300/65

The piece or parcel of land msg.13.94 Sq.m or thereabouts is situated at Taratala Road near its junction with Diamond Harbour, under Plate No. D-300/65. It is bounded on the North by the Trustees' land occupied by C.Comens & Sons Ltd., On the East, West and South by the Trustees Taratala Road.

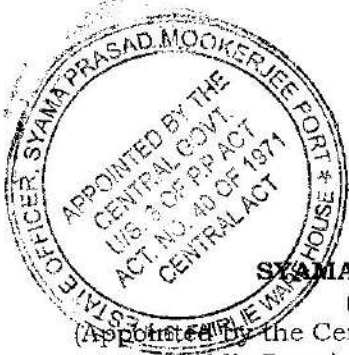
Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

Date- 11.12.2020

Signature & Seal of the Estate Officer.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT TRUST
16.12.2020
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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



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 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. 1579/D OF 2017
ORDER NO.15 DATED: 11-12-2020

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

Estate Andrew Chowdhury,
Jai Jawan Stall,
Taratala Road(Opp. CESC Office),
Kolkata-700088
And
18/8, Biren Roy Road(East),
Kolkata-700008.

By Order of
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
16-12-2020
Head Assistant
OFFICE OF THE 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 10.07.2019 you are called upon to show cause on/or before 24.07.2019 why an order requiring you to pay damages of Rs. 1,41,415/- (Rupees One Lakhs Forty One thousand Four hundred Fifteen only) together with [compound interest] for unauthorised use and occupation of the said premises, should not be made.

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

NOW, THEREFORE, in exercise of the powers conferred on me by Sub-section (2) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby order you to pay the sum of Rs. 1,41,415/- (Rupees One Lakhs Forty One thousand Four hundred Fifteen only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.03.2015 to 02.05.2019 (both days inclusive) to SMP, Kolkata by 24.12.2020.

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 @ 6.20 % per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

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-300/65

The piece or parcel of land msg. 13.94 Sq.m or thereabouts is situated at Taratala Road near its junction with Diamond Harbour, under Plate No. D-300/65. It is bounded on the North by the Trustees' land occupied by C.Comens & Sons Ltd., On the East, West and South by the Trustees Taratala Road.

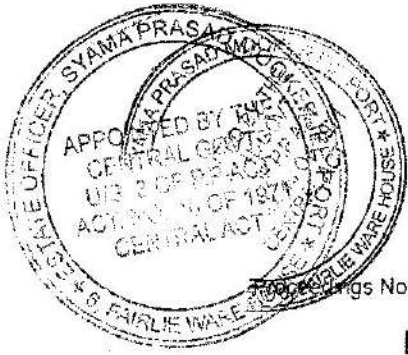
Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

Date 11.12.2020


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 TRUST
CERTIFIED COPY OF THIS DEED
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Assistant
OFFICE OF THE ESTATE OFFICER



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. 1579, 1579/D Of 2017 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Estate Andrew Chowdhury

15
11.12.2020

FINAL ORDER

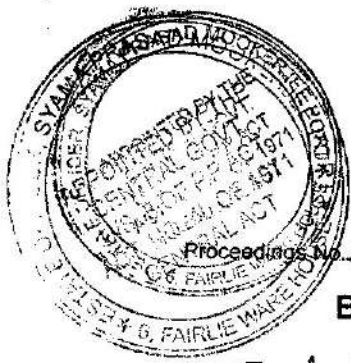
The matter is taken up today for final disposal. The factual aspect involved in this matter is required to be put forward in a nutshell in order to link up the chain of events leading to this proceedings. It is the case of Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust], hereinafter referred to as KoPT, Applicant herein, that land msg. 13.94 Sq.m or thereabouts situated at Tarala Road near its junction with the Diamond Harbour Road, comprised under Plate No. D-300/65 was allotted to Estate Andrew Chowdhury., O.P. herein, on monthly licence basis with effect from 02.11.1988, on consideration of his being disabled ex-serviceman as a token licence fee/rent Rs.1/- for erection of "Jai Jawan Stall" on certain terms and conditions as embodied in KoPT's offer/letter for allotment dated 28.09.1988. Thereafter, Andrew Chowdhury was expired on 29.11.2003 and after the demise of said O.P., family members of O.P preferred to continue in occupation without making payment of requisite charges for occupation in spite of demand for possession as per revocation Notice dated 05.01.2015 bearing no. Lnd.4954/15/2941. It is also the case of KoPT that representative of O.P. has violated the condition of tenancy under licence by way of not making payment of compensation/damages and encroached 5.3 sq.mtrs of land without any approval from KoPT. It is argued that after expiry of the period as mentioned in the revocation Notice, O.P. has no authority under law to occupy the Public Premises. It is contended on behalf of KoPT that O.P. is liable to pay damages for wrongful use and enjoyment of the Port Property upto the date of handing over of clear vacant possession to KoPT.

This Forum of Law formed its opinion to proceed against O.P. and issued Show Cause Notice u/s 4

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

S. De
16.12.2020

S. De



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. 1579, 1579/D Of 2017 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Andrew Chowdhury ^{VS}

15
11-12-2020

of the Act (for adjudication of the prayer for order of eviction etc.) and Show ^{Cause} Notice u/s 7 of the Act (for adjudication of the prayer for recovery of damages etc.) both dated 10.07.2019(vide Order No.05 dated 10.07.2019).

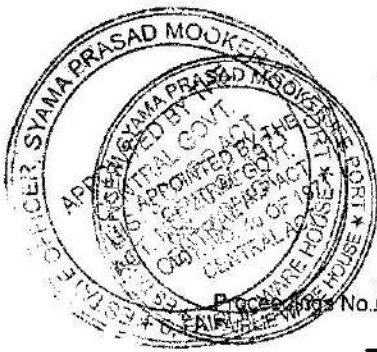
The said notice/s were sent through Speed Post as well as hand delivery to the recorded addresses of O.P. at Taratala Road,(Opp. CESC Office), Kolkata-700088 and 18/8, Biren Roy Road,(East), Kolkata-700008. It appears that One of such Notice/s which were sent through Speed Post was returned back to this Forum by the Postal Department with the endorsement "Deceased". 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 17.07.2019 also depicts that said Notice/s have also been received by a representative of O.P on 17.07.2019 and due affixation of the said Notice/s have also been made on the subject premises on the same day at about 3 P.M. as per the mandate of the P.P. Act.

On the Scheduled date of appearance and filing reply to the Show Cause (i.e 24.07.2019), except one Mamata Kundu, sitting occupant, no one appeared on behalf of O.P to contest the matter. Said Mamata Kundu claiming herself as an interested party to this instant proceedings entered appearance through her Ld' advocate who filed Vokatatnama on her behalf along with a prayer for time to file reply to the Show Cause. Thereafter on 21.08.2019, said sitting occupant filed her Reply/Written Objections to the Show Cause through her son. She claimed to have in occupation of the subject premises for a considerable period on the strength of an Agreement of lease which was made with the O.P. on 01.03.1999. She further prayed for regularization of tenancy in her favour on

By Order of :
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE
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

[Handwritten signature]

[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

Office No. 1579, 1579/D Of 2017 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

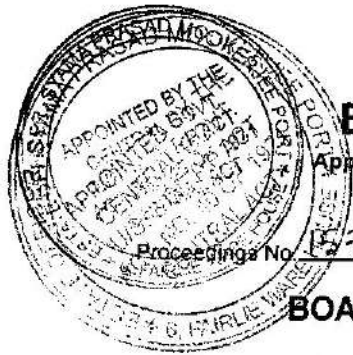
Estate Andrew^{VS} Chowdhury

15
11.12.2020

consideration of payment deposited on 14.05.2015, 03.07.2012 and 08.01.2013 and also being added her as a party to his proceeding. I have duly considered the application of such sitting occupant/interested Party as filed on 09.08.2019, 21.08.2019, and 22.11.2019. After due consideration of the submissions/arguments made on behalf of the parties, I find that following issues have come up for my adjudication/decision:

1. Whether the proceedings under P.P. Act is maintainable or not;
2. Whether KoPT's notice dated 05.01.2015 as issued to representative of O.P., demanding possession from them is valid and lawful or not;
3. Whether O.P has encroached upon the said public premises or not;
4. Whether non filing of comments on behalf of KoPT implies admission of objections raised by the said interested Party/sitting Occupant or not;
5. Whether in absence of any specific objections, KoPT has right to term such interested Party/sitting occupant as unauthorised occupant or not;
6. Whether by accepting payment from the interested Party /Sitting Occupant KoPT has accepted /acknowledged such interested Party/sitting Occupant as authorised occupant or not;
7. Whether the right of interested Party to use and occupy the premises is protected under the Law of "Estoppel" and "Ligitimate Expectation" or not;

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.

1579, 1579/D

of

2017

Order Sheet No.

14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Estate Andrew chowdhury

15

11.12.2020

8. Whether the interested Party/Sitting Occupant should get the opportunity to Cross Examine the witness of KoPT or not;
9. Whether O.P.'s occupation could be termed as "unauthorised occupation" in view of Sec.2 (g) of the P.P. Act and whether O.P. is liable to pay damages to KoPT during the period of its unauthorised occupation or not.

As regards Issue No.1, I must say that the properties owned and controlled by the Port Authority has been declared as "public premises" by the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and Section-15 of the Act puts a complete bar on Court's jurisdiction to entertain any matter relating to eviction of unauthorised occupants from the public premises and recovery of rental dues and/or damages, etc. KoPT has come up with an application for declaration of representatives of O.P's status as unauthorised occupant ~~into~~ the public premises with the prayer for order of eviction, recovery of compensation etc against O.P. on the ground of 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 serving Show Cause Notice/s u/s 4 & 7 of the Act is very much maintainable and there cannot be any question about the maintainability of proceedings before this Forum of Law. In fact, proceedings before this Forum of Law is not statutorily barred unless there is any specific order of stay of such proceedings by any competent court of law. Moreover, the interested party/sitting occupant although admitted that she is in occupation and enjoyment of the subject

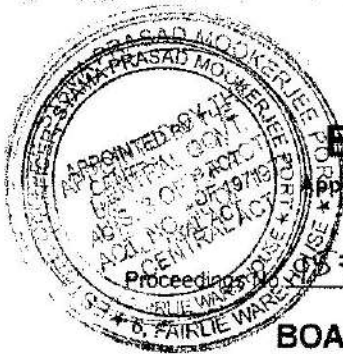
By Order of:

THE ESTATE OFFICER

SYAMA PRASAD MOOKERJEE PORT

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

16.12.2020
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

1579, 1579/D of 2017 Order Sheet No. 15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Estate Andrew Chowdhury

15
11.12.2020

premises for considerable years, however, she cannot claim any legal right like licensee. Moreover, such interested Party/ sitting occupant has no locus standi to raise those contentions as because the original licence has already been expired with the demise of said Andrew Chowdhury. The Issue is thus decided accordingly in favour of KoPT.

Issue no 2 and 3 are taken up together, as the issues are related with each other. It is the case of KoPT that the land in question was granted to one Andrew Chowdhury, under monthly licence with effect from 02.11.1988 on consideration of his being disabled ex-serviceman as a token licence fee/rent Rs.1/- for erection of "Jai Jawan Stall" on certain terms and conditions as embodied in KoPT's offer/letter for allotment dated 28.09.1988. Thereafter, Premlata Chowdhury, W/O said Andrew Chowdhury by her letter dated 02.07.2012 brought to the notice of KoPT that on 29.11.2003 said licensee was demised. Thereafter, the KoPT decided to terminate the licence and issued revocation notice dated 05.01.2015 to Estate Andrew Chowdhury forth with determining the licence and requiring the said Estate Andrew Chowdhury to quit and vacate the premises on 15.01.2015. Since this did not yield any response and neither the legal heirs of the deceased licensee nor the sitting occupant handed over possession of the property, KoPT filed the application dated 07.09.2015 before this Forum, culminating into the present proceedings. During the course of hearing, the legal heirs of Andrew Chowdhury did not appear before this Forum. Only the sitting occupants, namely Smt. Mamata Kundu and her son Rajib Kundu appeared. KoPT argues that the rights on the property belonging to KoPT cannot be assigned/sold by any licensee without prior approval of KoPT, moreover, the licence has

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
16-12-2020
OFFICER

[Handwritten signature]

[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

Proceedings No. 1579, 1579/D of 2017 Order Sheet No. 16

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Andrew VS Chowdhury

15
11.12.2020

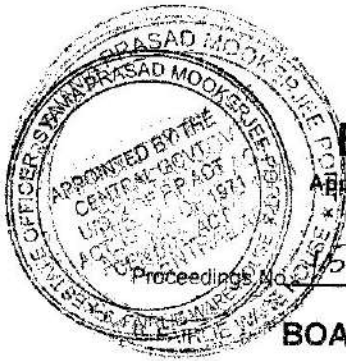
automatically expired with the demise of said Andrew Chowdhury. Therefore, any attempt to establish any claim of occupation in the property by the interested party/sitting occupant is illegal.

In view of the above I have no doubt that Smt. Mamata Kundu and her family members have no authority to remain in occupation and as such are unauthorised occupants into the public premises. As per the principles/ provisions of the Indian Easement Act the license is not heritable right, a very inferior quality of right too in respect of occupation of a premises. When someone fails to comply with all the terms and conditions for grant of licence or licensee dies during the continuance of the licence period, Port Authority has every right to revoke such licence by due notice to O.P. or other interested party. Here in this instant case KoPT's notice dated 05.01.2015 as issued to representative of O.P., demanding possession from them, is therefore, valid, lawful and very much enforceable in accordance with law. Further I may add that KoPT's allegation for encroachment of 5.3 sq.m of land by O.P is also have a ground because the inspection Report as submitted by KoPT vide Letter dated 13.02.2018 clearly shows that there is an encroachment.

Issue no 4 and 5 are also taken up together, as the issues are related with each other. Interested Party/Sitting occupant has claimed in their reply/written objection that *non filing of comments on behalf of KoPT implies admission of objections or in absence of any specific objections, KoPT has no right to term such interested Party/sitting occupant as unauthorised occupant.* But upon holistic consideration of the entire facts and gamut of the case, my view is that interested party/sitting occupant cannot claim such right because I do not find any new material in their reply that deserve

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

[Signature]
[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. 1579, 1579/D of 2017 Order Sheet No. 17

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Andrew VS Chowdhury

15
11.12.2020

comment on the part of KoPT. Filing of comment on reply is not always material or an obligatory task on the part of an applicant of the Proceedings. Although KoPT has not filed any specific comment on the reply/written objection of such sitting occupant, however, intention of KoPT in determination of such licence by issuing revocation notice is very much clear from their submission. Moreover, KoPT has already placed their plea before the Forum by filing the present application dated 07.09.2015 and number of applications thereafter 26.02.2016, 27.06.2017 and 09.04.2019. Under such circumstances, if no formal comment is filed on behalf of KoPT, it does not affect the continuation of the proceeding on the part of KoPT. Therefore, these issues are also decided in favour of KoPT.

As regards the issue No.6, I must say that mere acceptance of an amount tendered by interested party/sitting occupant during the pendency of the proceedings cannot be said to be a "waiver" on the part of KoPT. As per law, institution of proceedings/suit is sufficient to express the intention of the landlord. In the present case in hand KoPT actively participated in the proceedings for ejection against the interested Party/sitting occupant and as such it cannot be an accepted proposition that the revocation notice has been waived by any sense of law. It is also my conclusion that said interested party/sitting occupant cannot be said to be a present representative of O.P. He appeared solely on his personal capacity.

As regards the issue No 7, I must say that the principles of estoppels is procedural in nature and thus the same will have no application in a case where issues involved are only pure question of law. According to law the question of estoppels arise when one person has, by his declaration, act

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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

16.12.2020
Head Assistant
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. 1579, 1579/D Of 2017 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Andrew ^{VS} Chowdhury

15

11-12-2020

or omission, **intentionally** caused or **permitted** another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed in any suit or proceedings between himself and such person or his representative, to deny the truth of that thing. In other words to constitute an estoppels there must be an intention or permission to believe certain thing. There is no material in Interested Party/Sitting Occupant's objection by which it can be proved that there was any intention or permission on the part of KoPT about Interested Party/Sitting Occupant's occupation in the said public premises in question. "Ligitimate expectation" also have no application in the proceeding before the Estate Officer.

As regards the issue No.8, where it is argued on behalf of interested Party/Sitting occupant that if some facts are required to be proved by KoPT, indisputably, the interested party/sitting occupant should get the opportunity to Cross Examine the witness of KoPT. But I must say on this issue that when KoPT's case is based on record and Forum of Law is governed by a Special Act of Parliament (P.P. Act) which itself provides a complete Code, it is not mandatory for KoPT to exhibit those documents/papers formally by Firisti as is applicable for Civil Court Procedure/ Practice. This proceeding is strictly confined within the four corners of P.P Act and summary in nature, and the Estate Officer definitely is not bound to adhere to the rigidity of the Civil Courts. Therefore, decision can be taken with exchange of written submissions of the parties and Oral Examination/cross Examinations of the parties is not at all necessary.

As regards the issue No.9, I must say that revocation notice dated 05.01.2015 as issued by KoPT is very much valid, enforceable and in accordance with law. As per Sec 2(g) of the P.P Act,

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



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. 1579/1579/D of 2017 Order Sheet No. 19

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Andrew ^{VS} chowdhury

15
11.12.2020

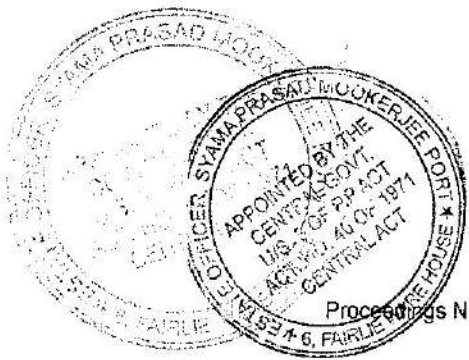
1971, the "unauthorized occupation" in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other 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 Licence Agreement that KoPT is very much within its right to determine the relationship by virtue of this revocation notice. 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 on the strength of an agreement, this Forum cannot sit silent. In view of the discussions above, the issues are decided firmly in favour of KoPT. I find that this is a fit case for passing order of eviction against O.P or other interested Party whoever in occupation, and hence, being satisfied as above I hereby, passing Order of eviction under Section 5 of the Act on following grounds.

1. That the licence was determined with the death of the Licensee.
2. That O.P. has failed to appear before the Forum and has failed to file any reply to Show cause Notice.
3. That the sitting occupant appearing before the Forum has failed to explain their authority to occupy the premises.
4. That O.P has unauthorisedly encroached 5.3 sq.m of Trustee's land in violation of the condition of such licence.
5. The O.P or any other person/occupant have failed to bear any witness or adduce any

By Order of:
THE ESTATE OFFICER
SVAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SVAMA PRASAD MOOKERJEE PORT
11/12/20
16/12/20
Head of the Estate Officer
Kolkata Port Trust

[Signature]

[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. 1579, 1579/D of 2019 Order Sheet No. 20

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Andrew ^{VS} Chowdhury

15

11.12.2020

evidence in support of its occupation as "authorised occupation"

6. That the notice of revocation dated 05.01.2015 as served upon the 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.
7. That the 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.

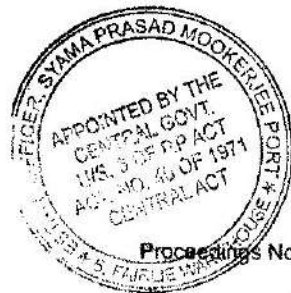
ACCORDINGLY, I sign the formal order of eviction u/s 5 of the Act as per Rule made there under, giving 15 days time to O.P. and any person/s whoever may be in occupation to vacate the premises. I make it clear that all person/s whoever may be in occupation are liable to be evicted by this order and the 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.

It is my considered view that a sum of Rs.1,41,415/- for the period 01.03.2015 to 02.05.2019 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of damages for unauthorized occupation and O.P. must have to pay such dues to KoPT on or before 24.12.2020. The said damages shall attract

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

[Signature]

[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. 1579, 1579/D of 2017 Order Sheet No. 21

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Andrew Chowdhury ^{VS}

15
11.12.2020

compound interest @ 6.20 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrence of liability, till the liquidation of the same, as per the adjustment of payments, if any made so far by O.P., in terms of KoPT's books of accounts. I sign the formal orders u/s 7 of the Act.

I make it clear that KoPT is entitled to claim further damages against O.P. for unauthorized use and occupation of the public premises right upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law, and as such the liability of O.P. to pay damages extends beyond 02.05.2019 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 02.05.2019, 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
Head Assistant
ESTATE OFFICER
MOOKERJEE PORT