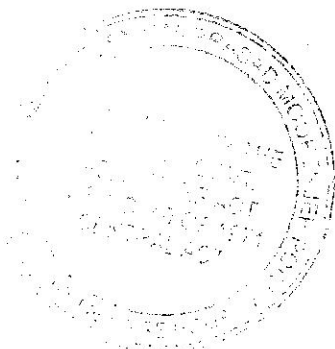


Web-Set



**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. 08 DT 15.01.2021
PROCEEDINGS NO. 1712 OF 2019

**BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/S Iswari Prasad Singh & Co (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 Iswari Prasad Singh & Co of 67/27, Strand Road, Cross Road No.13,
Kolkata-700006** is in unauthorized occupation of the Public Premises
specified in the Schedule below :

REASONS

- 1) That O.P. has failed to liquidate the rental dues of the Port Authority, for a considerable period, despite being requested for its immediate liquidation.
- 2) That O.P has failed to appear before this Forum and has failed to file reply to the Show Cause Notice under Sec. 4 of the Act inspite of sufficient chances being given to them.
- 3) That the sitting occupants appearing before this Forum has failed to explain their authority to occupy the premises.
- 4) That O.P has parted with possession of the said premises to rank outsiders in violation of the condition of such long term lease.
- 5) That O.P has erected unauthorised construction in violation of the condition of such long term lease.
- 6) That O.P./any other person on behalf of O.P. have failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.

Sud

PLEASE SEE ON REVERSE

Stamp: OFFICE OF THE ESTATE OFFICER, SYAMA PRASAD MOOKERJEE PORT, KOLKATA, 15.01.2021

- 7) That O.P. or any other person/s asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation", inspite of sufficient chances being provided.
- 8) That the lease was expired due to efflux of time therefore, the vacation notice dated 31.03.2017 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 Section 2(g) of the P.P Act.
- 9) That O.P. is liable to pay damages for wrongful use and occupation of the Public Premises upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

A copy of the reasoned order No. 08 dated 15.01.2021 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 Iswari Prasad Singh & Co of 67/27, Strand Road, Cross Road No.13, Kolkata-700006** 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 Iswari Prasad Singh & Co of 67/27, Strand Road, Cross Road No.13, Kolkata-700006** 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

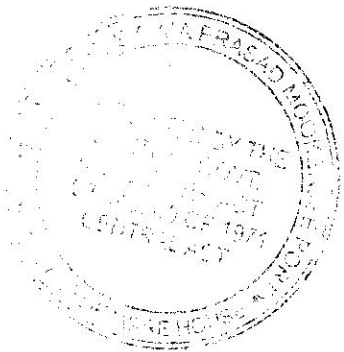
Plate No. SB-242

Land msg. about 167.504 Sq.m on the South side of Cross Road No.13 at Nimtollah, Thana-Jorabagan Police Station in the Presidency town of Kolkata (under Plate No.SB-242). It is bounded on the North by the Cross Road No.13 on the East by the Trustees' land leased to Ram Brich Singh, on the South by the Trustees' land leased to Radha Krishna Gopi Krishna and on the West by the Trustees' land leased to Ram Prasad Singh and Guru Prasad Singh
Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

Date- 18.01.2021


Signature & Seal of the
Estate Officer

COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA FOR INFORMATION.



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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 NQ.1712/R OF 2019
ORDER NO. 08 DATED: 15.01.2021.

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 Iswari Prasad Singh & Co
67/27, Strand Road,
Cross Road No.13,
Kolkata-700006

ORDER
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
15.01.2021
Head Assistant
OFFICE OF THE 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 07.03.2019 you are called
upon to show cause on or before 28.03.2019 why an order requiring you
to pay a sum of Rs 1,37,430/- (Rupees One Lakhs Thirty Seven
Thousand Four Hundred Thirty 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 before the said date.

NOW, THEREFORE, in exercise of the powers conferred by sub-section
(1) of Section 7 of the Public Premises (Eviction of Unauthorised
Occupants) Act 1971, I hereby require you to pay the sum of Rs
1,37,430/- (Rupees One Lakhs Thirty Seven Thousand Four Hundred
Thirty only) for the period 01.04.2005 to 31.07.2005 (both days inclusive)
to SMP, Kolkata by 01-02-2021.

Sund

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

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

SCHEDULE

Plate No. SB-242

Land msg. about 167.504 Sq.m on the South side of Cross Road No.13 at Nimtollah, Thana-Jorabagan Police Station in the Presidency town of Kolkata (under Plate No. SB-242). It is bounded on the North by the Cross Road No.13 on the East by the Trustees' land leased to Ram Bich Singh, on the South by the Trustees' land leased to Radha Krishna Gopi Krishna and on the West by the Trustees' land leased to Ram Prasad Singh and Guru Prasad Singh Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

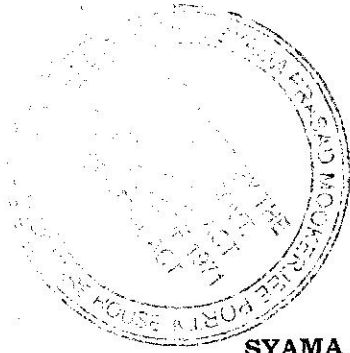


Dated: 19.01.2021

Signature and seal of the
Estate Officer



COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA 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. 1712/D OF 2019
ORDER NO.08 DATED : 15.01.2021

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 Iswari Prasad Singh & Co
67/27, Strand Road,
Cross Road No.13,
Kolkata-700006

OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
KOLKATA
15.01.2021
ORDER NO. 08
DATED 15.01.2021

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 07.03.2019 you are called upon to show cause on/or before 28.03.2019 why an order requiring you to pay damages of Rs. 23,87,077/- (Rupees Twenty Three Lakhs Eighty Seven thousand Seventy Seven 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. 23,87,077/- (Rupees Twenty Three Lakhs Eighty Seven thousand Seventy Seven only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.08.2005 to 30.04.2017 (both days inclusive) to SMP, Kolkata by 01.02.2021.

PLEASE SEE ON REVERS

: 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

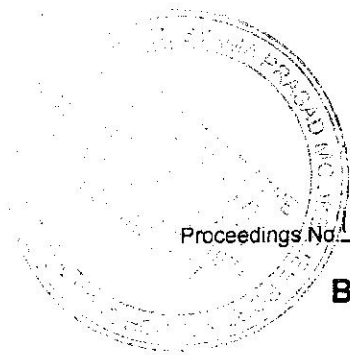
Plate No. SB-242

Land msg. about 167.504 Sq.m on the South side of Cross Road No.13 at Nimtollah, Thana-Jorabagan Police Station in the Presidency town of Kolkata (under Plate No.SB-242). It is bounded on the North by the Cross Road No.13 on the East by the Trustees' land leased to Ram Brich Singh, on the South by the Trustees' land leased to Radha Krishna Gopi Krishna and on the West by the Trustees' land leased to Ram Prosad Singh and Guru Prasad Singh Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

Date- 18-01-2021

Signature & Seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA FOR INFORMATION.



Estate Officer, Kolkata Port Trust

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

Proceedings No. 1712, 1712/R, 1712/D Of 2019 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/s. Iswari Prasad Singh & Co.

08
15.01.2021

OFFICE OF THE ESTATE OFFICER
SHYAMA PRASAD MOOKERJEE PORT
15.01.2021

FINAL ORDER

The instant Proceeding No.1712, 1712/R, 1712/D of 2019 is taken up today for final disposal. It is the case of Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust], hereinafter referred to as KoPT, applicant herein, that M/s Iswari Prasad Singh & Co, O.P. herein, came into occupation of KoPT's land measuring about 167.504 sq.m situated on the South Side of Cross Road No.13 at Nimtollah, comprised under Plate No.SB-242, being the Public Premises in question, as a long term lessee for thirty years w.e.f 01.08.1975 on certain terms and conditions, and O.P. after expiry of such lease by efflux of time, has neglected to pay rent, taxes compensation and other charges for a prolonged period, parted with possession, erected unauthorized construction and also failed to remove such breaches despite repeated requests from KoPT. It is strongly argued on behalf of KoPT that the O.P. has no authority under law to occupy the public premises after expiry of the period as mentioned in the vacation Notice being No Lnd.7/35(Duplicate)/17/519 dated 31.03.2017 and the O.P. is liable to pay compensation/ mesne profit etc for wrongful use and occupation of the Port property upto the date of handing over of vacant possession of the same.

Sud

This Forum issued Show Cause notice under Section 4 of the Act (for adjudication of the prayer for issuance of Order of Eviction etc.) and Show Cause Notice/s under 7 of the Act (for adjudication of the prayer for recovery of rental dues, damages, interest etc) all dated 07.03.2019 (vide Order No.1 dated 06.03.2019).

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. 1712, 1712/R/1712/D Of 2019 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/S. I Sarazi Prasad Singh & Co.

08
15.01.2021

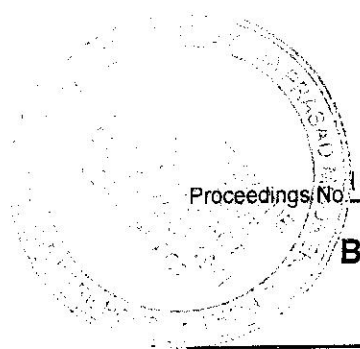
RECEIVED
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST
19/01/2021

Sud

It is seen from record that the letter containing the Notice/s sent through Speed Post as aforesaid was not returned back by the Postal Department. However, the Report of the Process Server dated 19.03.2019 has confirmed that the Notice/s have been personally served upon O.P and one Avinas.L. Gupta has received the same on behalf of O.P & affixation was also made on the subject premises in question.

On the scheduled date of appearance and filing of reply to the Show Cause Notice/s, one Sri Amit Gupta, sitting occupant, claiming himself as authorised representative of O.P, appeared through his Ld' Advocate and filed his vokalatnama along with a prayer for time to file reply/written objection/proof of identity on the next date of hearing. Forum allowed him opportunity as per the principles of natural justice but on 22.04.2019 such sitting occupant has failed to file any reply, proof of identity in support of his claim due to sudden demise of his mother. However, Forum allowed further opportunity to him but Advocate of sitting occupant again failed to appear and contest the matter by filing reply to the Show Cause. After getting several opportunities as neither O.P. nor the sitting occupants chose to appear and file their reply/written objection, I proceeded to reserve the final order on 03.06.2019 after hearing the arguments of KoPT.

I have carefully gone through the contentions made by KoPT against the O.P. It is seen that KoPT in its communications dated 13.11.2015 and 12.02.2016 etc repeatedly requested the O.P. for immediate liquidation of the rent & taxes/compensation but apparently no heed was paid by the O.P.



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. 1712, 1712/R & 1712/D Of 2019 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/S. Iswari Prasad Singh & Co.

08
15.01.2021

Moreover, I find that the allegation of Port authority on unauthorized parting, erection of unauthorized structure are also acceptable to me as O.P has failed to appear and to give any suitable explanation by filing reply to the Show Cause. Further, it is seen that in its application dated 12.02.2016, KoPT has categorically spelt out how the public premises is being used and enjoyed by unauthorised sitting occupants. In fact, the presence of so many sitting occupants in the premises is sufficient enough to conclude "parting of possession" by the O.P. I must say that this Forum is to adjudicate the matters strictly in terms of the P.P. Act while ensuring natural justice is not denied to anyone. In my view, the lack of any interest of the O.P. coupled with prolonged enjoyment of a vital public premises at a prime location by several unauthorised occupants, deserves no protection in all sense of law.

In my view, the action of the Port authority in issuing the vacation Notice dated 31.03.2017 cannot be said to be improper or unjust. It appears to me that the said Notice had been validly issued and served on the O.P. and the same is definitely binding on the parties, in the facts and circumstances of the case. Apart from all this things, Sitting occupant of this instant proceeding has also filed an application on 25.06.2019 claiming some documents with a view to file his reply. But it seems me that such application of Sitting occupant has no relevance after a prolong period when final order has already been reserved moreover, proceeding under P.P Act is a summary proceeding and there is not much scope of prolonging the hearing process therefore, such application of sitting occupant is rejected after consideration on all respect.

IN
ORDER
OF
THE
BOARD
OF TRUSTEES
OF THE PORT
OF KOLKATA
19.01.2021
Estate Officer
Kolkata Port Trust

Sub

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. 1712, 1712/R 1712/D Of 2019 Order Sheet No. 14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/S. ISWARI Prasad Singh & Co.

08
15-01-2021

In view of the circumstances, as there is no reply to the Show Cause Notice under Sec. 4 of the Act, either on behalf of O.P or on behalf of any other person/s interested in the property in question, inspite of sufficient chances given to them, I am left with no other alternative but to issue the Order of Eviction against O.P., as prayed for on behalf of KoPT, on the following grounds/reasons:-

- 1) That O.P. has failed to liquidate the rental dues of the Port Authority, for a considerable period, despite being requested for its immediate liquidation.
- 2) That O.P has failed to appear before this Forum and has failed to file reply to the Show Cause Notice under Sec. 4 of the Act inspite of sufficient chances being given to them.
- 3) That the sitting occupants appearing before this Forum has failed to explain their authority to occupy the premises.
- 4) That O.P has parted with possession of the said premises to rank outsiders in violation of the condition of such long term lease
- 5) That O.P has erected unauthorised construction in violation of the condition of such long term lease.
- 6) That O.P./any other person on behalf of O.P. have failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 7) That O.P. or any other person/s asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation

OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST
19-01-2021

Sud

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.

1712, 1712/R & 1712/D

Of

2019

Order Sheet No.

15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/S. Iswari Brosad Singh & Co.

08

15.01.2021

as "authorised occupation", inspite of sufficient chances being provided.

- 8) That the lease was expired due to efflux of time therefore, the vacation notice dated 31.03.2017 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 Section 2(g) of the P.P Act.
- 9) That O.P. is liable to pay damages for wrongful use and occupation of the Public Premises upto the date of handing over of 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 the canons of Law till the date of unencumbered 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 can 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.1,37,430/- for the period 01.04.2005 to 31.07.2005 (both days inclusive) is due and recoverable from O.P.

Sub

THE
PORT
OFFICE
KOLKATA
15.01.2021
ESTATE OFFICER
KOLKATA PORT TRUST

Estate Officer, Kolkata Port Trust

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

Proceedings No. 1712, 1712/R & 1712/D of 2019 Order Sheet No. 16

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/S. Iswari Prasad Singh & Co.

08

15.01.2021

by the Port authority on account of rental dues and O.P. must have to pay the rental dues to KoPT on or before ^{01.02.2021}..... 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 23,87,077/- 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 01.08.2005 to 30.04.2017 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by ^{01.02.2021}..... 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 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

Stamp: OFFICE OF THE ESTATE OFFICER, BOARD OF TRUSTEES OF THE PORT OF KOLKATA, 19.01.2021

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. 1712,1712/R x 1712/D Of 2019 Order Sheet No. 17

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/s. Iswari Prasad Singh & Co.

08

15-01-2021

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 30.04.2017 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 30.04.2017, 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



(Sourav Mitra)

ESTATE OFFICER

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

OFFICE OF THE ESTATE OFFICER
STATE PRESIDENT KOLKATA PORT