

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. 1442/R, 1442/D of 2014 Order Sheet No. 8

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s T. D. Kumar & Bros. Ltd. ^{VS}

08
03.02.2021

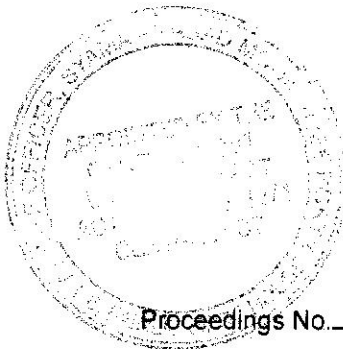
FINAL ORDER

The instant proceedings being No. 1442/R, 1442/D of 2014 arises out of the application being No. 4402/13/2655 dated 10.12.2013 filed by Syama Prasad Mookerjee Port, Kolkata (erstwhile Kolkata Port Trust), hereinafter referred to as KoPT, Applicant herein, praying for recovery of rental dues, interest etc against M/s. T.D. Kumar & Bros. Pvt. Ltd., O.P. herein, under relevant provision of the Public Premises (Eviction of Unauthorised Occupants) Act 1971. The facts of the case is summarised here under.

It is the case of KoPT that land measuring about 176.42 sq.m of Land and 93.65 sq. mt of structure altogether measuring 270.07 sq. mt at Shalimar besides P.T.R. Siding, Shalimar, Thana- Shibpur, District and Registration District- Howrah under Plate No. HL-376/1/A was allotted to the O.P. by the Port Authority on long term lease basis. It has been claimed that O.P. failed to pay monthly rent and taxes as also interest as applicable as per KoPT rules. As per KoPT, O.P. was required to vacate the premises in terms of the Notice to Quit dated 24.01.1985 served as per statute. It is the specific submission that O.P. has no authority under law to occupy the public premises on the expiry of period as mentioned in the notice to quit dated 24.01.1985 as served upon O.P. by the Port Authority. In view of the Quit Notice representative of KoPT took over possession of the subject premises on 25.01.2012.

The instant Proceeding No. 1442/R, 1442/D of 2014 is for adjudication of application being No. 4402/13/2655 dated 10.12.2013 submitted by Syama Prasad Mookerjee Port, Kolkata (erstwhile Kolkata Port Trust), hereinafter referred to as KoPT, the Applicant herein, praying for order for recovery of arrear rent, taxes, along with interest from M/s. T.D. Kumar & Bros. Pvt. Ltd., O.P. herein.

This Forum of Law issued show cause notice under Section 7 of the PP Act to O.P. dated 27.03.2019 for the purpose of initiation of adjudication process as envisaged under the Act. It reveals from record that



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Proceedings No. 1442/R, 1442/D Of 2014 Order Sheet No. 9

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s T. D. Kumar & Bros Ltd ^{VS}

08
03.02-2021

the Notice under Section 7 has been return from the postal Department with the acknowledgement 'Not Known' which was send at the recorded address of O.P. As a result thereof, the Notice under Section 7 was published in KoPT's website and in English Daily "The Times of India" on 12.09.2019 which yielded no results. As no one appeared on behalf of O.P. or any person interested in this proceedings inspite of publication of notice in Daily Newspaper having wide circulation, I have no bar to allow the prayer of KoPT for recovery of rental dues from O.P.

Department is directed to draw formal order for rent u/s. 7 of the Act for Rs. 7,144.36/- for the period 01.08.1983 to 31.03.1985 (both days inclusive), directing O.P. to pay the said amount on or before 18.02-2021 and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 18.02.2021. In terms of Section 7 (2-A) of the PP Act, 1971, 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. I sign the formal order u/s 7 (1) & (2-A) of the Act. I make it clear that in the event of failure on the part of O.P. to pay the amount to KoPT as aforesaid, Port Authority is entitled to proceed further for recovery of its claim in accordance with law.

In my opinion KoPT's claim for damages from 01.04.1985 to 25.01.2012 for Rs. 10,59,772.41/- against Plate No. HL-376/1/A (excluding interest for delayed payment) for wrongful occupation may be payable by O.P. as it is gathered in course of hearing that the charges so claimed by KoPT is on the basis of the Schedule of Rent Charges published under the Authority of Law as per provisions of the Major Port Trusts Act 1963. In course of hearing, I find that KoPT has made out an arguable claim against O.P., founded with sound reasoning. I make it clear that Kolkata Port

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s T. D Kumar & Bros Ltd ^{VS}

08
03.02.2021

Trust is entitled to claim damages against O.P. for unauthorized use and occupation of the public premises upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law and KoPT is entitled to claim interest upon dues/charges right from the date of incurrence of liability by O.P. as per KoPT's Rule.

NOW THEREFORE, I hereby assess the damages payable by the O.P. for wrongful and unauthorised occupation of the public premises in question, for the period 01.04.1985 to 25.01.2012 for Rs. 10,59,772.41/- (principal amount) against Plate No. HL-376/1/A and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 18.02.2021. In terms of Section 7 (2-A) of the PP Act, 1971, 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.

I sign the formal order u/s 7 (1) & (2-A) of the Act. I make it clear that in the event of failure on the part of O.P. to pay the amount to KoPT as aforesaid, Port Authority is entitled to proceed further for recovery of its claim in accordance with law.

GIVEN UNDER MY HAND AND SEAL


(Satyabrata Sinha)
ESTATE OFFICER

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

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, Fairley Place (1st Floor)
KOLKATA - 700 001

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

Form " E "

PROCEEDINGS NO.1442/R OF 2014
ORDER NO.08 DATED: 03.02-2021

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 T.D Kumar & Bros. Ld.
20-1, Maharshi Debendra Road,
Kolkata- 700007

By Order of
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
TRUST
S.D.
04.02-2021

WHEREAS you were in occupation of the public premises described in
the Schedule below.

AND WHEREAS, by written notice dated 27.03.2019 you are called
upon to show cause on/or before 11.04.2019 why an order requiring you
to pay a sum of Rs 7,144.36 (Rupees Seven Thousand One hundred
Forty Four and paise Thirty Six only) being the rents 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 7,144.36
(Rupees Seven Thousand One hundred Forty Four and paisa Thirty Six
only) for the period 01.08.1983 to 31.03.1985 (both days inclusive) to
SMP, Kolkata by 18.02-2021

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 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.HL-376/1/A

The said piece or parcel of land msg.176.42 Sq.m or thereabouts situate at Shalimar besides P.T.R. Siding, Shalimar, Thana-Shibpur, District and Registration District: Howrah. It is bounded on the North partly by the Trustees' strip of open land beyond which is a Port Trust Railway line and partly by the Trustees' structure occupied by M/S. T.D Kumar & Brothers Pvt. Ltd. on the East partly by the Trustees' structure occupied by M/S T.D Kumar & Brothers Pvt. Ltd. and partly by the Trustees' open land and on the South & West by the Trustees' land occupied M/S T.D Kumar & Brothers Pvt. Ltd.

Structure

The said Trustees' structure consisting of 8 rooms together with verandah space, the total area where of being msg.93.65 Sq.m or thereabouts situate at Shalimar besides P.T.R. Siding Shalimar, Thana: Shibpur, District and Registration District : Howrah. It is bounded on the North by the Trustees' strip of open land beyond which is a Port Trust Railway line, on the East by the Trustees' strip of open land beyond which is the Trustees' watchman' quarter and on the South & West by the Trustees' land occupied M/S T.D Kumar & Brothers Pvt. Ltd.

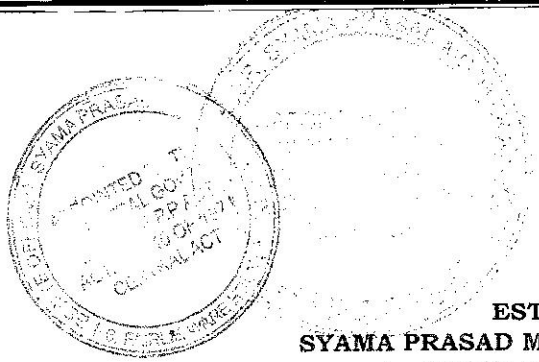
Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.).

Dated: 03.02.2021


Signature and seal of the
Estate Officer

By Order of
THE ESTATE OFFICER
A COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA FOR INFORMATION.

SDE
04-02-2021



**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. 1442/D OF 2014
ORDER NO.08 DATED : 03.02-2021

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 T.D Kumar & Bros. Ld.
20-1, Maharshi Debendra Road,
Kolkata- 700007

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
KOLKATA
S.D.
04.02.2021

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

AND WHEREAS, by written notice dated 27.03.2019 you are called upon to show cause on/or before 11.04.2019 why an order requiring you to pay damages of Rs. 10,59,772.41 (Rupees Ten Lakhs Fifty Nine Thousand Seven hundred Seventy Two and paise Forty One 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. 10,59,772.41 (Rupees Ten Lakhs Fifty Nine Thousand Seven hundred Seventy Two and paise Forty One only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.04.1985 to 25.01.2012 (both days inclusive) to SMP, Kolkata by 18.02.2021

PLEASE SEE ON REVERS

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay compound interest @ 6.20 % per annum 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.HL-376/1/A

The said piece or parcel of land msg.176.42 Sq.m or thereabouts situate at Shalimar besides P.T.R. Siding, Shalimar, Thana-Shibpur, District and Registration District: Howrah. It is bounded on the North partly by the Trustees' strip of open land beyond which is a Port Trust Railway line and partly by the Trustees' structure occupied by M/S. T.D Kumar & Brothers Pvt. Ltd. on the East partly by the Trustees' structure occupied by M/S T.D Kumar & Brothers Pvt. Ltd. and partly by the Trustees' open land and on the South & West by the Trustees' land occupied M/S T.D Kumar & Brothers Pvt. Ltd.

Structure

The said Trustees' structure consisting of 8 rooms together with verandah space, the total area where of being msg.93.65 Sq.m or thereabouts situate at Shalimar besides P.T.R. Siding Shalimar, Thana: Shibpur, District and Registration District : Howrah. It is bounded on the North by the Trustees' strip of open land beyond which is a Port Trust Railway line, on the East by the Trustees' strip of open land beyond which is the Trustees' watchman' quarter and on the South & West by the Trustees' land occupied M/S T.D Kumar & Brothers Pvt. Ltd.

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

Date 03.02.2021

Signature & Seal of the
Estate Officer.

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

S.D.
04.02.2021