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**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 1<sup>st</sup> Floor  
of Kolkata Port Trust's  
Fairlie Warehouse  
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 24 DT 19.02.2024  
PROCEEDINGS NO. 1664 OF 2018

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-  
Estate of Satyendra Nath Nandy & Ors (O.P.)

f s. De  
22.02.2024

**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 of Satyendra Nath Nandy & Ors, of 7A, Ram Sett Road, Kolkata-700006** is in unauthorized occupation of the Public Premises specified in the Schedule below :

**REASONS**

1. That O.P. has failed and neglected to hand over possession of the Public Premises in question after the expiry of lease and after issuance of the Notice to Quit dated 18.09.2003.
2. That O.P. has violated the condition of long term lease as granted by the Port Authority by way of not making payment of dues to KoPT for a prolonged period of time.
3. 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".
4. That the O.P has parted with Possession of the subject premises to third party in violation of the condition of such lease.
5. That the notice to quit dated 18.09.2003 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.
6. 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. 24 dated 19.02.2021 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 **Estate of Satyendra Nath Nandy & Ors, of 7A, Ram Sett Road, 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 **Estate of Satyendra Nath Nandy & Ors, of 7A, Ram Sett Road, 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.

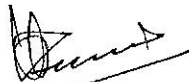
### SCHEDULE

**Plate No. SB-127 & SF-164**

The said piece or parcel of land msg. 608.05 sq.m or thereabout is situated on the north side of Adya Sradh Ghat Road, Kulpighat, Kolkata, Thana-Jorabagan in the presidency town of Kolkata. It is bounded on the north by the Trustees leased land to Pannalal Nandy, on the east by the Trustees land leased to Sambhunath Agarwalla, on the south Trustees land partly leased to Mongal Singh & then Trustees foot path & the Trustees Adya Sradhya Ghat Road & on the West by the Trustees land leased to Calcutta Oil Syndicate.

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

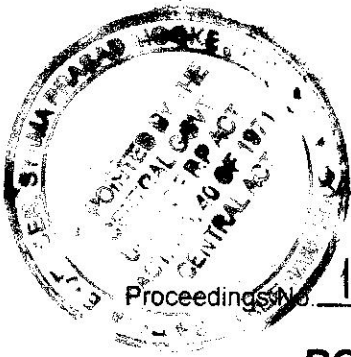
Date-19.02.2021



Signature & Seal of the  
Estate Officer.

f.s.d.  
19.02.2021

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. 1664 Of 2018 Order Sheet No. 18

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate of Satyendra Nath Nandy & Ors <sup>VS</sup>

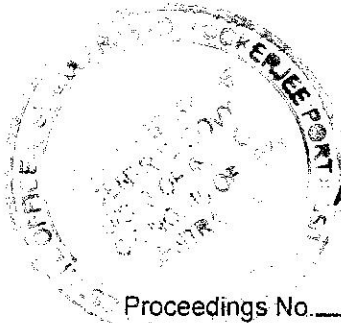
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19-02-2021

#### FINAL ORDER

The matter 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 a long term lease for a period of 10 years was granted to Estate of Satyendra Nath Nandy & Ors (O.P), on certain terms and conditions in respect of land and structure measuring about 608.05 Sq.m and 346.528 Sq.m both situated at the north side of Adya Sradh Ghat Road, Thana-Jorabagan in the presidency town of Kolkata comprised under Plate No.SB-127 & SF-164 respectively and O.P violated the condition of such tenancy by remaining on the subject premises after expiry of such long term lease on 01.06.1992, defaulting in payment of KoPT dues and also by way of parting with possession of the said public premises to rank outsiders without having any authority under law. It is argued on behalf of KoPT that O.P has no authority under law to occupy the public premises after expiry of such lease i.e from 01.06.1992 as mentioned in the notice to quit dated 18.09.2003 and O.P is liable to pay damages for unauthorised enjoyment of the Port property in question.

It appears that the original application was filed by KoPT against Sri Satyendra Nath Nandy. However, in the Show Cause Notice dated 05.10.2018 and in the Order Sheets of the instant matter the Cause Title has been inadvertently recorded as Sri Satyendra Nath Nandy & Ors instead of Sri Satyendra Nath Nandy. It appears that a good number of hearings have taken place before passing of this Order and nobody has ever pointed out such discrepancies before this Forum. Further, O.P has acknowledged their liability towards the subject occupation throughout the entire proceedings. Hence, it appears to me that such discrepancy in the name of O.P., as mentioned in the original application of KoPT dated 08.12.2004, might be a clerical one and did not prejudice the rights and liabilities of the parties to the present proceeding. Now on the basis of the death Certificate of O.P., this



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### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

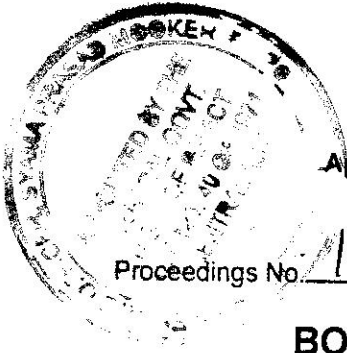
Estate of Satyendranath Nandy & Ors <sup>VS</sup>

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Now on the basis of the death Certificate of O.P., this Forum vide it's Order dated 14.01.2019 has directed the Department to amend the Cause Title of the proceeding as "Estate of Satyendra Nath Nandy & Ors" instead of "Sri Satyendra Nath Nandy" and accordingly such correction was made. However, from page No.7 to 17 of the Order Sheets name of the O.P was again recorded as "Sri Satyendra Nath Nandy & Ors". In my view such further discrepancy in the name of O.P., as mentioned in the Order sheets are also a clerical error and did not prejudice the rights and liabilities of the parties to the present proceeding. In view of the above, it is therefore, directed that henceforth the name of O.P should be read as "Estate of Satyendra Nath Nandy & Ors" for all the material purposes of this proceeding.

This Forum formed its opinion to proceed against O.P under the relevant provisions of the Act and issued Show Cause Notice U/S 4 of the Act (for adjudication of the prayer for order of eviction etc.) dated 05.10.2018 (vide Order No. 01 dated 05.10.2018 as per rule made under the Act.

After issuance of the aforesaid notice, on 5.10.2018, One Sreenath Roy claiming himself as a representative of O.P appeared before the Forum on 10.12.2018 and made a verbal prayer for adjournment to file his reply to the Show Cause. Thereafter on 14.01.2019, O.P filed their reply to the Show Cause along with a copy of death Certificate of Sri Satyendra Nath Nandy. In their reply representative of O.P alleged that the proceeding has been instituted against a dead person and Late Satyendra Nath Nandy has not been in possession of any portion of the said premises and none of his heirs, since deceased, are interested in the said property therefore, KoPT can oust those occupiers and recover outstanding occupational charges from them. Thereafter dated 25.03.2019 by filing rejoinder to such reply, KoPT denied all the averments of O.P. It was submitted by KoPT that as the O.P had been offered land free from all encumbrances which was duly accepted by them law cast a bounden duty upon them



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### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

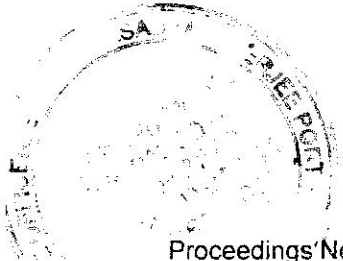
Estate of Satyendra Nath Nandy & Ors <sup>VS</sup>

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possession to KoPT and KoPT is under no obligation to remove the subtenants unauthorisedly inducted by the O.P. Thereafter on 08.04.2019, the matter was posted for final hearing. However, due to the superannuation of the erstwhile Estate Officer from service; the matter was assigned to the undersigned. Following the principles of Natural Justice, this Forum made several attempts for service of the subsequent Orders upon the O.P. for their due appearance and representation of their case before this Forum, However, the O.P. did not pay any heed to such efforts made by this Forum. After realizing that they are not interested in representing their cases and taking note of the apprehension of defeat of the very spirit embodying in the Public Premises Act, 1971 for speedy and summary disposal of cases by prolonging the matter unnecessarily, this Forum concluded the hearing of the case on 03.02.2021 and reserved the case for passing the Final Order.

Now while passing the final order, upon considering the deliberations of 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 non payment of KoPT's dues, unauthorized parting with possession to third party/s in violation of the lease condition and without prior approval of KoPT and unauthorised occupation by O.P after expiry of such lease by efflux of time.

With regard to the issue of non payment of KoPT's dues, although O.P. vide their reply to the Show Cause dated 14.01.2019 has claimed that they have paid the entire dues of KoPT. However, they have failed to produce any sufficient documents in support of their claim. Moreover, during the course of hearing, KoPT has filed a detailed Statement of Accounts as generated on 25.03.2019 which clearly indicates the huge dues on the part of the O.P in respect of both the Plates in question. The said Statement of Accounts have been handed over to O.P vide application/rejoinder dated 25.03.2019. In my view, such statement maintained by the statutory authority in the usual course of business has definite evidentiary value, unless challenged by any



# 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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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate of Satyendra Nath Nandy & Ors <sup>VS</sup>

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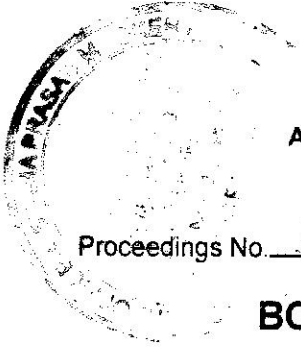
~~has definite evidentiary value, unless challenged by any~~  
of the concerned/interested parties with fortified documents/evidences etc, ready to bear the test of legal scrutiny. Moreover, during the course of hearing, no other submissions or documents have been placed before this Forum which may be in contradiction with the Statements produced by KoPT Authorities. During the course of hearing, I am given to understand by the Port Authority that the rent charged from time to time is based on the rates notified by the Tariff Authority for Major Ports (TAMP) in the Official Gazette, which is binding on all users of the port property. In my view, the breach committed by the O.P. is very much well established in the facts and circumstances of the case and O.P have to bear the consequences, following due applications of the tenets of law. In my view, the conduct of the O.P. does not inspire any confidence. In my considered view, the Port Authority has a definite legitimate claim to get its revenue involved into the Port Property in question as per the KoPT's Schedule of Rent Charges for the relevant period and O.P. cannot deny such payment of requisite charges as mentioned in the Schedule of Rent Charges.

In the aforementioned circumstances, being satisfied as above, I have no hesitation to uphold the claim of the Port Authority.

As regards unauthorized parting with possession, mere claim on behalf of O.P that the said property was let out by Surendra Nath Nandy and thereafter by Satyendra Nath Nandy and the property is fully tenanted etc are, in my view not sufficient to defend this type of serious allegation such as unauthorized parting with possession. The O.P could have very well produced documents related to their trade or business from that premises but O.P chose to produce nothing. Even O.P did not produce any single photographic evidence to counter the allegation of KoPT. As such it is very difficult to accept the mere claim of the O.P which is bereft of any cogent reason. Moreover, induction of a third party without the approval of KoPT is also against the spirit of tenancy.

*[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. 1664 Of 2018 Order Sheet No. 22

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate of Satyendranath <sup>VS</sup> Alomdy & Ors

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That as per record, such lease was expired on 01.06.1992 without any option of renewal. We know that as per the Transfer of Property Act, a lease of immovable property determines either by efflux of time limited thereby or by implied surrender or on expiration of notice to determine the lease or to quit or of intention to quit, the property leased, duly given by one party to another and a lessee is under legal obligation to hand over possession of the property to its landlord/lessor in its original condition after expiration of tenancy under lease. The tenancy of the O.P. automatically stands terminated upon expiry of the lease-hold period and no additional Notice is required in the eye of law on the part of the landlord to ask the O.P. to vacate the premises. In other words, in case of a long term lease having a specific date of expiration, there is no legal compulsion on the landlord to issue any Notice to Quit. The landlord is however, free to issue such a Notice as a reminder or as an act of gratuity. In the instant case, the landlord i.e. KoPT adopted such a course and claims to have issued a Notice to O.P. dated 18.09.2003 asking for vacation of the premises on 31.10.2003. Whether such Notice has been received by O.P. or not is quite immaterial inasmuch as O.P. was duty bound to hand over possession to KoPT which it had failed to do. Therefore, in my view said provision is squarely attracted in this matter because in this instant case O.P. continued their occupation even after the expiry of such long term lease.

Discussion against the forgoing reveal that as the lease has already been expired by efflux of time and the notice to quit dated 18.09.2003 is validly issued and served on O.P and the same is binding and very much enforceable, in the facts and circumstances of the case. Thus being satisfied as above, I am left with no other alternatives but to issue the order of eviction against O.P as prayed for on behalf of KoPT, on following grounds/reasons. <sup>the</sup>

1. That O.P. has failed and neglected to hand over possession of the Public Premises in question

[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. 1664 Of 2018 Order Sheet No. 23

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Satyendra Nath Nandy & Ors <sup>VS</sup>

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1. That O.P. has failed and neglected to hand over possession of the Public Premises in question after the expiry of lease and after issuance of the Notice to Quit dated 18.09.2003.
2. That O.P. has violated the condition of long term lease as granted by the Port Authority by way of not making payment of dues to KoPT for a prolonged period of time.
3. 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".
4. That the O.P has parted with Possession of the subject premises to third party in violation of the condition of such lease.
5. That the notice to quit dated 18.09.2003 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.
6. 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.









## 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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### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate of Satyendra Nath Nandy & Ors <sup>VS</sup>

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KoPT is further directed to submit a report regarding its claim on account of rental dues and damages against O.P., indicating there-in, the details of the computation of such rental dues/damages with the rate of charges so claimed for the respective periods (details of computation with rates applicable for the relevant periods) for my consideration in order to assess the rent/damages as per the Act and the Rules made thereunder.

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 \*\*\*