

OK

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. 13 DT 09.04.2021
PROCEEDINGS NO. 1728 OF 2019

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/S.North British Engineering Corporation (O.P.)



F O R M - "B"

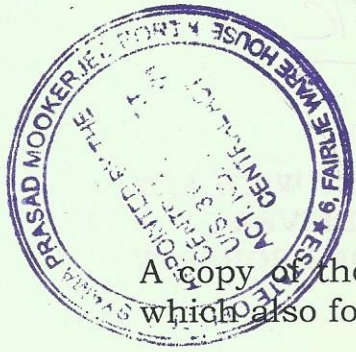
**ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC
PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971**

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **M/S.North British Engineering Corporation, P-221/2, Strand Bank Road, Kolkata-700001 AND 40/2, Strand Road, Kolkata-700001** is in unauthorized occupation of the Public Premises specified in the Schedule below :

R E A S O N S

- 1) That O.P or any other person interested in the property has failed to file any reply to the Show Cause Notice/s U/S 4 & 7 of the Act inspite of sufficient chances being provided to them.
- 2) That O.P has defaulted in making payment of rental dues to SMP, Kolkata and parted with possession of the Public premises unauthorisedly.
- 2) That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 3) That O.P has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 05.01.1990.
- 4) That O.P's occupation has become unauthorised in view of Sec 2(g) of the Act and O.P is liable to pay damages for wrongful use and enjoyment of the Port property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

PLEASE SEE ON REVERSE



(2)

A copy of the reasoned order No. 13 dated 09.04.2021 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 North British Engineering Corporation, P-221/2, Strand Bank Road, Kolkata-700001 AND 40/2, Strand Road, Kolkata-700001** 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 North British Engineering Corporation, P-221/2, Strand Bank Road, Kolkata-700001 AND 40/2, Strand Road, Kolkata-700001** 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. CG-193/1

The said piece or parcel of room space msg. about 15.700 Sq.m. or thereabouts is situated at Room No.8, 2nd Floor of Trustees' building No.P-221/2, Strand Bank Road, P.S: North Port Police Station. It is bounded on the North by the open space of Trustees' said building, on the East by the Trustees' room No.9, occupied by M/S Bhattacharjee Printing Co., on the South by the corridor of the said building and on the West by the open space.

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

Date- 09.04.2021

Signature & 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 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
Kolkata-700001.

Form " E "

PROCEEDINGS NO.1728/R OF 2019
ORDER NO. 13 DATED: 09.04.2021

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.North British Engineering Corporation,
P-221/2, Strand Bank Road,
Kolkata-700001.

AND
40/2, Strand Road, Kolkata-700001.

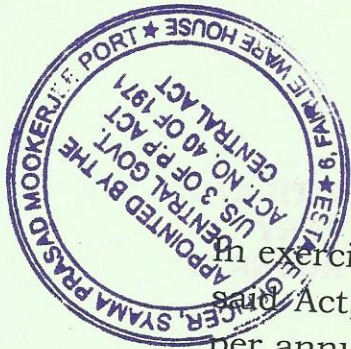
WHEREAS you are in occupation of the public premises described in the
Schedule below. (Please see on reverse).

AND WHEREAS, by written notice dated 09.12.2020 you are called upon
to show cause on or before 23.12.2020 why an order requiring you to pay
a sum of Rs 5,872.15 (Rupees Five Thousand Eight Hundred Seventy
Two and paise Fifteen 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 5,872.15
(Rupees Five Thousand Eight Hundred Seventy Two and paise Fifteen
only) for the period 01.08.1988 to 28.02.1990 (both days inclusive) to
SMP, Kolkata by 23.04.2021

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. CG-193/1

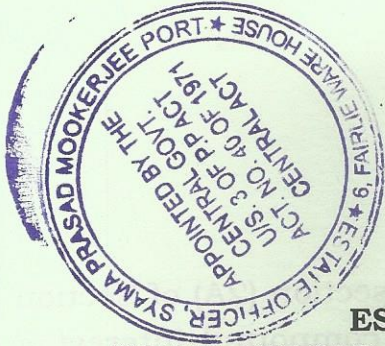
The said piece or parcel of room space msg. about 15.700 Sq.m. or thereabouts is situated at Room No.8, 2nd Floor of Trustees' building No.P-221/2, Strand Bank Road, P.S: North Port Police Station. It is bounded on the North by the open space of Trustees' said building, on the East by the Trustees' room No.9, occupied by M/S Bhattacharjee Printing Co., on the South by the corridor of the said building and on the West by the open space.

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

Dated: 09.04.2021

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. 1728/D OF 2019
ORDER NO.13 DATED : 09.04.2021

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.North British Engineering Corporation,
P-221/2, Strand Bank Road,
Kolkata-700001.

AND

40/2, Strand Road, Kolkata-700001.

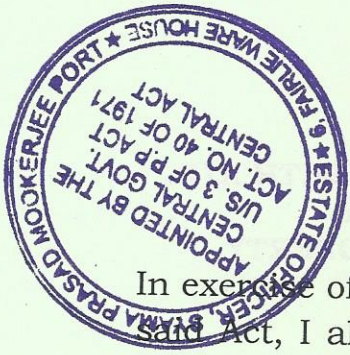
WHEREAS I, the undersigned, am satisfied that you are in unauthorised occupation of the public premises mentioned in the Schedule below:

AND WHEREAS by written notice dated 09.12.2020 you are called upon to show cause on/or before 23.12.2020 why an order requiring you to pay damages of Rs. 4,87,093.86 (Rupees Four Lakhs Eighty Seven Thousand Ninety Three and paise Eighty Six 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. 4,87,093.86 (Rupees Four Lakhs Eighty Seven Thousand Ninety Three and paise Eighty Six only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.03.1990 to 30.06.2017 (both days inclusive) to SMP, Kolkata by 23.04.2021.

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. CG-193/1

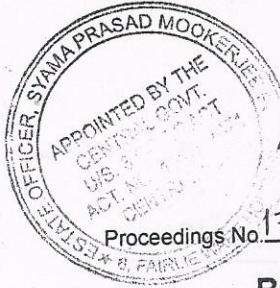
The said piece or parcel of room space msg. about 15.700 Sq.m. or thereabouts is situated at Room No.8, 2nd Floor of Trustees' building No.P-221/2, Strand Bank Road, P.S: North Port Police Station. It is bounded on the North by the open space of Trustees' said building, on the East by the Trustees' room No.9, occupied by M/S Bhattacharjee Printing Co., on the South by the corridor of the said building and on the West by the open space.

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

Date 09.04.2021

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. 1728, 1728/R, 1728/D of 2019 Order Sheet No. _____

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s North British Engineering Corporation ^{VS}



FINAL ORDER

13
09.04.2021

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 SMP, Kolkata, Applicant herein, that a month to month lease was granted to M/S. North British Engineering Corporation (O.P), on certain terms and conditions in respect of public premises being room space msg.15.700 Sq.m situated at Room No.8, 2nd floor of P-221/2, Strand Bank Road, Thana- North Port Police Station, comprised under Plate No.CG-193/1 and O.P violated the condition of such tenancy by way of not making payment of rental dues. It is also the case of SMP, Kolkata that O.P has parted with possession of the public premises in question without having any authority under law. It is also argued on behalf of SMP, Kolkata that O.P has no authority under law to occupy the said public premises after expiry of the period as mentioned in the notice to quit dated 05.01.1990 and O.P is liable to pay damages for unauthorised enjoyment of the Port property in question.

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.) and Show Cause Notice U/S-7(for adjudication of the prayer for recovery of arrear rental dues and damages etc.) both dated 09.12.2020(vide Order No. 06 dated 09.12.2020 as per rule made under the Act.

After issuance of the aforesaid notice, on 23.12.2020 O.P. did not appear before the Forum for giving reply to the Show Cause. However, the record depicts that such Notice had been sent to O.P both by hand and Registered Post as per addresses available on record.

It reveals from the report of the Process Server dated 13.01.2021 that Show Cause Notice/s u/s 4 & 7 were affixed on the subject premises on 12.01.2021at about 12.19 P.M.However, the Postal Services to both the recorded addresses of O.P returned undelivered with the endorsement of Postal Department as "insufficient address" as well as "Left". Thereafter, vide its Order dated 23.12.2020 Forum directed SMP, Kolkata to file any other alternative addresses of O.P. When SMP, Kolkata

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. 1728, 1728/R, 1728/D of 2019 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/s North British Engineering Corporation

13
09.04.2021

by filing an application dated 29.01.2021 informed that no other alternative addresses were available with them, Order dated 29.01.2021 were again served upon the same addresses O.P by hand to give him chances as per the Principles of Natural justice, however, the Report of the Process Server dated 05.02.2021 further depicts that as the door was closed said Order was not personally served upon O.P but due affixation was made on the subject premises as per the mandate of the P.P Act

As none appeared on behalf of O.P or any other person interested in the property and as there is no reply to the Show Cause Notice/s both u/s 4 & 7 of the Act inspite of repeated chances, a publication was made in the classified column of Times of India (Kolkata) on 25.02.2021 fixing the ultimate date of O.P's appearance on 10.03.2021. Finally as the O.P failed to appear on 10.03.2021 the final Order was reserved in the matter. Now this Forum has decided to adjudicate the matter ex-parte.

As no one from O.P's side appears and no reply to the Show Cause Notice u/s 4 & 7 of the Act has been filed yet, I have no bar to accept the claim of SMP, Kolkata on account of unauthorised occupation of O.P into the Public Premises in question. I think that it is a fit case for issuing Order of eviction u/s 5 of the Act on the following grounds:-

- 1) That O.P or any other person interested in the property has failed to file any reply to the Show Cause Notice/s U/S 4 & 7 of the Act inspite of sufficient chances being provided to them.
- 2) That O.P has defaulted in making payment of rental dues to SMP, Kolkata and parted with possession of the Public premises unauthorisedly.
- 2) That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 3) That O.P has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 05.01.1990.
- 4) That O.P's occupation has become unauthorised in view of Sec 2(g) of the Act and O.P is liable to pay

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. 1728/1728/R, 1728/D Of 2019 Order Sheet No. 14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s North British Engineering Corporation ^{VS}

13
09.04.2021

damages for wrongful use and enjoyment of the Port property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

ACCORDINGLY, Department is directed to draw up formal order of eviction u/s.5 of the Act as per Rule made there under, giving 15 days time to O.Ps' 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.Ps' in accordance with Law up to the date of recovery of possession of the same.

It is my considered view that a sum of Rs.5,872.15 (Rupees Five Thousand Eight hundred Seventy Two and paise Fifteen only) for the period 01.08.1988 to 28.02.1990 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of rental dues and O.P. must have to pay such dues to SMP, Kolkata on or before ~~23.04.2021~~ 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 SMP, Kolkata's books of accounts.

Likewise, I find that SMP, Kolkata 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.4,87,093.86 (Rupees Four Lakhs Eighty Seven Thousand Ninety three and paisa Eighty Six only) 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 01.03.1990 to 30.06.2017 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to SMP, Kolkata by ~~23.04.2021~~ 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)

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

[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. 1728, 1728/R, 1728/D Of 2019 Order Sheet No. 15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S North British Engineering Corporation ^{VS}

13
09.04.2021

from the date of incurrance of liability, till the liquidation of the same, as per the adjustment of payments, if any made so far by O.P., in terms of SMP, Kolkata's books of accounts. I sign the formal orders u/s 7 of the Act.

I make it clear that SMP, Kolkata is entitled to claim damages against O.P. for unauthorized use and occupation of the public premises right upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law, and as such the liability of O.P. to pay damages extends beyond 30.06.2017 as well, till such time the possession of the premises continues to be under the unauthorised occupation with the O.P. SMP, Kolkata is directed to submit a statement comprising details of its calculation of damages after 30.06.2017, 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

(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
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT