

o/c

**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.1134/R OF 2011
ORDER NO. 31 DATED: 23.07.2021

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. Bharat Sanchar Nigam Ltd
Office of the General Manager,
Telecom Factory, Alipore,
248, AJC Bose Road, Alipore
Kolkata-700027.**

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

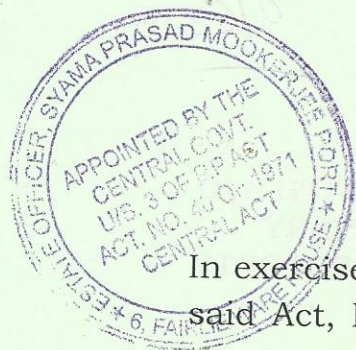
AND WHEREAS, by written notice dated 26.09.2011 you are called upon to show cause on or before 29.11.2011 why an order requiring you to pay a sum of Rs.156.63(Rupees One hundred fifty six and paisa sixty three only) being the rent payable together with compound interest in respect of the said premises should not be made;

AND WHEREAS I have considered your objections and/or the evidence produced by you;

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.156.63(Rupees One hundred fifty six and paisa sixty three only) for the period 01.04.1983 to 04.04.1983 (both days inclusive) to SMP, Kolkata by

09.08.2021

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.(D-273/3)

Piece of parcel of land msg. about 2299.96 sq.m which is situated at Transport Road, Thana-Taratala Police Station, Kolkata, District-24 Parganas(South), Registration Dist- Alipore. It is bounded on the North by Trustees; Land occupied Bells Asbestos and Engineering (India) Pvt. Ltd. On the South by Trustee's Land occupied by Manager Telegraph's Workshop(Telecom Factory) on the East by Trustees' Land occupied the Manager Telegraph's Workshop(Telecom Factory) and on the West by the Trustee's land occupied by Hopes Metals Industries (I) Ltd.

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

Dated: 23.07.2021

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. 1134/D of 2011
ORDER NO.31 DATED : 23.07.2021

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. Bharat Sanchar Nigam Ltd
Office of the General Manager,
Telecom Factory, Alipore,
248, AJC Bose Road, Alipore
Kolkata-700027.**

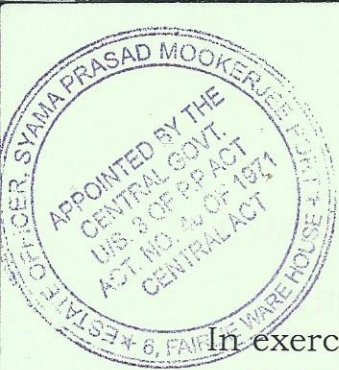
WHEREAS I, the undersigned, am satisfied that you were in unauthorised occupation of the public premises mentioned in the Schedule below:

AND WHEREAS by written notice dated 26.09.2011 you are called upon to show cause on/or before 29.11.2011 why an order requiring you to pay damages of Rs 47,35,775.89 (Rupees Forty seven lakhs thirty five thousand seven hundred seventy five and paise eighty nine only) together with [compound interest] for unauthorised use and occupation of the said premises, should not be made.

AND WHEREAS I have considered your objections and/or the evidence produced by you.

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 47,35,775.89 (Rupees Forty seven lakhs thirty five thousand seven hundred seventy five and paise eighty nine only) assessed by me as damages on account of your unauthorised occupation of the premises all for the period from 05.04.1983 to 26.02.2010 (both days inclusive) to SMP, Kolkata by 09.08.2021

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 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-273/3)

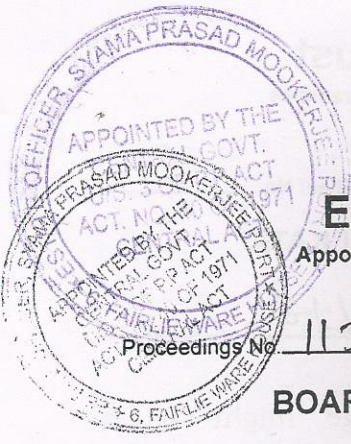
Piece of parcel of land msg. about 2299.96 sq.m which is situated at Transport Road, Thana-Taratala Police Station, Kolkata, District-24 Parganas(South), Registration Dist- Alipore. It is bounded on the North by Trustees; Land occupied Bells Asbestos and Engineering (India) Pvt. Ltd. On the South by Trustee's Land occupied by Manager Telegraph's Workshop(Telecom Factory) on the East by Trustees' Land occupied the Manager Telegraph's Workshop(Telecom Factory) and on the West by the Trustee's land occupied by Hopes Metals Industries (I) Ltd.

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

Date 23.07.2021

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. 1134/R, 1134/D of 2011 Order Sheet No. 26

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Bharat Sanchar Nigam Ltd. ^{VS}

31
23.07-2021

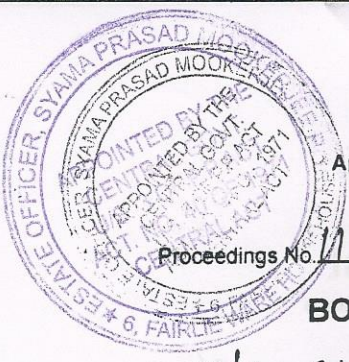
FINAL ORDER

The instant proceedings No. 1134/R, 1134/D of 2011 arises out of the application being No. Lnd.4423/III (Loose)11/3067 dated 05.09.2011 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. Bharat Sanchar Nigam Ltd., O.P. herein, under relevant provision of the Public Premises (Eviction of Unauthorised Occupants) Act 1971. The facts of the case is summarized here under.

The land measuring about 2299.96 sq.m situated at Transport Depot Road, Thana-Taratala under Plate No. D-273/3 was allotted to O.P. by the Port Authority on long term lease basis for a period of 10 years with an option of renewal for 10 years. O.P. has defaulted in payment of monthly rent, taxes and accrued interest thereon. Therefore, an application was filed before this Forum on 25.04.2007 for eviction and recovery of dues from O.P. However, it is subsequently seen that on the basis of an application of O.P dated 18.02.2010, representative of KoPT has taken over possession of the subject premises on 26.02.2010. Now it is argued on behalf of KoPT that as the possession of the subject premises has already been taken over, O.P. is only liable to pay arrear rental dues and damages/compensation upto 26.02.2010.

It appears from the record that in the Show Cause Notice for damages dated 26.09.2011, periods of such damages had been erroneously recorded as 05.04.1983 to 26.10.2010 instead of 05.04.1983 to 26.02.2010 and it also 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. Hence, it appears to me that such discrepancy in the

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
26.07.2021
Head Assistant
ESTATE OFFICER
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. 1134/R, 1134/D Of 2011 Order Sheet No. 27

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Bharat Sanchar VS Nigam Ltd.

31
23.07.2021

Show Cause Notice of damage might be a typographical one 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 period of such damages should be read as 05.04.1983 to 26.02.2010 for all the material purposes of this proceeding.

Considering the submission advanced by KoPT and the documents on record, Notice/s to Show Cause under section 7 (for adjudication of the prayer for recovery of arrear rental dues & damages) of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 all dated 26.09.2011 (vide Order No.03 dated 28.06.2011) were issued by this forum to O.P. The Notice/s were issued in terms of the said provisions of the Act calling upon the O.P. to appear before this forum in person or through authorized representative capable of answering all material questions in connection with the matter along with the evidence which the opposite party intends to produce in support of their case.

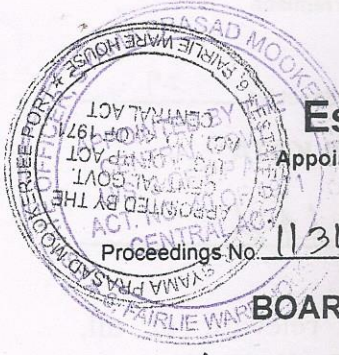
The said notice/s were served through Speed Post as well as hand delivery to the recorded address of O.P. at 248, AJC Bose Road, Alipore, Kolkata-700027. It appears from record that said Notice/s sent to the above recorded address of O.P was not returned back. However, the report of the Process Server dated 24.07.2011 depicts that the copy of the said Notice was served upon O.P personally as per the mandate of the P.P Act.

O.P entered appearance and repudiated the claim of KoPT on account of damages by filing their reply to the Show Cause on 24.11.2011. Thereafter, O.P remain absent before the Forum on a couple of occasion and KoPT repeatedly sought adjournments for filing their rejoinder. Thereafter

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
26.07.2021

[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. 1134/R, 1134/D Of 2011 Order Sheet No. 28

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Bhavzat Sanchar^{VS} Nigam Ltd.

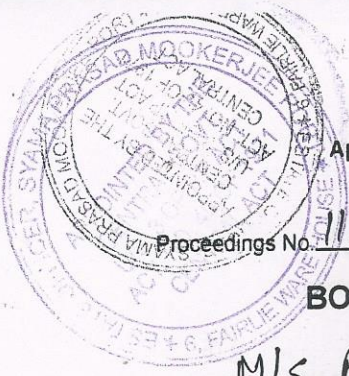
31
23.07.2021

on 17.04.2012 O.P filed an application before the forum on the ground of "natural justice" with a view to represent the instant matter which subsequently during the course of hearing on 14.05.2012 came to the notice of the Forum. Thereafter on 25.06.2012, one R.N Bag expressing himself as a Ld' Advocate of O.P filed his Letter of Authority to contest the matter. By filing his Vokalatnama, Ld' Advocate of O.P prayed before the Forum for a comprehensive statements of Account to liquidate the dues of KoPT. He submitted that several communications were made for the renewal of lease/s in question but KoPT did not reply to such communications. KoPT filed their rejoinder dated 13.07.2012 and also filed on 10.09.2012 such Statement of Accounts as O.P. has prayed for. Thereafter on 26.11.2012, it was highlighted by O.P's Advocate that in spite of their application, the renewal of the lease in respect of the property in question was not granted to O.P on 1982 ,however, representative of KoPT prayed time to the Forum to file a report on that point and Forum allowed such time to KoPT in this regard and further directed them to file other relevant correspondences exchanged between the parties before the service of Quit Notice and also to state the grounds for non renewal of lease in favour of O.P. Thereafter, vide their Letter dated 12.03.2013, KoPT has filed those relevant correspondences as exchanged between the parties. Thereafter on 24.02.14 representative of KoPT has filed an application along with some papers to substantiate their case in compliance of the earlier order of the Forum dated 12.03.2013 and O.P was directed to submit reply to KoPT's application dated 13.07.2012 and 12.03.2013. On 17.03.2014, when Ld' Advocate of O.P has alleged that KoPT has failed to submit all papers in terms of the order dated 12.03.2013 and the documents filed by

By Order of :
THE ESTATE OFFICER
MAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF ORDER
ISSUED BY THE ESTATE OFFICER
MAMA PRASAD MOOKERJEE PORT
Head Assistant
OF THE LD. ESTATE OFFICER
MAMA 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. 1134/R, 1134/D Of 2011 Order Sheet No. 29

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Bharat Sanchar Nigam Ltd. ^{VS}

31
23.07.2021

KoPT on 24.02.2014, are not relevant at all, denying such allegation of O.P, KoPT filed an application on 19.08.2014 and submits that it has nothing more to submit to substantiate its claim. Finally on 24.02.2015, after giving opportunity to both the parties to submit their respective Written Notes of Arguments within 10th March, 2015, the final order was reserved in this matter.

Now while passing the final order, upon considering the deliberations of the parties and after carefully going through all the documents placed on record, now I find that only issue that remains for Forum's adjudication is nonpayment of arrear rental dues, damages and other charges of KoPT. Although O.P vide it's reply dated 24.11.2011 has repudiated such dues for the occupation of the said Public premises, however, it is settled law that mere denial is not sufficient to rebut the charge unless it is corroborated by sufficient evidence. Here, no such attempt has been made by the O.P. at all. As regards the allegations of nonpayment of rental dues against the O.P., I find that KoPT has produced detailed statement of accounts dated 10.09.2012 in respect of the said occupation. It appears from the said statements of accounts that since 1995, no payment, whatsoever, has been made on behalf of the O.P. In my view, such statement maintained by the statutory authority in the usual course of business 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

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
26.07.2021
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. 1134/R, 1134/D Of 2011 Order Sheet No. 30

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Bhavant Sanchar Nigam Ltd. ^{VS}

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23.07.2021

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. must have to suffer the consequences, following due applications of the tenets of law. In my view, the conduct of the O.P. does not inspire any confidence and I am not at all inclined to protect O.P. even for the sake of natural justice. 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. It is my considered view that a sum of Rs.156.63(Rupees One hundred fifty six and paise sixty three only) for the period 01.04.1983 to 04.04.1983 (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 the rental dues to KoPT on or before 09.08.2021 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

By Order of:
THE ESTATE OFFICER
PRASAD MOOKERJEE PORT
D. S. D.
26.07.2021
ASSISTANT
ESTATE OFFICER
MOKERJEE 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. 1134/R, 1134/D Of 2011 Order Sheet No. 31

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Bharzat Sanchar Nigam Ltd. ^{VS}

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23.07.2021

to be paid for unauthorised occupation. As such, I must say that Rs 47,35,775.89 (Rupees Forty Seven lakhs Thirty five thousand seven hundred seventy five and paisa Eighty nine) 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 05.04.1983 to 26.02.2010 (both days inclusive) i.e upto the date of taking over possession of the subject premises by KoPT and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by 09.08.2021. 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 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

By Order of :
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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

26-07-2021
ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



(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 ***