

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. 06 DT 01.09.2021.
PROCEEDINGS NO. 1759 of 2019

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-

Estate Jagdeo Singh (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
**Estate Jagdeo Singh of Fire Wood Depot, Bag Bazar, Kolkata-700003 AND
12, Neogi Ghat Street, Kolkata-700003** is in unauthorized occupation of the
Public Premises specified in the Schedule below :

REASONS

- 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 in spite of sufficient chances being provided to them.
- 2) That O.P. has violated the condition of said monthly term lease as granted by the Port authority by way of not making payment of rental dues and taxes to SMP, Kolkata for a prolonged period.
- 3) That O.P has erected unauthorised structures on the aforementioned premises without having any authority under law.
- 4) That O.P has failed to remove the breaches despite of repeated request from SMP, Kolkata.
- 5) That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 6) 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 20.08.2014.
- 7) 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. 06 dated 01.09.2021 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 Jagdeo Singh of Fire Wood Depot, Bag Bazar, Kolkata-700003 AND 12, Neogi Ghat Street, Kolkata-700003** 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 Jagdeo Singh of Fire Wood Depot, Bag Bazar, Kolkata-700003 AND 12, Neogi Ghat Street, Kolkata-700003** 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-495/A

Land Msg. about 97.33 Sq.mts. at Cossipore, Thana- Cossipore in the presidency town of Kolkata under Plate No. SB-495/A. It is bounded on the North by Trustees' land occupied by Indrajit Pandey, On the East by Private Property, On the South by Trustees' land occupied by Satrugan Singh and on the West by Strand Bank Road.

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

Date- 03.09.2021.


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
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Court Room At the 1st Floor
6, Fairlie Place Warehouse
Kolkata-700001.

Form " E "

PROCEEDINGS NO.1759/R OF 2019
ORDER NO. 06 DATED: 01.09.2021

Form of order under Sub-section (1) and (2A) of Section 7 of the Public
Premises (Eviction of Unauthorised Occupants) Act,1971.

To
Estate Jagdeo Singh
Fire Wood Depot,
Bag Bazar,
Kolkata-700003.

AND

12, Neogi Ghat Street,
Kolkata-700003.

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

AND WHEREAS, by written notice dated 28.06.2021 you are called upon to
show cause on or before 15.07.2021 why an order requiring you to pay a sum
of Rs 2,63,387.00 (Rupees Two lakhs Sixty three thousand Three hundred
Eighty seven 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 2,63,387.00 (Rupees Two
lakhs Sixty three thousand Three hundred Eighty seven only) for the period
08.02.1991 to 30.09.2014 (both days inclusive) to SMP, Kolkata by 17.09.2021.



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-495/A

Land Msg. about 97.33 Sq.mts. at Cossipore, Thana- Cossipore in the presidency town of Kolkata under Plate No. SB-495/A. It is bounded on the North by Trustees' land occupied by Indrajit Pandey, On the East by Private Property, On the South by Trustees' land occupied by Satrugan Singh and on the West by Strand Bank Road.

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



Dated: 03.09.2021.

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. 1759/D OF 2019
ORDER NO. 06 DATED : 01.09.2021

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

**Estate Jagdeo Singh
Fire Wood Depot,
Bag Bazar,
Kolkata-700003.**

AND

**12, Neogi Ghat Street,
Kolkata-700003.**

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 28.06.2021 you are called upon to show cause on or before 15.07.2021 why an order requiring you to pay damages of Rs.2,31,143/- (Rupees Two lakhs Thirty one thousand One hundred Forty three 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.2,31,143/- (Rupees Two lakhs Thirty one thousand One hundred Forty three only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.10.2014 to 31.06.2017 (both days inclusive) to SMP, Kolkata by 17.09.2021.

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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 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-495/A

Land Msg. about 97.33 Sq.mts. at Cossipore, Thana- Cossipore in the presidency town of Kolkata under Plate No. SB-495/A. It is bounded on the North by Trustees' land occupied by Indrajit Pandey, On the East by Private Property, On the South by Trustees' land occupied by Satrugan Singh and on the West by Strand Bank Road.

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

Date- 03.09.2021



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

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Jagdeo Singh ^{VS}

FINAL ORDER

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01-09-2021

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 monthly term lease was granted to Estate Jagdeo Singh (O.P), on certain terms and conditions in respect of land msg. about 97.33 Sq.m situated at Cossipore in the presidency town of Kolkata, comprised under Plate No.SB-495/A and O.P violated the condition of such tenancy by way of not making payment of rental dues to SMP, Kolkata along with interest and other charges. It is also the case of SMP, Kolkata that in gross violation of the said tenancy O.P has erected unauthorised structures on the aforementioned premises and also failed to remove the breaches despite repeated request from them. Now it is argued on behalf of SMP, Kolkata that O.P has no authority under law to occupy such public premises after 30.09.2014 i.e after the expiry of the period as mentioned in the notice to quit dated 20.08.2014 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 28.06.2021(vide Order No. 02 dated 05.11.2020) as per rule made under the Act.

After issuance of the aforesaid notice, on the scheduled date of appearance and filing of reply to the Show Cause i.e on 15.07.2021 and subsequently thereafter, O.P. did

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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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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.

The Postal Services to both the recorded address of O.P returned undelivered to the Forum with the mark "insufficient address" and "no such person in this address" but it reveals from the report of the Process Server dated 01.07.2021 that the Show Cause Notice/s u/s 4 & 7 were affixed on the subject premises on 01.07.2021 at about 2:15 P.M. as per the mandate of the PP Act. However, In spite of such efforts, the appearance of O.P. could not be procured and the efforts remained futile. Thereafter, following the principles of natural justice, further attempt was made by the Forum to serve such notice upon O.P. in terms of Order dated 29.07.2021. However, such effort was also went into vain.

Now in view of the spirit laid down in the Public Premises Act, 1971 for speedy and summary disposal of the case and further considering the continuous non appearance of O.P in spite of sufficient opportunities being given and after exhaustion of all available means of service, this Forum finds no need to keep the matter pending and final Order was reserved in the matter on 12.08.2021.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of SMP, Kolkata. The question now arises is how far the service of the Show Cause Notice/s deserves merit in the facts and circumstances of the case. After a through perusal of all the records in the case and from the fact of affixation, I have left with no

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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 Jagdeo^{VS} Singh

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other alternative but to accept that the said notice/s have duly been served upon O.P. It is seen that during the entire proceedings, no justification came from the O.P. inspite of providing repeated chances as to how the O.P. is entitled to enjoy the property after expiry of their leasehold right. No attempt has been made on behalf of O.P. to satisfy this Forum of Law about any consent on the part of SMP, Kolkata in occupying the public premises after determination of the monthly term lease. No paper/document was ever produced on behalf of O.P., contradicting/ disputing the claim of SMP, Kolkata inspite of repeated chances being given. Further the occupation of O.P. beyond the period of determination of such lease is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question.

As O.P has repeatedly failed to appear before this Forum and no reply to the Show Cause Notice u/s 4 & 7 of the Act has been filed as 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 in spite of sufficient chances being provided to them.
- 2) That O.P. has violated the condition of said monthly term lease as granted by the Port authority by way of not making payment of rental dues and taxes to SMP, Kolkata for a prolonged period.

Sd/-

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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- 3) That O.P has erected unauthorised structures on the aforementioned premises without having any authority under law.
- 4) That O.P has failed to remove the breaches despite of repeated request from SMP, Kolkata.
- 5) That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 6) 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 20.08.2014.
- 7) 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.

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 unauthorised 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.2,63,387.00 (Rupees Two lakhs Sixty three thousand Three hundred Eighty seven only) for the period 08.02.1991 to 30.09.2014 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of rental dues

Sud

Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises
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and O.P. must have to pay such dues to SMP, Kolkata on or before ^{17.09.2021}..... 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 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.

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.2,31,143/- (Rupees Two lakhs Thirty one thousand One hundred Forty three 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 01.10.2014 to 31.06.2017 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to SMP, Kolkata by 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 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

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Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises
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31.06.2017 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 31.06.2017, 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



(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***