

EX-COPY
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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
Fairley Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 04 DT 15-11-2021
PROCEEDINGS NO. 1761/D OF 2019

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
Shri Vinay Kumar Shukla,
Shri Jay Prakash Shukla,
Shri Rajesh Kumar Shukla,
Shri Awadhesh Kumar Shukla,
Shri Sandeep Shukla
(collectively referred to as O.P.)
67/20, Strand Road,
Cross Road No. 16, Nimtollah
Kolkata- 700 006.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
17-11-2021
Head Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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 16.03.2021 you were called upon to
show- cause on/or before 01.04.2021 why an order requiring you to pay a sum of
Rs 9,74,565/- (Rupees Nine Lakhs Seventy Four Thousands Five Hundred Sixty Five
Only) being damages payable together with compound interest for unauthorised
use and occupation of the said premises, should not be made.

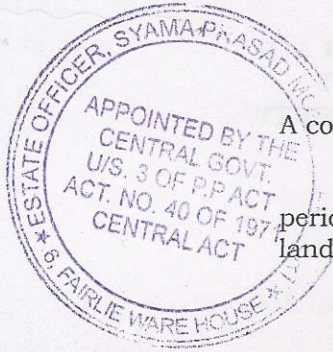
And whereas you have not made any objections or produced any evidence
before the said date;

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 9,74,565/- (Rupees Nine Lakhs Seventy
Four Thousands Five Hundred Sixty Five Only) for the period from 18.04.2017 to
19.09.2017 assessed by me as damages on account of your unauthorised
occupation of the premises to Kolkata Port Trust, by 03-12-2021.

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,
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) on the above sum with
effect from the date of incurrance of liability, till its final payment in accordance
with Notification Published in Official Gazette/s.

Sud

Please see on reverse



:2:

A copy of the reasoned order no. 04 dated 15.11.2021 is attached hereto.

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.

SCHEDULE

Plate no : CG-287

The said piece or parcel of land msg. 459.849 sqm at Cross Road No 16, (under plate no CG-287) under Nimtollah, Thana: Jorabagan. It is bounded on the North by the Trustees' Cross Road No 16, on the East by the Trustees' Land leased to Styra Narayan Bagla, on the South by the Trustees' land leased partly to Shree Shankar Timber Co. and partly to the Timber Trading Co. and partly occupied by Chandra Devi and others and on the West by the Trustees' land leased to Jogendra Ch. Dey.

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

Dated: 17.11.2021

Signature and seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, KOLKATA PORT TRUST FOR INFORMATION.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE
CERTIFIED COPY OF THE
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE
14.11.2021
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

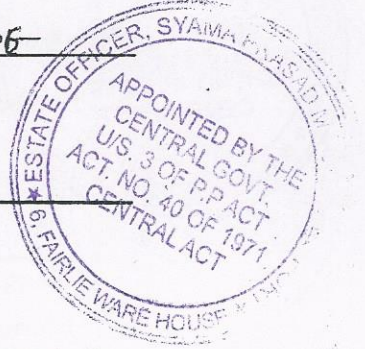
Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises
(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1761/D Of 2019 Order Sheet No. 06

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Sri Vinay Kumar Shukla & others.



FINAL ORDER

04
15-11-2021

The instant proceedings No. 1161/D of 2019 arises out of the application bearing No. Lnd.7/51/II/19/1499 dated 06.08.2019 filed by the **Syama Prasad Mookerjee Port, Kolkata** [erstwhile Kolkata Port Trust, hereinafter referred to as '**SMP, Kolkata**'], the applicant herein, praying for an order of recovery of dues on account of Compensation/ Damages/ Mesne Profit along with accrued interest thereon in respect of the subject public premises, against **Shri Vinay Kumar Shukla, Shri Jay Prakash Shukla, Shri Rajesh Kumar Shukla, Shri Awadhesh Kumar Shukla, Shri Sandeep Shukla** (hereinafter collectively referred to as **O.P.**), under the relevant provisions of **Public Premises (Eviction of Unauthorized Occupants) Act, 1971** (hereinafter referred to as '**the Act**').

By Order of:
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CERTIFIED COPY OF THE ORDER
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SYAMA PRASAD MOOKERJEE PORT
17-11-2021
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Sud

It is the case of SMP, Kolkata that the O.P. came into occupation of the port property of piece or parcel of land measuring 459.849 sqm or thereabouts situated at Cross Road No 16, Nimtollah, comprised under occupation no CG- 287, on Licence basis w.e.f. 17.06.2015 without any option of renewal, for a period of 11 months in terms of SMP, Kolkata's offer letter dated 17.06.2015. It is the case of SMP, Kolkata that the said Licence having expired on 17.05.2016 was renewed by SMP, Kolkata in favour of O.P. w.e.f. 18.05.2016 for a further period of 11 months without any option of renewal in terms of SMP, Kolkata's offer letter dated 09.08.2016 which finally expired on 17.04.2017. It is further the case of SMP, Kolkata that in spite of the expiration of the Licence period on 17.04.2017, the O.P. remained in possession of the SMP, Kolkata premises till 19.09.2017. It is further submitted



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. 1761/D Of 2019 Order Sheet No. 07

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Sri Vinay Kumar Shukla & others.

04
15.11.2021

by SMP, Kolkata that the O.P. failed to pay the dues of SMP, Kolkata calculated in terms of rates notified by the Tariff Authority for Major Ports (TAMP) in the Official Gazette, for their continuous use and occupation of the Public Premises in question. It is submitted by SMP, Kolkata that a demand letter dated 24.03.2017 was issued to the O.P. requesting them to clear the dues of SMP, Kolkata, however, they have failed to liquidate the same. Thereafter, a notice demanding possession dated 17.08.2017 was issued by SMP, Kolkata to the O.P. reminding O.P. about the said expiry of licence and requesting them to handover vacant and unencumbered possession of the premises to SMP, Kolkata within 15 days from the date of the letter. It appears that thereafter possession of the premises was taken over by SMP, Kolkata in vacant and unencumbered condition on 20.09.2017 as it appears from SMP, Kolkata's letter dated 08.04.2019. Now, SMP Kolkata vide application dated 06.08.2019 has submitted their claim on account of compensation/ mesne profit/ damage charges, which reportedly was due and recoverable from the O.P. for their use and enjoyment of the port property in question till 19.09.2017. Further, in support of their contentions SMP, Kolkata has filed copies of letter dated 17.06.2015, 08.11.2017, 17.08.2017, 09.08.2016, 08.04.2019 etc.

After considering the claim of SMP, Kolkata, this Forum formed its opinion to proceed against the O.P. and issued Show Cause Notice dated 16.03.2021 (vide Order-01 dated 16.03.2021) u/s 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971. The Notice was issued calling upon the O.P. to show cause as to why an order requiring payment of arrear compensation/ mesne profit/ damage together with interest would not be made

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CERTIFIED COPY OF THE
ORDER PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT TRUST
17-11-2021
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT TRUST

Sud

Estate Officer, Kolkata Port Trust

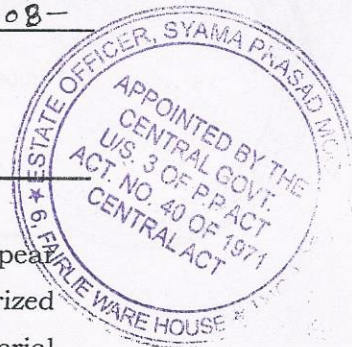
Appointed by the Central Govt. Under Section 3 of the Public Premises
(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1761/D Of 2019 Order Sheet No. -08-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Sri Vinay Kumar Shukla & others



04
15-11-2021

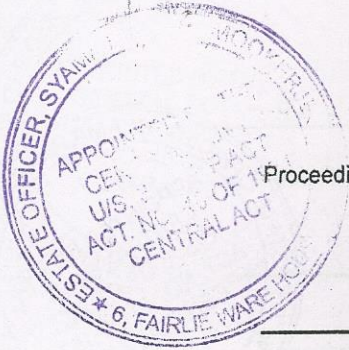
against the O.P. The O.P. was also called upon to appear before this forum in person or through authorized representative/s, capable to answer all material questions connected with the matter, along with the evidence which the O.P. intends to produce in support of this case. However, on the day fixed for Show Cause by the O.P. on 01.04.2021, neither the O.P. or any person interested in the property has appeared before this Forum. It appears that the said Notice was sent through 'Speed Post' to the recorded addresses of O.P. at '67/20, Strand Road, Cross Road No 16, Nimtollah, Kolkata- 700 006'. It appears from records that the notice did not return undelivered by the Postal Department, hence it may be presumed that the notice has been delivered to the correct recorded address of O.P. The 'Process Server' attached with this Forum for service of such Notices/ Orders etc. has submitted a report dated 17.03.2021 stating that the O.P. "refused to take" service of the Show Cause Notice on 17.03.2021. Thus, inspite of such efforts being made, the appearance of O.P. could not be procured and such efforts remained futile. Accordingly, a decision was taken vide Order dated 01.09.2021 to publish a notice in a widely circulated newspaper for a notice to all concerned about the pendency of the instant proceeding in order to give a chance to the O.P. to appear before this Forum and to represent their case. It appears that such notice was published in 'The Times of India (Kolkata edition)' on 03.09.2021 fixing the date for the O.P's appearance, filing reply to Show Cause on 16.09.2021 at 11 AM. Thereafter, when the matter was taken up for hearing on 16.09.2021, neither O.P. nor anyone interested in the property made a contact or approached the Forum in the meantime in connection with the Show Cause Notice issued by this Forum.

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17-11-2021
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT TRUST

Sud

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. _____ Of _____ Order Sheet No. 04

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

04
15-11-2021

Considering the situation that the attendance of O.P. could not be procured by this Forum at any point of time in spite of every possible efforts being made, even after the publication of a Notice in the English daily newspaper and even thereafter, I am inclined to proceed ex-parte against the O.P.

I find that SMP, Kolkata has filed a copy of the letter dated 17.08.2017 issued by SMP, Kolkata to the O.P. intimating the amount payable as compensation for the period of O.P.'s occupation in the premises from 17.07.2017 to 31.08.2017. Further, SMP, Kolkata has filed a copy of the letter dated 08.11.2017 issued by SMP, Kolkata to the O.P. intimating the amount payable as compensation for the period of O.P.'s occupation in the premises from 17.07.2017 to 19.09.2017. A copy of the further Demand Notice dated 08.04.2019 was also filed by SMP, Kolkata in support of such claim. In my view, such communications maintained by a statutory authority/ SMP, Kolkata in its usual course of business has definite evidentiary value, unless challenged with fortified documents/evidences etc, ready to bear the test of legal scrutiny. During the course of hearing, I am given to understand by SMP, Kolkata that the rent as well as mesne profit/compensation/ damages 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 and non-payment of dues by O.P. appears to be established, as discussed above. Hence, I have no bar to accept the claim of SMP, Kolkata on account of damages/compensation/ mesne profit etc. I have nothing to disbelieve in respect of SMP, Kolkata's claim against

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15-11-2021
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Sud

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. 1761/D Of 2019 Order Sheet No. 70



BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Sri Vinay Kumar Shukla & others.

04
15.11.2021

O.P. as per the records maintained regularly in SMP, Kolkata's office in regular course of business.

Thus, it is my considered view that a sum of Rs 9,74,565/- (Rupees Nine Lakhs Seventy Four Thousands Five Hundred Sixty Five Only) for Plate no CG 287 is due and recoverable from the O.P. for the period from 18.04.2017 to 19.09.2017 by the Port authority on account of compensation/ mesne profit/ damage charges.

O.P. must have to pay such dues to SMP, Kolkata on or before 03.12.2021. Such dues attracts 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.

The formal order u/s 7 of the Act is signed accordingly.

I make it clear that in the event of failure on the part of O.P. to pay the dues/charges as aforesaid; SMP, Kolkata is at liberty to recover the dues etc. 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***

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
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SYAMA PRASAD MOOKERJEE PORT
17-11-2021
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
ESTATE OFFICER