



REGISTERED POST WITH A/D
HAND DELIVERY
AFFIXATION ON PROPERTY

**ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT, KOLKATA (SMP, KOLKATA)**
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971- Central Act.)
The Public Premises (Eviction of Unauthorised Occupants) Act 1971
OFFICE OF THE ESTATE OFFICER
6, Fairlie, 1st Floor
Kolkata - 700 001

Court Room at the 1st Floor
Of Kolkata Port Trust's
Legal Division, Head Office,
15, Strand Road, Kolkata-700 001

PROCEEDINGS No. 1413 OF 2013
REASONED ORDER No. 14 DATED: 15/05/2013

Syama Prasad Mookerjee Port, Kolkata
(erstwhile known as Kolkata port Trust)

-vs-

Sri. Narayan Chandra Sett, Sri Patit Paban Sett,
Legal Heirs of Sri. Jotish Chandra Sett (O.P.)

FORM - "B"

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

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **Sri. Narayan Chandra Sett, Sri Patit Paban Sett, Legal Heirs of Sri. Jotish Chandra Sett (O.P.) of Kuthirmath Barabazar, Chandannagar, Hooghly, West Bengal -712136 AND ALSO Block B-5, Jagannath Ghat Godown, Strand Bank Road, Kolkata-700 007 AND ALSO Sri. Patit Paban Sett, Legal heirs of Sri. Jotish Chandra Sett (Since Deceased) 15A, Robert Street, Kolkata-700 012 AND ALSO Block-B-5, Jagannath Ghat Godown, Strand Bank Road, Kolkata-700 007,** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

- 1) That O.P. has failed to liquidate the rental dues to the Port Authority within the prescribed period, for a considerable time, despite being repeatedly requested for its immediate liquidation.
- 2) That O.P. has violated the conditions of tenancy under monthly term lease, as granted by the Port Authority by way of not making payments of rental dues to SMP, Kolkata, at the time of issuing Ejectment Notice dated 03.11.2011.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
[Signature] 16/05/23
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Please see on Reverse



// 2 //

- 3) That O.P. has unauthorizedly parted with the possession of the subject Public Premises by inducting unauthorized sub-tenants, without any approval of the Port Authority and failed to vacate the premises upon determination of the period as mentioned in the Notice to Quit dated 03.11.2011, as issued by the Port Authority.
- 4) That O.P. or any other person/s asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "unauthorized occupation", inspite of sufficient chances being provided.
- 5) That O.P. or any other person/s asserting any right through O.P. has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 03.11.2011.
- 6) That the Notice to Quit dated 03.11.2011 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties.
- 7) That O.P. has failed to show any cause against the allegations of erecting unauthorized construction, encroachment into the Port Property, and inducting unauthorized sub-tenants.
- 8) That O.P.'s occupation has become "unauthorized" in the view of Section 2(g) of the said Act, 1971, and O.P. is liable to pay damages as claimed by SMP, Kolkata 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.
- 9) 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.

A copy of the **Reasoned Order No. 14 dated 15.05.2023** is attached hereto which also forms a part of the reasons.

NOW, THEREFORE, in exercise of the powers conferred on me by sub-section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **Sri. Narayan Chandra Sett, Sri Patit Paban Sett, Legal Heirs of Sri. Jotish Chandra Sett (O.P.) of Kuthirmath Barabazar, Chandannagar, Hooghly, West Bengal -712136 AND ALSO Block B-5, Jagannath Ghat Godown, Strand Bank Road, Kolkata-700 007 AND ALSO Sri. Patit Paban Sett, Legal heirs of Sri. Jyotish Chandra Sett (Since Deceased) 16A, Robert Street, Kolkata-700 012 AND ALSO Block-B-5, Jagannath Ghat Godown, Strand Bank Road, Kolkata-700 007**, 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.

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

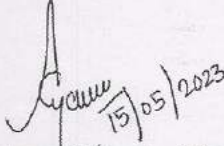


SCHEDULE-I

The said piece or parcel of land msg. about 160.44 sq. mtrs. or thereabouts situated at Shalimar Coal Yard, Siding No.15, District and Registration Dist.-Howrah. It is bounded on the **North** by the said Trustees' land, on the **East** by the said Trustees' land occupied by M/s. S.M. Bejoy & Co. Pvt. Ltd., on the **South** by the said Trustees' land beyond which the said Trustees' Railway Siding No.15 and on the **West** by the said Trustees' land occupied by Chandradeo Ramdeo.


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

Dated: 15.05.2023


15/05/2023
Signature & Seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER (I/C)/CHIEF LAW OFFICER, SYAMA PRASAD MOOKERJEE PORT, KOLKATA, (ERSTWHILE BOARD OF TRUSTEES' FOR THE PORT OF KOLKATA) FOR INFORMATION.

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



DECLARATION

I hereby declare that the above is a true and correct copy of the original as shown to me by the person who produced it for my inspection and that I have not made any alteration or addition to it.

[Signature]

Notary Public

TO BE FORWARDED TO THE STATE ARCHIVES DEPARTMENT
AT THE OFFICE OF THE STATE ARCHIVES DEPARTMENT
1000 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20540

[Signature]
Notary Public



REGISTERED POST WITH A/D
HAND DELIVERY
AFFIXATION ON PROPERTY

ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT, KOLKATA (SMP, KOLKATA)
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971- Central Act)
The Public Premises (Eviction of Unauthorised Occupants) Act 1971
OFFICE OF THE ESTATE OFFICER
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Kolkata - 700 001

Court Room at the 1st Floor
Of Kolkata Port Trust's
Legal Division, Head Office,
15, Strand Road, Kolkata-700 001

PROCEEDINGS No.1413/R OF 2013
ORDER No.14 DATED: 15/05/2023

FORM - 'E'

Form of Order under Sub-Section (2) and (2-A) of Section 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971

To
Sri Narayan Chandra Sett,
Kuthirmath Barabazar, Chandannagar, Hooghly,
West Bengal -712136

AND ALSO

Block B-5, Jagannath Ghat Godown,
Strand Bank Road, Kolkata-700 007

AND ALSO

Sri. Patit Paban Sett, Legal heirs of
Sri. Jyotish Chandra Sett (Since Deceased)
16A, Robert Street, Kolkata-700 012

AND ALSO

Block-B-5, Jagannath Ghat Godown,
Strand Bank Road, Kolkata-700-007.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
15/05/23
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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

AND WHEREAS by Written Notice dated 20.03.2023 you are called upon to Show Cause on or before 04.04.2023 why an order requiring you to pay damages of Rs.2,81,598/- (Rupees Two Lakhs Eighty One Thousand Five Hundred and Ninety eight only) together with compound interest, for unauthorized use and occupation of the said premises, should not be made;

AND WHEREAS, you have neither appeared nor made any objections nor produced any evidence before the said date;

NOW, THEREFORE, in exercise of the powers conferred on me by Sub-Section (1) of Section 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order you to pay the sum of Rs. 2,81,598/-

PLEASE SEE ON REVERSE



// 2 //

(Rupees Two Lakhs Eighty One Thousand Five Hundred and Ninety eight only) for the period from 30.06.1988 to 14.12.2011 (both days inclusive) to SMP, Kolkata by **13.06.2023**.

In exercise of the powers conferred by Sub-Section (2-A) of Section 7 of the said Act, I also hereby require you to pay compound interest @ 7.19 % per annum on the above sum, till its Final Payment, being the current rate of interest as per Interest Act, 1978.

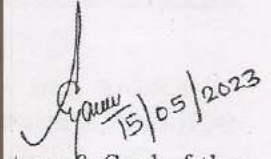
In the event of your refusal or failure to pay damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue through the Collector.

SCHEDULE

The said piece or parcel of land msg. about 160.44 sq. mtrs. or thereabouts situated at Shalimar Coal Yard, Siding No.15, District and Registration Dist.-Howrah. It is bounded on the **North** by the said Trustees' land, on the **East** by the said Trustees' land occupied by M/s. S.M. Bejoy & Co. Pvt. Ltd., on the **South** by the said Trustees' land beyond which the said Trustees' Railway Siding No.15 and on the **West** by the said Trustees' land occupied by Chandradeo Ramdeo.


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

Dated: 15.05.2023


Signature & Seal of the
Estate Officer

COPY FORWARDED TO THE ESTATE MANAGER (I/C)/CHIEF LAW OFFICER, SYAMA PRASAD MOOKERJEE PORT, KOLKATA, (ERSTWHILE BOARD OF TRUSTEES' FOR THE PORT OF KOLKATA) FOR INFORMATION.

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



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ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT, KOLKATA (SMP, KOLKATA)
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971- Central Act)
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Legal Division, Head Office,
15, Strand Road, Kolkata-700 001

PROCEEDINGS No.1413/D OF 2013
ORDER No.14 DATED: 15/05/2023

FORM - 'G'

Form of Order under Sub-Section (2) and (2-A) of Section 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971

To
Sri Narayan Chandra Sett,
Kuthirmath Barabazar, Chandannagar, Hooghly,
West Bengal -712136

AND ALSO

Block B-5, Jagannath Ghat Godown,
Strand Bank Road, Kolkata-700 007

AND ALSO

Sri. Patit Paban Sett, Legal heirs of
Sri. Jyotish Chandra Sett (Since Deceased)
16A, Robert Street, Kolkata-700 012

AND ALSO

Block-B-5, Jagannath Ghat Godown,
Strand Bank Road, Kolkata-700 007.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
15/05/23
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

WHEREAS I, the undersigned, am satisfied that you are/were in unauthorised occupation of the public premises mentioned in the SCHEDULE below: (Please see on reverse)

AND WHEREAS by Written Notice dated 20.03.2023 you are called upon to Show Cause on or before 04.04.2023 why an order requiring you to pay damages of Rs. 27,27,354.67 (Rupees Twenty Seven Lakhs Twenty Seven Thousand Three Hundred and Fifty-Four and Sixty-Seven Paise only) together with compound interest, for unauthorized use and occupation of the said premises, should not be made;

AND WHEREAS, you have neither appeared nor made any objections nor 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 Unauthorized Occupants) Act, 1971, I hereby order you to pay the sum of Rs. 27,27,354.67

PLEASE SEE ON REVERSE

A. G. S.



// 2 //

(Rupees Twenty Seven Lakhs Twenty Seven Thousand Three Hundred and Fifty-Four and Sixty-Seven Paise only) assessed by me as damages on account of your unauthorized occupation of the premises for the period from 15.12.2011 to 29.02.2020 (both days inclusive) to SMP, Kolkata by **13.06.2023**.

In exercise of the powers conferred by Sub-Section (2-A) of Section 7 of the said Act, I also hereby require you to pay compound interest @ 7.19 % per annum on the above sum, till its Final Payment, being the current rate of interest as per Interest Act, 1978.

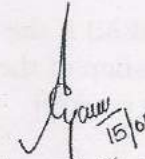
In the event of your refusal or failure to pay damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue through the Collector.

SCHEDULE

The said piece or parcel of land msg. about 160.44 sq. mtrs. or thereabouts situated at Shalimar Coal Yard, Siding No.15, District and Registration Dist.-Howrah. It is bounded on the **North** by the said Trustees' land, on the **East** by the said Trustees' land occupied by M/s. S.M. Bejoy & Co. Pvt. Ltd., on the **South** by the said Trustees' land beyond which the said Trustees' Railway Siding No.15 and on the **West** by the said Trustees' land occupied by Chandradeo Ramdeo.


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

Dated: 15.05.2023


15/05/2023
Signature & Seal of the
Estate Officer

COPY FORWARDED TO THE ESTATE MANAGER (I/C)/CHIEF LAW OFFICER, SYAMA PRASAD MOOKERJEE PORT, KOLKATA, (ERSTWHILE BOARD OF TRUSTEES' FOR THE PORT OF KOLKATA) FOR INFORMATION.

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, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1413, 1413/R, 1413/D of 2013 Order Sheet No. 19

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SRI. NARAYAN CHANDRA SETT. SRI. PATIT PABAN SETT. SRI. JOTISH CH. SETT

14
15.05.2023

FINAL ORDER

The matter is taken up today for delivering Final Order

The instant Proceeding Number 1413, 1413/R, and 1413/D of 2013 arises out of the application bearing no. Lnd.3348/49/12/1517 dated 02.05.2012 and another application bearing No.3348/49/23/662 dated 17.03.2023 - both filed by **Syama Prasad Mookerjee Port, (erstwhile known as Kolkata Port Trust)**, hereinafter referred to as SMP, Kolkata, the applicant herein, praying for an order of recovery of Eviction and recovery of outstanding dues on account of rent, damages, compensation charges, etc. alongwith with accrued interest thereon, in respect of the Public Premises as stated in the Schedule - "A" of the said application dated 02.05.2012, against **Sri. Narayan Chandra Sett, Sri Patit Paban Sett and Sri Jotish Chandra Sett**, (hereinafter referred to as the O.P.) herein, under the relevant provisions of the **Public Premises (Eviction of Unauthorized Occupant) Act, 1971** (hereinafter referred to as "the Act").

The **factual** matrix of the case is required to be put forward in a nutshell to link up the chain of events leading to this Proceeding Nos. 1413, 1413/R, and 1413/D of 2013, within the four corners of Public Premises (Eviction of Unauthorized Occupant) Act, 1971, as revealed under point-wise in a chronological order.

- 1) That it is the case of SMP, Kolkata, that the O.P. came into occupation of the Port Property, measuring about 160.44 sq. mtrs or thereabouts situated at Siding No.15, Shalimar Coal Yard, Thana-Shibpur Police Station, District-Howrah, under Plate No.HL-384, (as described in details in the "SCHEDULE-A" of SMP, Kolkata's application dated, 02.05.2012) as a monthly tenant on certain terms and conditions. SMP, Kolkata has submitted in an application bearing No. Lnd.3348/49/12/1517 dated 02.05.2012, that while in possession of the Port Property as lessee, O.P. grossly violated the condition of such lease by way of default in making the payment of the rental

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Ass. No. 16/05/23

OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Handwritten signature]



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1413, 1413/R, 1413/D of 2013 Order Sheet No. 20

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SRI. NARAYAN CHANDRA SETT. SRI. PATIT PABAN SETT. SRI. JOTISH CH. SETT

¹⁴
15.05.2023

dues and taxes to SMP, Kolkata for use and enjoyment of the Port Property in question, the details of which has been given in "SCHEDULE-B" of SMP, Kolkata's application dated 02.05.2012.

- 2) That SMP, Kolkata had also submitted an application bearing No. 3348/49/23/662 dated 17.03.2023, whereby it alleged that during an inspection-cum-survey dated 01.03.2023 at the subject premises, it was observed that the said premises was under lock and key and that on the entire occupation a CIR Godown has been erected, without having any prior approval from SMP, Kolkata.
- 3) That in view of such aforesaid breaches committed by O.P., and several written communications/reminders given to O.P. for payment of their rental dues, SMP, Kolkata issued Notice to Quit dated 03.11.2011, requiring O.P. to quit, vacate and deliver up peaceful possession of the premises on 15.12.2011 in terms of the Notice dated 03.11.2011. SMP, Kolkata submits that O.P. has no authority under Law to occupy the Public Premises after determination of the lease period and was required to hand over the possession of the property in question to SMP, Kolkata on 15.12.2011 as required under the said Notice to Quit dated 03.11.2011.
- 4) That it is the case of SMP, Kolkata that in terms of the Notice to Quit dated 03.11.2011, and inspite of the determination of the said tenancy, O.P. failed and neglected to quit, vacate and deliver up the vacant peaceful possession of the said premises and was occupying and holding the property in question wrongfully without any valid authority. SMP, Kolkata has made out a case that O.P. has no right to occupy the premises after the determination of the tenancy in question upon service of Notice to Quit dated 03.11.2011. It is also the case of SMP, Kolkata that O.P. is in wrongful occupation in the public premises on and from 15.12.2021 and is liable to pay compensation charges/mesne profits

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
[Signature] 16/05/23
Head Assistant

OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Signature]



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1413, 1413/R, 1413/D of 2013 Order Sheet No. 21

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SRI. NARAYAN CHANDRA SETT. SRI. PATIT PABAN SETT. SRI. JYOTISH CH. SETT

14
15.05.2023

for unauthorized use and occupation of the Port Property in question.

- 5) That during the course of the proceedings, SMP, Kolkata verbally as well in written vide application bearing No. No.3348/49/23/662 dated 17.03.2023 submitted that there are no Court cases pending before any Court of Law and also there are no Restraining Orders, in relation to the concerned subject premises. As such, this Ld. Forum formed its opinion and proceeded with this matter under the relevant provisions as laid down in the said Act, 1971.
- 6) That considering the submission advanced by SMP, Kolkata and the documents-on-record, this Ld. Forum formed its opinion to proceed against O.P. under the relevant provisions of the Act, 1971, and issued three (3) Nos. of Show Cause Notices all dated 20.03.2023 (Vide Order No.11 dated 20.03.2023) upon O.P., u/s-4 (for adjudication of the prayer of eviction) and u/s-7 (for adjudication of the prayer for outstanding rent as well as damages/compensation/charges) of the Act, as per the Rules made under the Act. The Notice/s were issued in terms of the said provisions of the Act calling upon the O.P. to appear before this Ld. 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.
- 7) That the said Notice/s was served through "Speed Post" to all the four (4) recorded addresses of O.P. at Sri Narayan Chandra Sett, Kuthirmata Barabazar, Chandannagar, Hooghly, West Bengal - 712136 **AND ALSO** Block B-5, Jagannath Ghat Godown, Strand Bank Road, Kolkata-700 007 **AND ALSO** Sri. Patit Paban Sett, Legal heirs of Sr. Jyotish Chandra Sett (Since Deceased) 16A, Robert Street, Kolkata-700 012 **AND ALSO** Block-B-5, Jagannath Ghat Godown, Strand Bank Road, Kolkata-700 007. It appears from the record that

By Order of:
THE ESTATE OFFICER
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OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Ass'tt

OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Handwritten signature/initials



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1413, 1413/R, 1413/D of 2018 Order Sheet No. 22

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SRI. NARAYAN CHANDRA SETT. SRI. PATIT PABAN SETT. SRI. TOTISH CH. SETT

14
15.05.2023

the Notice/s sent through "Speed Post" to all the four (4) recorded addresses of O.P. was returned "undelivered" to this Ld. Forum, with three different comments of the Postal Department as "deceased", "left", and "addressee moved". However it reveals from the submitted Report of the Process Server dated 28.03.2023, that the Notice/s could not be hand-delivered to O.P. as the door of the premises was closed during his visit on 28.03.2023. However, as per the said Report of the Process Server dated 28.03.2023, the Notice/s have been affixed in a conspicuous part of the subject property in question at about 12:40 PM, under schedule for a notice to all concerned, as per the mandate of the Act, 1971.

Thus, I am satisfied with the service of the Notice to all concerned.

- 8) That on the scheduled date of appearance and filing of reply to the Show Cause Notice, i.e. on 04.04.2023, neither O.P. nor any other person interested in the property appeared to give a reply to the Notice to Show Cause dated 20.03.2023.
- 9) Following the principles of Natural Justice that no one should be condemned unheard, Department was directed, vide Order No.12 dated 03.04.2023 to make another attempt to publish the Notice in an English daily & Bengali Daily Newspaper in classified column to intimate any person/s interested in the Public Premises regarding the pendency of the present proceedings and directing such person/s to appear before this Ld. Forum for showing cause/hearing/submission, etc. failing which the matter will be decide Ex Parte, without any further reference. Following the Orders of this Ld. Forum dated 03.04.2023, the Notice/s were published in "Aajkaal" dated 06.04.2023 and in "Times of India" dated 06.04.2023, simultaneously.
- 10) That however such attempt did not bring any result as neither O.P. nor any other interested person/s interested in the property appeared before this Ld. Forum for showing

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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16/05/23
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Aravind



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1413-1413/R.1413/D of 2013 Order Sheet No. 28

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SHRI. NARAYAN CHANDRASETT. SRI. PATIT PABANSETT. SRI. JOTISH CH. SETT

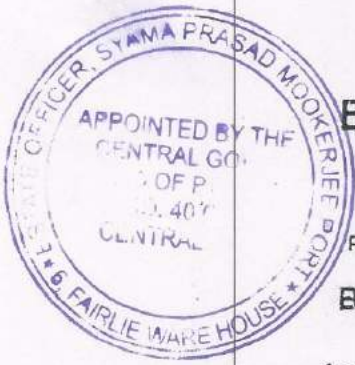
14
15.05.2023

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 Port Property. Non-payment of the rental dues by O.P. is very much prominent and established, as stated above. As per Law, a short term lease tenancy, like the one granted to O.P. continues only on the basis of timely payment of rent bill/s and non-payment of the same, even for a small period is enough to vitiate the contract. The moment O.P. delays to pay the rent, there is no scope for automatic monthly renewal of the tenancy. 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 suffer the consequences, following due applications of the tenets of Law. Such a tenancy is to be determined immediately by service of appropriate Notice. As such, I do not find anything irregular or illegal on the part of SMP, Kolkata. In my view, SMP, Kolkata's Notice to Quit dated 03.11.2011 is very much pertinent and binding upon the parties in question, duly served upon O.P. as per records. Thus, I have no hesitation in upholding the said Notice to Quit and declaring the occupation of O.P. as "unauthorized" within the meaning of Section 2(g) of the Public Premise (Eviction of Unauthorized Occupants) Act, 1971.

A question may arise as to how far the service to the Show Cause/s deserves merit in the facts and circumstances of the case. After a through perusal of all the records in the case, I have left with no other alternative than to accept that the said Notice/s have duly been served upon O.P by way of affixation. As already stated in Point No.7 of this Order, that I am satisfied with the service of the Notice to all concerned.

Thus, in my view, the importance of a Notice served in the official course of business of Indian Postal Service cannot be ignored by mere non-appearance of the O.P.

By Order of:
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Head Assis
OFFICE OF THE LD. EST. OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1412, 1413/R, 1413/D of 2013 Order Sheet No. 24

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SHRI. NARAYAN CHANDRA SETT. SRI. PATIT PABAN SETT. SRI. JOTISH CH. SETT

14
15.05.2023

cause/hearing/submission, etc. Now, in view of the spirit laid down in the Public Premises (Eviction of Unauthorized Occupant) Act, 1971, for speedy and summary disposal of the cases further considering the non-appearance of O.P. inspite of due affixation of such Notice/s on the subject premises and further Paper Publication for intimating the O.P. or any other interested person/s in the concerned property. This Ld. Forum found no need to keep the matter pending and the Final Order was reserved in the matter on 02.05.2023.

- 11) That in my view sufficient chances was given to all concerned to represent their matter, but each time O.P. failed to show any honest and bonafide intention to represent their case. It is to be put on record that no one from O.P. /any other interested person/s neither appeared before this Ld. Forum nor represented this matter right from the outset of the case, inspite of several opportunities being provided to them.

Now, this Ld. Forum has decided and is inclined to adjudicate the matter Ex-Parte.

- 12) That I have carefully considered all the documents placed before me. As regards the allegations of non-payment by O.P., I find that SMP, Kolkata has produced Statement of Accounts (including rent for the period as described in the Schedule attached with this Order and outstanding Dues/Damages/compensation for the prescribed period also described in the Schedule as attached with this Order) dated 02.05.2012 and 17.03.2023 in respect of the said occupations. It appears from the said statements of accounts that the O.P. defaulted in payment of SMP, Kolkata's legitimate dues/charges. In my view such statement maintained by the statutory authority in the 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 the Port Authority that the

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[Signature]
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Signature]



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1413-1413/R, 1413/D of 2013 Order Sheet No. 25

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SRI. NARAYAN CHANDRA SETT. SRI. PATIT PABAN SETT. SRI. JOTISH CH. SETT

14

15-05-2013

13) That considering all, as discussed above, and as no one from O.P.'s side appears and no reply to 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 and also nothing to disbelieve the statement made against O.P. by the Port Authority, on account of unauthorized occupation of O.P. into the Public Premises in question. Hence, I am left with no other alternative but think it as a fit case for issuing Order of Eviction u/s-5 of the Act, 1971, against O.P., as prayed for on behalf of SMP, Kolkata on the following grounds/reasons:-

- (i) That O.P. has failed to liquidate the rental dues to the Port Authority within the prescribed period, for a considerable time, despite being repeatedly requested for its immediate liquidation.
- (ii) That O.P. has violated the conditions of tenancy under monthly term lease, as granted by the Port Authority by way of not making payments of rental dues to SMP, Kolkata, at the time of issuing Ejectment Notice dated 03.11.2011.
- (iii) That O.P. has unauthorizedly parted with the possession of the subject Public Premises by inducting unauthorized sub-tenants, without any approval of the Port Authority and failed to vacate the premises upon determination of the period as mentioned in the Notice to Quit dated 03.11.2011, as issued by the Port Authority.
- (iv) That O.P. or any other person/s asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "unauthorized occupation", in spite of sufficient chances being provided.
- (v) That O.P. or any other person/s asserting any right through O.P. has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 03.11.2011.

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Head Assistant
OFFICE OF THE LD. EST. OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Handwritten signature]



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1413, 1413/R, 1413/D of 2013 Order Sheet No. 26

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

~~SHRI. NARAYAN CHANDRASETT. SRI. PATIL PABANSETT. SRI. JOTISH CHSETT~~

¹⁴
15.05.2023

- (vi) That the Notice to Quit dated 03.11.2011 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties.
- (vii) That O.P. has failed to show any cause against the allegations of erecting unauthorized construction, encroachment into the Port Property, and inducing unauthorized sub-tenants.
- (viii) That O.P.'s occupation has become "unauthorized" in the view of Section 2(g) of the said Act, 1971, and O.P. is liable to pay damages as claimed by SMP, Kolkata 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.
- (ix) 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.

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 asserting any right through O.P. or any person/s whosoever 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 the canons of Law till the date of unencumbered recovery of the possession of the same.

It is my considered view that a sum of Rs. 2, 81,598/- (Rupees Two Lakhs Eighty-One Thousand Five Hundred and Ninety eight only) for the Plate No. HL-384 for the period 30.06.1988 to 14.12.2011 (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 **13.06.2023**. Such dues attracts Compound Interest @ 7.19% per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of

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[Signature]
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Signature]



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1413-1413/R.1413/D of 2013 Order Sheet No. 27

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SHRI. NARAYAN CHANDRASETT. SRI PATIT PABANSETT. SRI. JOTISHCH. SETT

14
15.05.2023

the State Bank of India) from the date of incurrance of liability, till the liquidation of the same, as per the adjustments 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 unauthorized occupation. As such, I must say that Rs.27,27,354.67 (Rupees Twenty Seven Lakhs Twenty Seven Thousand Three Hundred and Fifty-Four and Sixty-Seven Paise only) for Plate No. HL-384 for the period from 15.12.2011 to 29.02.2020 (both days inclusive) as claimed by the Port Authority as damages in relation to the subject premises in question, are correctly payable by O.P. and it is hereby ordered that O.P. shall make such payment of the aforesaid sum to SMP, Kolkata on or before **13.06.2023**. The said damages shall attract Compound Interest @ 7.19% 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 adjustments 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 accordingly.

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 29.02.2020, as well, till such time the possession of the premises continues to be under the unauthorized occupation with O.P. SMP, Kolkata is directed to submit a statement comprising the details of its calculation of damages after 29.02.2020, indicating there-in, the details of the rate of such changes, and the period of the damages (i.e. till the date of taking over the possession) together with the basis on which such charges are claimed against O.P., for my consideration, for the

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SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1413, 1413/R, 1413/D Or 2013 Order Sheet No. 28

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SMT. NARAYAN CHANDRA SETT. SRI. PATIT PABAN SETT. SRI. JOTISH CH. SETT

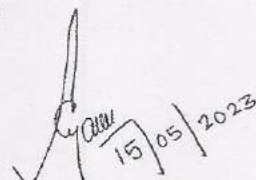
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15.05.2023

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 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.


(NARGIS YEASMEEN)
ESTATE OFFICER

*** ALL EXHIBITS AND DOCUMENTS ARE REQUIRED TO BE TAKEN BACK WITHIN ONE MONTH FROM THE DATE OF PASSING OF HIS ORDER ***

By Order of:
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Head Assistant
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