

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 Unauthorised Occupants) Act 1971
OFFICE OF THE ESTATE OFFICER
6, Fairlie Place (1st FLOOR) KOLKATA-700001

Court Room at the 1st Floor
Of SMPK's
Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.841/D OF 2006
ORDER NO. 78 DATED: 31.08.2025.

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. Tea Promoters (India) Pvt. Ltd
Suit No.17, Chowringhee Mansion,
30, Jawaharlal Neheru Road
Kolkata-700016.**

2870

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 04.09.2020 you are called upon to show cause on or before 16.09.2020 why an order requiring you to pay damages of Rs.20,89,647.72 (Rupees Twenty Lakh eighty nine thousand six hundred forty seven and paise seventy two 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.20,89,647.72 (Rupees Twenty Lakh eighty nine thousand six hundred forty seven and paise seventy two Only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.07.2014 to 31.12.2014 (both days inclusive) and from 01.08.2015 to 22.09.2015(both days inclusive) to SMPK by 12.04.2022.

PLEASE SEE ON REVERSE

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, O.S. 02029
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



: 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 @ 7.50 % 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 -K-228

The said godown space Msg.2809.94 Sq.m or thereabouts situated at D-Shed, Kantapukur, Thana: South Port Police Station, Dist: 24 Parganas(South), Regn. Dist: Alipore.

0785
Date 21.03.2023.


Signature & Seal of the
Estate Officer.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
21.03.2023
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

COPY FORWARDED TO THE ESTATE MANAGER, SYAMA PRASAD MOOKERJEE PORT,
KOLKATA FOR INFORMATION



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

841/D of 2006 Order Sheet No. 78

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S TEA PROMOTERS (INDIA) ^{VS} PVT. LTD

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31.03.2023

FINAL ORDER

The instant Proceedings No. 841/D of 2006 arose out of the application bearing No. Lnd. 5068/T/D-Shed/III/17/1851 dated 27.06.2017 read with the applications dated 11.06.2018 and 13.08.2020 filed by the Syama Prasad Mookerjee Port Kolkata (Formerly Kolkata Port Trust/SMPK), hereinafter referred to as SMPK, the Applicant herein, praying for order for recovery of arrear damages/compensation charges, taxes, along with interest from M/s. Tea Promoters (India) Pvt. Ltd, O.P. herein. The material facts of the case is summarized here under.

Godown space msg. 2809.94 Sq.m. situated at 'D' Shed, Kantapukur, comprised under Occupation No. K-228 was allotted to M/s. Tea Promoters (India) Pvt. Ltd (O.P) of Suit No.17, Chowringhee Mansion, 30, Jawaharlal Nehuru Road, Kolkata-700018 on monthly licence basis and O.P. violated the condition for grant of licence by way of not making payment of monthly licence fees/rental dues to SMPK and also by parting with possession. Thereafter, the licence was determined by SMPK by serving the notice of revocation dated 25.03.1997. The O.P. was asked to hand over clear, vacant and unencumbered possession of the premises on 17.04.1997 in terms of the notice of revocation of licence dated 25.03.1997. As the O.P. did not vacate the premises, SMPK initiated a proceeding for eviction, which culminated into an Order of eviction dated 07.03.2013 passed by this Forum of Law. Finally, the possession of the premises was taken over on 22.09.2015 by the Authorised Officer, who handed it over to SMPK. Thereafter, SMPK in terms of the application dated 13.08.2020 has submitted its claim on account of compensation/ damage charges, which reportedly was due and recoverable from the O.P. for its use and enjoyment of the port property in question.

After considering the claim of SMPK, this Forum formed its opinion to proceed against the O.P. and issued Show Cause Notice dated 04.09.2020 (vide Order no. 50 dated

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
24.09.2023
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

841/D of 2006 Order Sheet No. 79

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S TEA PROMOTERS (INDIA) PVT. LTD VS

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02.09.2020) u/s 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971.

O.P. contested the matter through its Ld. Advocate and filed reply to show cause notice on 11.11.2020. O.P. also filed Petitions/ applications on 24.02.2021, 19.03.2021, 18.08.2021, 24.09.2021, 12.11.2021 and Written Notes of Argument on 28.01.2022. SMPK on the other hand, filed their comments dated 24.02.2021, 23.06.2021 and 14.01.2022 in response to the reply to Show cause filed by O.P.

After hearing both the parties and considering the documents placed before me, I think the following issues have come up for adjudication:-

- 1) Whether the instant Proceeding against O.P. is maintainable or not;
- 2) Whether O.P. can take the shield of Limitation Act to debar the Port Authority from its claim of damages on the plea of "time barred" claim or not;
- 3) Whether O.P. is liable to pay the damages to the Port Authority, for the use and occupation of the public premises from 01.07.2014 to 31.12.2014 and thereafter from 01.08.2015 to 22.09.2015, as claimed for by SMPK or not;

As regards issue no. 1, I must say that the properties owned and controlled by the Port Authority has been declared as "public premises" by the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and Section-15 of the Act puts a complete bar on Court's jurisdiction to entertain any matter relating to eviction of unauthorized occupants from the public premises and recovery of rental dues etc. SMPK has come up with an application for an order of recovery of compensation charges etc against O.P. on the ground of non-payment of the same in respect of the premises in question. So long the property of the Port Authority is coming under the purview of "public premises" as defined under the Act, adjudication process by serving Show Cause Notice u/s 7 of the Act is very much maintainable and there cannot be any question about the maintainability of proceedings before this Forum of Law. In fact, proceedings before this Forum

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
29.03.2023
H. B. ASHANK
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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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

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of Law is not statutorily barred unless there is any specific order of stay of such proceedings by any competent court of law. The Issue no.1 is therefore decided accordingly.

On the question of time barred claim of SMPK on "limitation" under **issue No.2**, opposing submissions have received my due attention. It is the case of O.P. that SMPK's claim against O.P. is time barred and has no basis. However, I do not find any justification in such submission of O.P. when there is no prescribed period of limitation in the Limitation Act itself with regard to time barred damages. Moreover, the Limitation Act has its application in a suit before the Court. In the instant case this Forum of Law has restricted power of the Civil Procedure Code in respect of holding enquiry under this Act u/s. 8 of the Act which reads as follows:-

"An Estate Officer shall, for the purpose of holding any enquiry under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in trying a suit in respect of following matters, namely

1. a summoning and enforcing attendance of any person and examining him on oath
2. requiring the discovery and production of documents
3. any other matters which may be prescribed.

Section 4 of the Act provides that an Estate Officer shall for the purpose of holding an enquiry under this Act have the same powers as are vested in a Civil Court when trying a suit. The section gives limited powers, vesting in a Civil Court under the Code of Civil Procedure to the Estate Officer, the Adjudicating Authority under the P.P. Act, "for the purpose of holding an enquiry under this Act." The last mentioned words make it abundantly clear that the Estate Officer is not allotted with the status of a Civil Court while deciding matters that came up before him for decision under the Act. The P.P. Act provides a complete code for adjudication of the matters before the Estate Officer and Section 15 of the Act provides a complete bar upon the Court in respect of eviction of unauthorized occupants from

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
31.03.2023
Hindi 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 Unauthorised Occupants) Act 1971

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M/S TEA PROMOTERS (INDIA) PVT. LTD

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the public premises, recovery of rental dues and recovery of damages for unauthorized use and occupation of the public premises. There cannot be any manner of doubt about the status of the Estate Officer, a Quasi-Judicial Authority under the Act which is not a Civil Court under the Code of Civil Procedure. The Division Bench's judgment of M. P. High Court reported in AIR 1980 M.P. 196 (D.B) is very much authoritative in deciding the matter. Division Bench of Madhya Pradesh High Court while dealing with Section 7 & 15 of the Act and Articles 52 & 55 of the Limitation Act 1963 has definitely come into a conclusion that Estate Officer is not a Court and Limitation Act has no application to the proceedings before the Estate Officer under the P.P. Act for recovery of damages. This decision of the Division Bench of Hon'ble Madhya Pradesh High Court is very much relevant and instructive and legally binding upon all. Hence the issue raised by O.P. has no merit at all and decided against O.P.

Regarding issue no. 3, I must say that the monthly licence with respect to the public premises in question was entered into by the Port Authority with the O.P., on the basis of a offer letter dated 21.11.1995 and such licence was determined vide a notice of revocation of licence dated 25.03.1995. Accordingly, the O.P. was requested to arrange for vacation of the subject premises on 17.04.1997 free from all encumbrances. O.P. continued in possession of the public premises even after revocation of the licence and no reason or evidence has been brought forth by the O.P. as to how its occupation from 17.04.1997 could be termed as "authorised occupation". The final order of eviction was passed against O.P. on 07.03.2013 and finally in executing the order of eviction the possession of the subject premises was taken over by the Authorised Officer on 22.09.2015. Admittedly, the O.P. continued in possession of the public premises even after due determination of licence vide revocation of licence dated 25.03.1997 therefore, I have no hesitation in deciding that O.P. has no enforceable right after determination of such licence. The possession of the public premises by the O.P. from 18.04.1997 till the date of recovery of possession, therefore, is nothing but "unauthorized occupation" within the meaning of sec 2 (g) of the P.P. Act, 1971, which reads as under:

By Order of:
THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT
DATE 31.03.2025
OFFICE OF THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT

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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

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"unauthorized occupation", in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises, has expired or has been determined for any reason whatsoever."

The licence granted to O.P. was undoubtedly revoked by the Port Authority by due service of notice for revocation of licence and institution of proceedings against O.P. by SMPK is a clear manifestation of Port Authority's intention to get back possession of the premises. In fact there is no material to prove O.P.'s intention to pay the dues/charges to SMPK and all my intention to narrow down the dispute between the parties has failed. In such a situation, I have no bar to accept SMPK's contentions regarding revocation of licence by notice dated 25.03.1997, on evaluation of the facts and circumstances of the case.

"Damages" are like "mesne profit" that is to say the profit arising out of wrongful use and occupation of the property in question. I have no hesitation in mind to say that after expiry of the period as mentioned in the said revocation of licence dated 25.03.1997, O.P. has lost its authority to occupy the public premises, on the evaluation of factual aspect involved into this matter and O.P. is liable to pay damages for such unauthorized use and occupation. To come into such conclusion, I am fortified by the decision/observation of the Hon'ble Supreme Court in Civil Appeal No.7988 of 2004, decided on 10th December 2004, reported (2005)1 SCC 705, para-11 of the said judgement reads as follows.

Para:11-^a under the general law, and in cases where the tenancy is governed only by the provisions of the Transfer of Property Act 1882, once the tenancy comes to an end by determination of lease u/s.111 of the Transfer of Property Act, the right of the tenant to continue in possession of the premises comes to an end and for any period thereafter, for which he continues to occupy the premises, he becomes liable to pay damages for use and occupation at the rate at which the landlord would have let out the premises on being vacated

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT
31.03.2023
Head Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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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

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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
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by the tenant.
.....
.....

Undoubtedly, the tenancy under licence is governed by the principles/provisions of the Indian Easement Act and there is no scope for denial of the same. Though the status of a "licencee" is entirely different from the status of a "lessee", the principle established by the Hon'ble Apex Court of India in deciding any question about "damages" in case of a "lease" may be accepted as guiding principle for determining any question about damages in case of a "licence".

In course of hearing, the representative of SMPK states and submits that Port Authority never consented in continuing O.P's occupation into the public premises and never expressed any intention to accept O.P as tenant. It is contended that SMPK's intention to get back possession is evident from the conduct of the Port Authority and O.P. cannot claim its occupation as "authorized" without receiving any rent demand note. The licence was doubtlessly revoked by the landlord by notice, whose validity for the purpose of deciding the question of law cannot be questioned by O.P. Therefore, there cannot be any doubt that the O.P. was in unauthorized occupation of the premises, once the licence was revoked. In my opinion, institution of this proceeding against O.P. is sufficient to express the intention of SMPK to obtain an order of compensation/damages and declaration that SMPK is not in a position to recognize O.P. as tenant under monthly licence.

The Port Authority has a definite legitimate claim to get its revenue involved into this matter as per the existing terms and conditions for allotment for the relevant period and O.P. cannot claim continuance of its occupation without making payment of requisite charges for occupation. To take this view, I am fortified by the Apex Court judgment report in JT 2006 (4) Sc 277 (Sarup Singh Gupta -vs- Jagdish Singh & Ors.) wherein it has been clearly observed that in the event of termination of lease, the practice followed by Courts is to permit landlord to receive each month by way of compensation for

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
At Home Assistant
OFFICE OF THE LD ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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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. 841/D of 2006 Order Sheet No. 85

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VS
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Furthermore, enhancement to the extent of three times the normal rent for persons in unauthorised occupation of Port Trust property does not appear to be utterly unreasonable and arbitrary warranting interference of the Writ Court.

In my view, such claim of charges for damages at the rate of 3 times of the rent by SMPK is based on sound reasoning and should be acceptable by this Forum of Law. As per law, when a contract has been broken, the party who suffers by such breach is entitled to receive, from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract to be likely to result from the breach of it. Moreover, as per law O.P. is bound to deliver up vacant and peaceful possession of the public premises to SMPK after expiry of the period as mentioned in the notice of revocation of licence in its original condition. As such, the issue is decided in favour of SMPK. I have no hesitation to observe that O.P.'s act in continuing occupation is unauthorized and O.P. is liable to pay damages for unauthorized use and occupation of the Port property in question upto the date of delivering vacant, unencumbered and peaceful possession to SMPK. With this observation, I must reiterate that the ejection notice, demanding possession from O.P. as stated above have been validly served upon the O.P. in the facts and circumstances of the case and such notice are valid, lawful and binding upon the parties. In view of the discussions above, the issue is decided firmly in favour of SMPK.

NOW THEREFORE, I think it is a fit case for issuance order for recovery of damages u/s 7 of the Act as prayed for on behalf of SMPK. I sign the order as per rule made under the Act, giving time upto 12.04.2023 for payment of damages of Rs. 20,89,647.72 (Rupees Twenty lakh eighty nine thousand six hundred forty seven and paise seventy two only) to SMPK by O.P. for the period 01.07.2014 to 31.12.2014 & 01.08.2015 to 22.09.2015 respectively. Such dues attract compound interest @ 7.50 % 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

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
31.09.2023
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 Unauthorised Occupants) Act 1971

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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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31.03.2008

same, as per the adjustment of payments, if any made so far by O.P., in terms of SMPK's books of accounts.

I make it clear that in the event of failure on the part of O.P. to pay the amounts to SMPK as aforesaid, Port Authority is entitled to proceed further in accordance with Law. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

(Kausik Kumar Manna)
ESTATE OFFICER

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

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE
ORDER BY THE ESTATE
OFFICER SYAMA PRASAD MOOKERJEE PORT
31.03.2008
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT