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**REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY**

THE ESTATE OFFICER, 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.14 DT 04.12.2019
PROCEEDINGS NO. 1273 OF 2012

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
Estate Ram Prosad Shaw (O.P.)

F O R M - "B"

09.12.2019

**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 Ram Prosad Shaw, represented by legal heirs Smt. Gita Devi & Ors. of Shop No. 9, Taratala Staff Colony Market(Eastern Side) Kolkata-700088** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

- 1) That O.P. has failed to appear before this Forum with valid identity and has failed to file reply to the Show Cause Notice/s under the Act, despite sufficient chances being given.
- 2) That O.P. has violated the condition of tenancy under monthly term lease, as granted by the Port Authority by way of not making payment of rental dues to KoPT, and further erecting unauthorised construction msg about 66.89 sq. mt, unauthorised encroachment msg. about 15 sq. mt and unauthorised parting with possession.
- 3) That O.P./any other person on behalf of O.P./occupants of public premises have failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 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 its occupation as "authorised occupation", inspite of sufficient chances being provided.

PLEASE SEE ON REVERSE

- 5) That the notice to quit dated 02.06.2009 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P's occupation, and that of any other occupant of the premises, has become unauthorised in view of Section 2(g) of the P.P Act.
- 6) That O.P. is liable to pay damages for wrongful use and occupation of the Public Premises upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

A copy of the reasoned order No. 14 dated 29.11.2019 is attached hereto which also forms a part of the reasons.

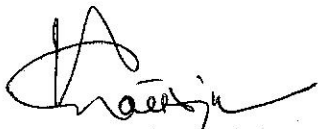
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **Estate Ram Prosad Shaw, represented by legal heirs Smt. Gita Devi & Ors. of Shop No. 9, Taratala Staff Colony Market(Eastern Side) Kolkata-700088** 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 Ram Prosad Shaw, represented by legal heirs Smt. Gita Devi & Ors. of Shop No. 9, Taratala Staff Colony Market(Eastern Side) Kolkata-700088** 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.

1. D. 09.12.2019

SCHEDULE

Piece or parcel of land msg. about 33.445 sq.m or thereabouts (under Plate No.D-377/13/C) is situated at Eastern end of the Trustees' Taratala Staff Colony, Thana- Taratala Police Station. It is bounded on the North by the said Trustees' open land and on the East by the said Trustees' open land, on the South and West ~~by the~~ by the said Trustees' open land. Trustees' means the Board to Trustees' of the Port of Kolkata.

Date- 04.12.2019


Signature & Seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER, KOLKATA PORT TRUST FOR INFORMATION.

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THE ESTATE OFFICER, 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
1st Floor, 6, Fairlie Place Warehouse,
Kolkata-700001

Court Room At the 1st Floor
6, Fairlie Place Warehouse
Kolkata- 700 001.

Form " E "

2012

PROCEEDINGS NO.1273/R OF

ORDER NO. 14 DATED: 02.12.2019

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

To
Estate Ram Prosad Shaw,
of Shop No. 9,
Taratata Staff Colony Market(Eastern Side)
Kolkata-700088.

4 09.12.2019

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

AND WHEREAS, by written notice dated 15.12.2016 you were called
upon to show cause on/or before 12.01.2017 why an order requiring you
to pay a sum of Rs. 2,69,197.00/- (Rupees Two Lakhs Sixty Nine
Thousand One Hundred and Ninety seven only.) being the rent payable
together with simple interest in respect of the said premises should not
be made;

And whereas I have considered your objection and/or the
evidence produced by you.

NOW, THEREFORE, in exercise of the powers conferred by sub-
section (1) of Section 7 of the Public Premises(Eviction of Unauthorised
Occupants) Act 1971, I hereby require you to pay the sum of
2,69,197.00/- (Rupees Two Lakhs Sixty Nine Thousand One Hundred
and Ninety seven only.) for the period 01.01.2004 to 15.06.2009 (both
days inclusive) to Kolkata Port Trust by 02.12.2019.

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 simple interest @ 18% per annum upto 06.04.2011 and thereafter @ 14.25% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Calcutta Gazettee/s as per Kolkata Port Trust's Rule.

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.

✓ Dec 9-12-2019

SCHEDULE

Piece or parcel of land msg. about 33.445 sq.m or thereabouts (under Plate No.D-377/13/C) is situated at Eastern end of the Trustees' Taratala Staff Colony, Thana- Taratala Police Station. It is bounded on the North by the said Trustees' open land and on the East by the said Trustees' open land, on the South and West ~~by the~~ by the said Trustees' open land. Trustees' means the Board to Trustees' of the Port of Kolkata.

Dated: 04-12-2019



Signature and seal of the
Estate Officer

**REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY**

THE ESTATE OFFICER, 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, Fairlie Place (1st Floor)

KOLKATA - 700 001

8 09.12.2019

Court Room At the 1st Floor
of Kolkata Port Trust's
Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.1273/D OF 2012
ORDER NO 14 DATED: 04.12.2019

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
Estate Ram Prosad Shaw,
of Shop No. 9,
Taratata Staff Colony Market(Eastern Side)
Kolkata-700088.

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 08.12.2016 you are called upon to show cause on/or before 12.01.2017 why an order requiring you to pay damages of **Rs.3,67,571.63** (Rupees Three Lakhs Sixty Seven Thousand Five Hundred Seventy One and paise sixty three only) for **Plate No.D-377/13/C** 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.



PLEASE SEE ON REVERSE

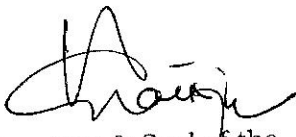
Now, therefore, in exercise of the powers conferred on me by Sub-section (2) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby order you to pay the sum of **Rs.3,67,571.63** (Rupees Three Lakhs Sixty Seven Thousand Five Hundred Seventy One and paise sixty three only) for **Plate No.D-377/13/C** as damages on account of your unauthorised occupation of the premises for the period from 16.06.2009 to 29.09.2016 to Kolkata Port Trust by 10.12.2019. In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act.

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest at the rate of 18% per annum till 06.04.2011 and thereafter @14.25% per annum 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. 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

Piece or parcel of land msg. about 33.445 sq.m or thereabouts (under Plate No.D-377/13/C) is situated at Eastern end of the Trustees' Taratala Staff Colony, Thana- Taratala Police Station. It is bounded on the North by the said Trustees' open land and on the East by the said Trustees' open land, on the South and West ~~by the~~ by the said Trustees' open land. Trustees' means the Board to Trustees' of the Port of Kolkata.

Date 04.12.2019


Signature & Seal of the
Estate Officer.

**COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER,
KOLKATA PORT TRUST FOR INFORMATION.**

Estate Officer, Kolkata Port Trust

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

Proceedings No. 1273, 1273/R & 1273/D Of 2012 Order Sheet No. -16-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Ram Prasad Shaw. **VS** *D-377/13/C*

FINAL ORDER

The matter is taken up today for final disposal. It is the case of Kolkata Port Trust (KoPT), applicant herein, that Shri Ram Prasad Shaw (since deceased) came into occupation of KoPT's land measuring 33.445 sqm situated at Taratala Staff Colony market (Eastern Side), Kolkata-700088 comprised under Plate No. D-377/13/C, being the Public Premises in question, as a month to month lessee on certain terms and conditions and the lessee violated the conditions of tenancy under the monthly term lease as granted by KoPT. Representative of KoPT filed an application being No. Lnd. 2669/3/31/16/21 dated 01.04.2016 annexing the Police Report detailing out the whereabouts of O.P. The Police Report reveals that Sri Ram Prasad Shaw expired long time back. The report also reveals the names of the legal heirs of O.P. (since deceased) and that Smt. Gita Devi is the wife of late Enaima Shaw and the daughter-in law of Ram Prasad Shaw.

A case has been made out by KoPT that the lessee has defaulted in making payment of rental dues etc., has carried out unauthorised construction msg about 66.89 sq. mt in the public premises in question and have unauthorisedly encroached upon Trustees' property msg. about 15 sq. mt. It is strongly argued on behalf of KoPT that the lessee has no authority under law to occupy the public premises after expiry of the period as mentioned in the notice to quit dated 02.06.2009 and the lessee is liable to pay the damages for wrongful use and occupation of the Port property upto the date of unencumbered handing over of vacant possession of the same.

As such, on the basis of the application filed by KoPT before this Forum dated 11.03.2010 and the documents produced, this Forum formed its opinion to issue Show Cause notice under Section 4 of the Act (for adjudication of the prayer for issuance of Order of Eviction etc.) and two Show Cause Notices under 7 of the Act (for adjudication of the prayer for recovery of rental dues, damages etc) all dated 15.12.2016.

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04-12-2019

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[Handwritten signature]

Estate Officer, Kolkata Port Trust

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

Proceedings No. 1273, 1273/R 1273/D Of 2012 Order Sheet No. 17-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Estate Ram Prosad Shaw. D-377/13/C.

14
04.12.2019.

8. Dec 9. 12. 2019.

It is seen from the records that the said Notice/s were received by one Shri G.B. Singh and Smt. Sabita Singh on 22.12.2016. Thereafter, on 12.01.2017, one Smt. Gita Devi, claiming herself to be the daughter-in Law of O.P. (since deceased) appears and admits that she is staying at the subject premises with her family. She also admits that one Shri Gopal Bahadur Singh is also staying as a sub-tenant for the last three years, which was allowed by her. On the said date of hearing i.e., on 12.01.2017, Shri Gopal Bahadur Singh was also present before this Forum to corroborate the submission of Smt. Gita Devi. The Forum directed Mrs. Geeta Devi to produce documentary evidence to prove her bonafide identity and her relationship with Shri Ram Prosad Shaw, since deceased. It further reveals from the records of hearing that Smt Gita Devi filed an application dated 09.02.2017, expressing her intention to clear all the dues/charges payable to KoPT in instalments, commencing after 1 year. Thereafter, another application dated 20.02.2017 was filed by Smt Gita Devi stating that she will vacate the premises within a period of 1 year, since she is unable to liquidate the dues/charges payable to KoPT.

Representative of KoPT prays for eviction and recovery of dues/charges with accrued interest, since O.P. admits to have inducted unauthorised sub-tenant and has prayed for a year's time for vacation of the premises. KoPT also harps on other breaches committed by O.P. related to erection of unauthorised structures of about 66.89 sq mts, without approval of KoPT along with illegal encroachment of land as brought up by KoPT on 29.07.2015, the details of which were attached along with the Show Cause notice dated 15.12.2006, which are also neither disputed or denied by Smt. Gita Devi. Accordingly, KoPT prays for eviction and recovery of dues/charges payable to KoPT with accrued interest.

I have carefully gone through the contentions made by KoPT against the O.P. and during the course of hearing, certain disparities emerged before this Forum as to the identity of the appearing parties. Smt. Gita Devi who appeared before this Forum and claims herself to be the daughter-in law of O.P., failed to produce any identity of proof/legal corroboration of her relationship with Ram Prosad Shaw, since deceased. On the basis of the Police

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. 1273, 1273/R, 1273/D Of 2012 Order Sheet No. -18-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Ram Prosad Shaw. **VS** *D-377/13/c*

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04.12.2019.

Report filed by KoPT before this Forum on 01.04.2016, this Forum formed its opinion to proceed against the legal heirs of the Estate Ram Prosad Singh and Smt. Gita Devi who was reported to be the daughter-in-law of Ram Prosad Shaw, since deceased, as per the Police Report, was made a party along with other legal heirs. Accordingly, when Smt Gita Devi appeared and claimed herself to be the daughter-in-law of Ram Prosad Shaw, this Forum required some documentary evidence to recognise her as the rightful and legal descendant of O.P. However, though Smt. Gita Devi claimed herself to be the daughter-in-law of Ram Prosad Shaw (since deceased), she failed to produce any documents having evidentiary value in support of her identity which would stand the test of legal scrutiny. On the contrary, she admitted before this Forum to have inducted unauthorised occupant and, strikingly, such unauthorised occupant was also present in the Forum to corroborate her deposition.

f 09.12.2019.

Therefore, given the facts and circumstances of the case, this Forum cannot recognise the person appearing before this Forum who claims to be the daughter-in-law of O.P., as the bonafide legal representative of O.P., hence the ambiguity of identity of the appearing parties could not be laid to rest and consequently the Forum has to perforce treat Smt. Gita Devi and of course, the unauthorised occupant she inducted in the premises as unauthorised sitting occupants, who are occupying the subject premises without any authority of Law.

As such, it is very clear that the lessee had no power of alienation of the public premises in question. In my considered view, this is a clear case of parting of possession to a rank outsider without any authority of law. The lessee and/or his legal representatives have clearly parted away with the KoPT land in question granted to them by KoPT under the monthly term lease, in favour of a stranger who is found to be enjoying the Port property for a very long period.

Further, I have nothing to disbelieve the other contentions of KoPT levelled against the O.P. The allegations of unauthorised construction and encroachment and non payment of rental and

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. 1273, 1273/R/1273/P Of 2012 Order Sheet No. -19-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Ram Prasad Shaw. VS *D-377/13/C.*

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04.12.2019

Dec 9, 12, 2019

compensation dues are very much pertinent and are established beyond doubt as the same find reflection in the documentary evidence produced before this Forum and in as much as these breaches were also neither disputed nor denied by the representative of O.P., during the course of hearing etc.

Such being the case, I am firm in holding that the Notice to Quit dated 02.06.2019 had been validly issued and served on the O.P. and the same is legally binding on the parties.

In view of the circumstances outlined in the aforesaid and as there is no bonafide reply to the Show Cause Notice/s under Section 4/7 of the Act, from O.P.'s end that may be given due cognisance by the Forum in terms of the set rules and procedures of the PP Act, and being satisfied as above, I am left with no other alternative but to issue the Order of Eviction against O.P., as prayed for on behalf of KoPT, on the following grounds/reasons:-

- 1) That O.P. has failed to appear before this Forum with valid identity and has failed to file reply to the Show Cause Notice/s under the Act, despite sufficient chances being given.
- 2) That O.P. has violated the condition of tenancy under monthly term lease, as granted by the Port Authority by way of not making payment of rental dues to KoPT, and further erecting unauthorised construction msg about 66.89 sq. mt, unauthorised encroachment msg. about 15 sq. mt and unauthorised parting with possession.
- 3) That O.P./any other person on behalf of O.P./occupants of public premises have failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 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 its occupation as "authorised occupation", inspite of sufficient chances being provided.

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. 1273, 1273/R, 1273/D Of 2012 Order Sheet No. -20-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Ram Prasad Shaw VS *D-377/13/c*

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04.12.2019

5) That the notice to quit dated 02.06.2009 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P.'s occupation, and that of any other occupant of the premises, has become unauthorised in view of Section 2(g) of the P.P Act.

6) That O.P. is liable to pay damages for wrongful use and occupation of the Public Premises 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.P. 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 unauthorized use and enjoyment of the property against O.P., in accordance with the well established canons of Law, till the date of unencumbered recovery of possession of the same. KoPT is directed to submit a comprehensive status report of the Public Premises in question on inspection of the property after expiry of the 15 days as aforesaid, so that necessary action can be taken for execution of the order of eviction u/s 5 of the Act, as per Rule made under the Act.

It is my considered view that a sum of Rs. 2,69,197/- for the period 31.01.2004 to 15.06.2009 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of rental dues and O.P. must have to pay the rental dues to KoPT on or before 21.12.2019. Such dues attract interest @ 15% per annum upto 18.09.1996 and thereafter @ 18% per annum upto 06.04.2011 and thereafter @ 14.25% per annum, till the liquidation of the same, from the date of incurrance of liability in accordance with the notification of KoPT, issued under Authority of Law, as per adjustment of payments made so far by O.P., in terms of KoPT's books of accounts. Department is directed to draw up formal order as per Rule u/s 7 of the Act.

[Signature]

09.12.2019

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. 1273, 1273/R, 1273/D Of 2012 Order Sheet No. -21-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Estate Ram Prasad Shaw VS D-377/13/C

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04.12.2019

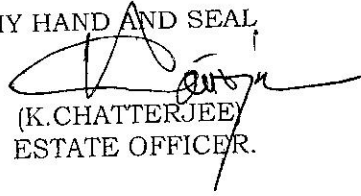
09.12.2019

In my opinion, KoPT's claim for damages from 16.06.2009 to 29.09.2016 for Rs. 3,67,571.63 (excluding interest for delayed payment) for wrongful occupation may be payable by O.P. As it is gathered in course of hearing, that the charges so claimed by KoPT are on the basis of the Schedule of Rent Charges published under the Authority of Law as per provisions of the Major Port Trusts Act 1963. During the course of hearing, I find that KoPT has made out an arguable claim against O.P., founded with sound reasoning. I make it clear that Kolkata Port Trust is entitled to claim damages against O.P. for unauthorized use and occupation of the public premises upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with law and KoPT is entitled to claim interest upon dues/charges right from the date of incurrance of liability by O.P. till the date of clear, vacant and unencumbered recovery of the premises by KoPT as per KoPT's Rule.

NOW THEREFORE, I hereby assess the damages payable by the O.P. for wrongful and unauthorised occupation of the public premises in question, for the period 16.06.2009 to 29.09.2016 as Rs. 3,67,571.63 /- (principal amount). In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest @ 18% per annum till 06.04.2011 and thereafter @14.25% per annum 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.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL


(K.CHATTERJEE)
ESTATE OFFICER.

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