

2020



**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.13 DT 24.02.2020
PROCEEDINGS NO. 1240 OF 2011

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-

M/S Chaudri & Company (O.P.)

F O R M - "B"

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

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **M/S. Chaudri & Company, 4, Bankshall Street, Kolkata-700001** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

1. That O.P. has failed to file reply to the Show Cause Notice/s inspite of sufficient chances and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P., demanding possession dated 27.09.1985.
2. That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.
3. That O.P. has parted with possession of the Public Premises in question without having any authority under law.
4. That O.P has sublet the entire portion without prior approval which is a statutory obligation.
5. That the Quit notice dated 27.09.1985 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties and O.P's occupation into the Public Premises has become unauthorised in view of Sec.2(g) of the P.P. Act.
6. That O.P. has violated the condition of monthly short term lease as granted by the Port authority by way of not making payment of rental dues and taxes to KoPT, for a prolonged period.

PLEASE SEE ON REVERSE

(Handwritten mark)

(2)

7. That O.P. is liable to pay damages for wrongful use and occupation of the public premises up to the date of handing over the clear, vacant and unencumbered possession to the port authority.

A copy of the reasoned order No. 13 dated 24.02.2020 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 **M/S. Chaudri & Company, 4, Bankshall Street, Kolkata-700001** 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 **M/S. Chaudri & Company, 4, Bankshall Street, Kolkata-700001** and all other persons concerned are liable to be evicted from the said premises, if need be, by the use of such force as may be necessary.

SCHEDULE

Plate No.GR-115

The said piece or parcel of land measuring about 688.505 sq.m or thereabouts is situated at Durgapur Siding, Police Station -SPPS, Dist-24 pgs(S), Registration District- Alipore. It is bounded on the north by the said Trustees' land, on the east by the Trustees' land licence to the respondent, on the south by the said Trustees' Roadway, on the west Trustees' land licence to the respondent.

Plate No. GR-115/1

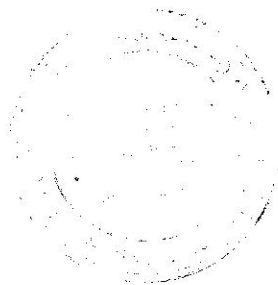
The said piece or parcel of land measuring about 65.450 sq.m is situated at Durgapur Siding, Police Station -SPPS, Dist-24 pgs(S), Registration District- Alipore. It is bounded on the north by the said Trustees' land, on the east by the Trustees' land licence to the respondent, on the south by the said Trustees' Roadway, on the west Trustees' land leased to M/S Steel Authority of India Ltd.

Plate No.GR-120

The said piece or parcel of land measuring about 651.157 sq.m is situated at Durgapur Siding, Police Station -SPPS, Dist-24 pgs(S), Registration District- Alipore. It is bounded on the north by the said Trustees' land, on the east by the Trustees' land leased to M/S Steel Authority of India Ltd, on the south by the said Trustees' Roadway, on the west Trustees' land leased to respondent.

Trustees' means the Board of Trustees' for the Port of Kolkata.

Date- 26.02.2020



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)
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OFFICE OF THE ESTATE OFFICER
6, Fairlie Place (1st Floor)
KOLKATA - 700 001

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

PROCEEDINGS NO.1240/D OF 2011
ORDER NO.13 DATED : 24.02.2020

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 Chaudri & Company,
4, Bankshall Street,
Kolkata-700001**

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 12.03.2018 you are called upon to show cause on/or before 10.04.2018 why an order requiring you to pay damages of Rs. 1,61,36,694.19 (Rupees One Crore Sixty One Lakhs Thirty Six thousand Six hundred Ninety Four and paisa Nineteen only) together with [compound interest] for unauthorised use and occupation of the said premises, should not be made.

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

Now, therefore, in exercise of the powers conferred on me by Sub-section (2) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby order you to pay the sum of Rs. 1,61,36,694.19 (Rupees One Crore Sixty One Lakhs Thirty Six thousand Six hundred Ninety Four and paisa Nineteen only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.11.1985 to 30.06.2017(both days inclusive) to Kolkata Port Trust by 04.03.2020.

PLEASE SEE ON REVERSE

: 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 simple interest @ 15% per annum upto 18.09.1996 and thereafter @ 18% per annum till 06.04.2011 and thereafter @14.25% per annum on the above sum from the date of incurrance of liability till its final payment in accordance with Kolkata Port Trust's 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 by Collector.

SCHEDULE

Plate No.GR-115

The said piece or parcel of land measuring about 688.505 sq.m or thereabouts is situated at Durgapur Siding, Police Station -SPPS, Dist-24 pgs(S), Registration District- Alipore. It is bounded on the north by the said Trustees' land, on the east by the Trustees' land licence to the respondent, on the south by the said Trustees' Roadway, on the west Trustees' land licence to the respondent.

Plate No. GR-115/1

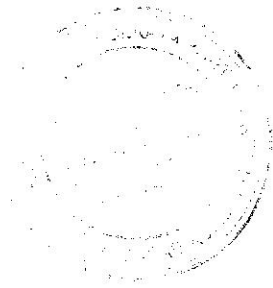
The said piece or parcel of land measuring about 65.450 sq.m is situated at Durgapur Siding, Police Station -SPPS, Dist-24 pgs(S), Registration District- Alipore. It is bounded on the north by the said Trustees' land, on the east by the Trustees' land licence to the respondent, on the south by the said Trustees' Roadway, on the west Trustees' land leased to M/S Steel Authority of India Ltd.

Plate No.GR-120

The said piece or parcel of land measuring about 651.157 sq.m is situated at Durgapur Siding, Police Station -SPPS, Dist-24 pgs(S), Registration District- Alipore. It is bounded on the north by the said Trustees' land, on the east by the Trustees' land leased to M/S Steel Authority of India Ltd, on the south by the said Trustees' Roadway, on the west Trustees' land leased to respondent.

Trustees' means the Board of Trustees' for the Port of Kolkata.

Date 26.02.2020



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

Form " E "

PROCEEDINGS NO.1240/R OF 2011
ORDER NO. 13 DATED: 24.02.2020

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

To
M/S Chaudri & Company,
4, Bankshall Street,
Kolkata-700001

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

AND WHEREAS, by written notice dated 12.03.2018 you are called upon to show cause on/or before 10.04.2018 why an order requiring you to pay a sum of Rs 1,67,318.46 (Rupees One Lakh Sixty Seven Thousand Three Hundred Eighteen and Paise Forty Six only) being the rent payable together with compound interest in respect of the said premises should not be made;

AND WHEREAS you have not made any objections or produced any evidence on/or before the said date and failed to represent the instant proceedings inspite of repeated chances being given to 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 Rs 1,67,318.46 (Rupees One Lakh Sixty Seven Thousand Three Hundred Eighteen and Paise Forty Six only) for the period 01.04.1974 to 31.10.1985 (both days inclusive) to Kolkata Port Trust by 04.03.2020.

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 at the rate of 15% per annum upto 18.09.1996 and thereafter @18% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum on the above sum from the date of incurrance of liability till its final payment in accordance with Kolkata Port Trust's Notification published in Official Gazette/s.

In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

SCHEDULE

Plate No.GR-115

The said piece or parcel of land measuring about 688.505 sq.m or thereabouts is situated at Durgapur Siding, Police Station -SPPS, Dist-24 pgs(S), Registration District- Alipore. It is bounded on the north by the said Trustees' land, on the east by the Trustees' land licence to the respondent, on the south by the said Trustees' Roadway, on the west Trustees' land licence to the respondent.

Plate No. GR-115/1

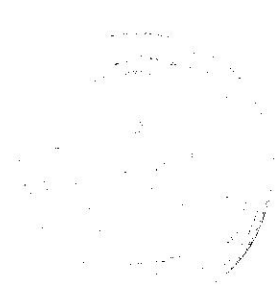
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The said piece or parcel of land measuring about 651.157 sq.m is situated at Durgapur Siding, Police Station -SPPS, Dist-24 pgs(S), Registration District- Alipore. It is bounded on the north by the said Trustees' land, on the east by the Trustees' land leased to M/S Steel Authority of India Ltd, on the south by the said Trustees' Roadway, on the west Trustees' land leased to respondent.

Trustees' means the Board of Trustees' for the Port of Kolkata.

Dated: 26.02.2020



Signature and 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. 1240, 1240/R, 1240/D of 2011 Order Sheet No. 9

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/s Chaudri & Company

FINAL ORDER

13

24.02.2020

The instant proceedings No. 1240, 1240/R, 1240/D of 2011 arisen out of the application bearing No. Lnd.4480/10/04/997 dated 02.07.2004 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of eviction and recovery of rent, compensation/damages and other charges etc. along with accrued interest in respect of the public premises as defined in the Schedule of said application, against Chaudri & Company, the O.P herein, under relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

The fact of the case in a nutshell is that the O.P. came into occupation of the port property being land measuring 688.505 sq.m, 65.40sq.m and 651.157 sq.mtrs. or thereabout situated at Durgapur Siding, (under Plate Nos.GR-115, GR-115/1 and GR-120 respectively) Thana- S.P.P.S, District- 24 pgs(S) as a Lessee on short term, morefully described in the Schedule 'A' of the KoPT's application dated 02.07.2004. The allegations levelled by KoPT against the O.P are that while in possession of Port property as lessee, the O.P has (a) defaulted in payment of monthly rent, taxes also accrued interest thereon the details of which has given in 'Schedule-B of the KoPT's application dated 02.07.2004 (b) sublet the entire portion without prior approval which is a statutory obligation under the terms of tenancy and (c) unauthorisedly parted with possession of such land.

It is also the case of KoPT that the said lease with O.P. was determined by way of a Quit Notice dated 27.09.1985 and the O.P. was asked to vacate the premises on 01.11.1985 but O.P failed and neglected to vacate/ hand over the possession of the premises after service of the said Notice to Quit.

Considering the submission advanced by KoPT and the documents on record, Notice/s to Show Cause under section 4 and 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 all dated 12.03.2018(vide Order No.10 dated 11.01.2018) were issued by this forum to O.P. The Notice/s were issued in

[Handwritten signature and date]
26/2/2020

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. 1240, 1240/R, 1240/D Of 2011 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/S Chaudri & Company

13

24.02.2020

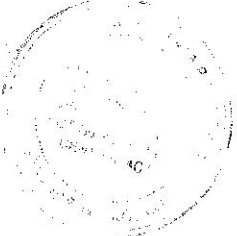
terms of the said provisions of the Act calling upon the O.P. to appear before this forum in person or through authorized representative capable to answer all material questions in connection with the matter along with the evidence which the opposite party intends to produce in support of their case.

The said notice/s was served through Speed Post to the correct recorded address of O.P. at 4, Bankshall Street, Kolkata-700001 It appears from records that the Notice/s sent to the recorded address of O.P. were returned back by the postal department due to possible insufficiency of address of O.P. The Notice/s have also been sent to the occupation of O.P. by hand delivery. It appears from the report of the Process Server dated 02.04.2018 that O.P. was not found at above address. However, the copy of the said Notice/s have been affixed on the property under schedule on the same day at about 12.10 P.M. in compliance of the provisions of the Act. On the day fixed for appearance and filing of reply to the Show Cause by the O.P. As none appeared on behalf of O.P in spite of sufficient chances and affixation of the Notice/s on subject premises, the matter was published in the classified column of the Times of India, Kolkata dated 05.05.2018, as per the Order dated 10.04.2018 fixing the ultimate date of O.P's appearance on 24.05.2018. Finally as the O.P failed to appear on 24.05.2018 the final Order was reserved in the matter. Now this forum has decided to adjudicate the matter ex-parte.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of KoPT.

It is seen that no one appears on behalf of O.P. and no attempts has ever been made by the O.P. to satisfy this forum of Law about any consent on the part of KoPT in occupying the public premises. Rather it is a case of KoPT that by notice dated 27.09.1985 O.P. was directed to hand over possession of the premises to KoPT. A letter /notice issued in official course of business has definitely got an evidentiary value unless there is no material, sufficient to contradict the case of KoPT on the basis of such letter/Notice. It is a settled question of law that O.P. cannot claim any legal right to hold the property after

[Handwritten signature]
20/2/2020



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. 1240, 1240/R, 1240/D Of 2011 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Chaudri ^{VS} Company

13
24.02.2020

expiry of the notice in question, without any valid grant or allotment from KoPT's side.

Further, as there is no reply to the Show Cause notice issued u/s 4 and u/s 7 of the Act inspite of sufficient chances provided to the O.P., I am left with no other alternative but to issue order of eviction u/s 5 of the Act against O.P. on the following grounds/reasons :-

1. That O.P. has failed to file reply to the Show Cause Notice/s inspite of sufficient chances and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P., demanding possession dated 27.09.1985.
2. That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.
3. That O.P. has parted with possession of the Public Premises in question without having any authority under law.
4. That O.P has sublet the entire portion without prior approval which is a statutory obligation.
5. That the Quit notice dated 27.09.1985 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties and O.P's occupation into the Public Premises has become unauthorised in view of Sec.2(g) of the P.P. Act.
6. That O.P. has violated the condition of monthly short term lease as granted by the Port authority by way of not making payment of rental dues and taxes to KoPT, for a prolonged period.
7. That O.P. is liable to pay damages for wrongful use and occupation of the public premises up to the date of handing over the clear, vacant and unencumbered possession to the port authority.

ACCORDINGLY, Department is directed to draw up formal order of eviction u/s.5 of the Act as per Rule made there under, giving 15 days time to O.Ps' and any person/s

RECEIVED
THE ESTATE OFFICER
KOLKATA PORT TRUST

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ESTATE OFFICER
KOLKATA PORT TRUST

Handwritten signature and date: 20/2/2020

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. 1240, 1240/R, 1240/D Of 2011 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/s Chaudri & Company

13
24.02.2020

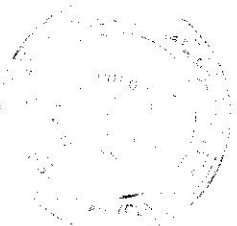
whoever may be in occupation to vacate the premises. I make it clear that all person/s whoever may be in occupation are liable to be evicted by this order and the Port Authority is entitled to claim damages for unauthorized use and enjoyment of the property against O.Ps' in accordance with Law up to the date of recovery of possession of the same.

It is my considered view that a sum of Rs.1,67,318.46 for the period 01.04.1974 to 31.10.1985(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 KoPT on or before 04.03.2020. Such dues attracts interest at the rate of 15% per annum upto 18.09.1996 and thereafter at the rate of 18% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum till its 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 as per KoPT's books of accounts.

Likewise, I find that KoPT has made out an arguable claim against O.P., founded with sound reasoning, regarding the damages/compensation to be paid for unauthorised occupation. As such, I must say that Rs. 1,61,36,694.19 as claimed by the Port Authority as damages in relation to the subject premises in question, is correctly payable by O.P. for the period 01.11.1985 to 30.06.2017 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by 04.03.2020. The said damages shall carry simple interest at the rate of 15% per annum upto 18.09.1996 and thereafter @ 18% per annum upto 06.04.2011 and thereafter @ 14.25% per annum on the above sum from the date of incurrance of liability till its final payment in accordance with the relevant notification/s published in Official Gazette. I sign the formal orders u/s 7 of the Act.

I make it clear that KoPT 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 30.06.2017 as well, till such

Handwritten signature and date: 26/2/2020



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. 1240, 1240/R, 1240/D Of 2011 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/s Chaudhri & Company.

13
24.02.2020

time the possession of the premises continues to be under the unauthorised occupation with the O.P. KoPT is directed to submit a statement comprising details of its calculation of damages after 30.06.2017, indicating therein, the details of the rate of such charges, and the period of the damages (i.e. till the date of taking over of possession) together with the basis on which such charges are claimed against O.P., for my consideration for the purpose of assessment of such damages as per Rule made under the Act.

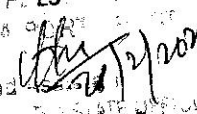
I make it clear that in the event of failure on the part of O.P. to comply with this Order, Port Authority is entitled to proceed further for execution of this order in accordance with law.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL


(A.K. Sarkar)
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
KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

NAME OF THE ESTATE OFFICER
KOLKATA PORT TRUST

