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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, 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.1687/D OF 2019
ORDER NO. 08 DATED: 04.03.2020

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 Mineral Grinding Industries,
Sethia House
23/24, Radha Bazar Street,
Kolkata -700001
AND
C-37, Defence Colony,
New Delhi-110024

By Order of :
**THE ESTATE OFFICER
KOLKATA PORT TRUST**

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
06.03.2020
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
KOLKATA PORT TRUST

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 24.01.2019 you are called upon to show cause on/or before 21.02.2019 why an order requiring you to pay damages of Rs.33,65,326/- (Rupees Thirty Three Lakh Sixty Five thousand Three hundred Twenty six only) together with [compound interest] for unauthorised use and occupation of the said premises, should not be made;

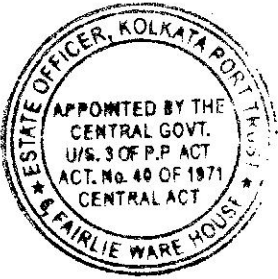
And whereas I have considered your objections and/or the evidence produced by you.

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.33,65,326/- (Rupees Thirty Three Lakh Sixty Five thousand Three hundred Twenty six only) as damages on account of your unauthorised occupation of the premises for the period from 01.10.2012 to 28.12.2016 to Kolkata Port Trust by 13.03.2020.

Sub

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 @ 6.50 % 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 incurrence 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 through the Collector.

SCHEDULE

Land msg. about 1327.77 sq.m or thereabouts situated at Turner Road, Cossipore, Thana- Chitpore Police Station in the Presidency town of Kolkata (under **Plate No.SB-562**). It is bounded on the North partly by the Trustees' Turner Road and partly by the private property, on the East by the Trustees' Turner Road beyond which private property, On the South by the Trustees' land occupied by Prithibi Tewary and on the West by the Private property beyond which Chitpur Ghat Lane. Trustees' means the Board to Trustees' of the Port of Kolkata.

RECORDED BY:
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
06.03.2020
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
KOLKATA PORT TRUST

Date - 05-03-2020.

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. 1687 A/1687/D Of 2019 Order Sheet No. -09-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S. Mineral Grinding Industries. (SB-562)
VS

FINAL ORDER

08

04.03.2020

The instant proceedings No. 1687/D of 2019 arises out of the application bearing No. Lnd.4967/12/17/1180 dated 16.05.2017 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of recovery of dues and other charges etc. along with accrued interest in respect of the public premises as defined in the Schedule of said application, against M/S Mineral Grinding Industries, 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 1327.77sq.mt. or thereabout situated at Turner Road, Cossipore, within the presidency town of Kolkata (under Plate No.SB-562) as long term Lessee, more fully described in the 'Schedule of Property' of the KoPT's application. The allegations levelled by KoPT against the O.P is that while in possession of Port property as long term Lessee, the O.P has defaulted in making payment of damages/compensation and taxes and also accrued interest thereon the details of which has given in 'Schedule-B' of the KoPT's application.

It is the case of KoPT that the O.P. was asked to pay damages/compensation upto 28.12.2016 as because the subject premises was taken over by KoPT on 28.12.2016.

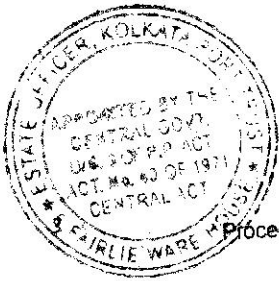
Considering the submission and documents as submitted by KoPT, Notice to Show Cause dated 24.01.2019 (vide Order-02 dated 17.01.2019) was

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KOLKATA PORT TRUST

Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
KOLKATA PORT TRUST

Cont



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. 1687 A 1687/D Of 2019 Order Sheet No. -10-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S. Mineral Grinding Industries. (SB-562)

08
04.03.2020

issued by this Forum to the O.P. U/s 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 to show cause as to why an order requiring to pay arrear damages/ compensation together with interest should not be made against the O.P. The O.P. was also called upon to appear before this Forum in person or through authorized representative capable of answering all material questions connected with the matter along with the evidence which the opposite party intends to produce in support of this case.

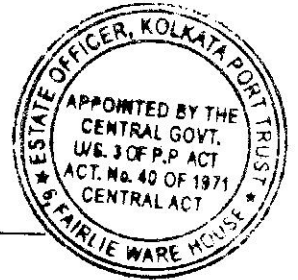
It is placed on record that the said Notice was sent to the recorded addresses of O.P. vide Speed Post, hand delivery as well as by affixing the same in the Public Premises in question as per mandate of the Act. The Notice sent by Speed Post was not returned back to this Forum. However, it appears from the report of Process Server that the said notice had been served upon O.P personally on 28.01.2019 and affixation was made on the same day at about 3 P.M. As a result, on 21.02.2019 Advocate of O.P appeared, filed his Vokalatnama and prayed for adjournment to file his reply to the Show Cause. Thereafter dated 28.02.2019 O.P's Advocate filed his reply alleging inter-alia that the instant proceeding is misconceive, harassive and barred by principles of acquiescence, estoppels and principles analogous thereto. He further added that upon expiry of the lease, the respondent has become monthly tenants by tender of rent accepted by KoPT. Moreover KoPT cannot retrospectively convert the respondent's tenancy from lease to a licence and unilaterally impose fresh condition for the period between August, 2012 to February, 2014. Thereafter on 07.03.2019 KoPT has filed their rejoinder denying

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KOLKATA PORT TRUST
04.03.2020
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
KOLKATA PORT TRUST

Sub

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. 1687A/1687/D Of 2019 Order Sheet No. -11-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/s. Mineral Grinding Industries. (SB-562)

08

04.03.2020

all the averments of O.P's reply. KoPT submitted that O.P had been granted long term lease for a period of 20 years without any option of renewal w.e.f 22.08.1992 and the term of such lease have been expired on 21.08.2012 and thereafter no fresh lease was granted to them due to the embargo put by the Central Government on grant of long-term leases to private parties. However by an offer letter dated 12.04.2014 such land was given to O.P on 11months licence for two periods from 22.08.2012 to 27.07.2013 and from 22.07.2013 to 21.06.2014. However, such offer was not accepted by O.P. Moreover, O.P has failed and neglected to quit, vacate, hand over the unencumbered possession of such premises to KoPT after expiry of such lease and filed a Writ Petition being W.P No.245 of 2017 before the Calcutta High Court to challenge the demand notice/s dated 23.06.2014, 20.05.2016, 20.02.2017. But no stay or restraint order had been there which can debar the proceedings to proceed. Therefore, O.P is liable to pay such damages for unauthorised occupation of such land. Finally on 18.03.2019 when both the parties confirmed that there were no order of stay or restraint was in force in connection with the subject matter & KoPT submitted no further comments, after giving opportunity of filing written notes of arguments to both the parties, the matter was reserved for final order.

Now, after carefully considering all the documents on record and the submissions of both the parties, my considered view is that Firstly, O.P's objection that the instant proceeding is misconceive, harassive and barred by principles of acquiescence, estoppels and principles analogous thereto etc are not tenable in the

[Signature]

8, Order of
THE ESTATE OFFICER
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KOLKATA PORT TRUST

06.03.2020
J. Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
KOLKATA PORT TRUST



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. 1687A/1687/D Of 2019 Order Sheet No. -12-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/S. Mineral Grinding Industries. (SB-502)

08
04-03-2020

By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST
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PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
Head Assistant
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KOLKATA PORT TRUST

eye of law because the principles of estoppels, acquiescence, etc are procedural in nature and thus the same will have no application in a case where issues involved are only pure question of law. according to law the question estoppel arise when one person has, by his declaration, act or omission, **intentionally** caused or **permitted** another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed in any suit or proceedings between himself and such person or his representative, to deny the truth of that thing. In other words to constitute an estoppels there must be an intention or permission to believe certain thing. There is no material in O.P's objection by which it can be proved that there was any intention or permission on the part of KoPT regarding such status of O.P in that public premises in question. Secondly, O.P's objection that upon expiry of the lease, the respondent has become monthly tenant by tender of rent accepted by KoPT is also not tenable because after expiry of a long term lease if anything is paid by O.P, it cannot be termed as rent it is merely called an occupational charge. Here, in this matter KoPT has accepted occupational charges in the nature of compensation only. Further, such lease was granted to O.P without any option of renewal. Moreover there is no bar on fresh allotment of any public premises on licence after determination of lease of such premises by efflux of time.

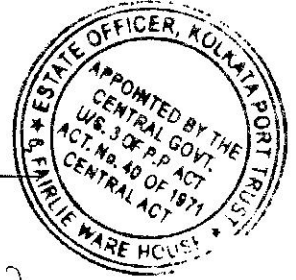
Considering all the points mentioned above, I have left with no other alternative but to accept that Paper/documents produced on behalf of O.P., contradicting/ disputing the claim of KoPT are baseless and have no weightage in the eye of Law.

[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. 1687/1687/D Of 2019 Order Sheet No. -13-



BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S. Mineral Grinding Industries. (503-562)

08
04-03-2020

It is my considered view that a sum of Rs.33,65,326/- for the period 01.10.2012 to 28.12.2016 is due and recoverable from O.P. by the Port authority on account of damages/compensation and O.P. must have to pay such dues to KoPT on or before 13.03.2020 such dues attract simple interest @ 6.50 % 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 incurrence of liability, till the liquidation of the same, as per the adjustment of payments, if any made so far by O.P., in terms of KoPT's books of accounts. I sign the formal order u/s 7 (2) & (2-A) of the Act. I make it clear that in the event of failure on the part of O.P. to pay the amount to KoPT as aforesaid; Port Authority is entitled to proceed further for recovery of its claim in accordance with law. Provided there lies no order of restraint from any competent Court of Law.

Department is directed to draw up formal order as per Rule u/s 7 of 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, KoPT 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

(S.Mitra)

ESTATE OFFICER.

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

BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST
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KOLKATA PORT TRUST
06-03-2020
1 Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
KOLKATA PORT TRUST

