

Estate Officer, Calcutta Port Trust

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

Proceedings No. 570 & 570/R Of 2004 Order Sheet No. 7

BOARD OF TRUSTEES OF THE PORT OF CALCUTTA
VS

M/S. HIND GALVANIZING & ENGINEERING CO. LTD.

8
19.4.2004

FINAL ORDER

The matter is taken up to-day for ~~final~~ final disposal. Factual aspect involved into this matter is so simple that I do not consider it necessary to extend it by elaborate discussion. It is the case of Kolkata Port Trust that the O.P. is continuing in occupation of the public premises without any ~~is~~ payment of rental dues to the Kolkata Port Trust in gross violation of the condition of tenancy as granted to them under lease. It is also the case of Kolkata Port Trust (KoPT) that there is no authority on the part of O.P. to occupy the Port property after service of ejection notice dated 23.9.1999 to O.P. from KoPT's end. Rental dues as claimed by KoPT against O.P. is Rs.4,29,747.32 in respect of the period 1.9.1992 to 30.11.1999. Show Cause Notice U/S.4 and U/S.7 of the Act ~~was~~ were issued to O.P. on 27.1.2004 upon formation of my opinion to proceed against the O.P. for eviction and recovery of rental dues under the Act on the basis of the materials brought before me. Sufficient chances were given to O.P. to file ~~the case~~ their reply to the said Show Cause Notices in order to contradict the grounds for eviction as mentioned in the Show Cause Notice ~~U/S.4~~ U/S.4 and the claim of rental dues as mentioned U/S.7. The O.P. was given liberty to produce document and laid evidence and to file written objection from time to time but no action has been taken on behalf of O.P. to reply against the Show Cause Notice U/S.4 & 7 of the Act inspite of repeated chances. The only statement made on behalf of O.P. is merely an allegation against

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E. M. Malla (14/4/04)

Estate Officer, Calcutta Port Trust

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Proceedings No. 570 & 570/R Of 2004 Order Sheet No. 8

BOARD OF TRUSTEES OF THE PORT OF CALCUTTA
VS

M/S. HIND GALVANIZING & ENGINEERING CO. LTD.

8
19.4.2004

Contd....from pre-page.

against the Kolkata Port Trust regarding payment of Rs.9,57,000/- in excess and abnormally high rate of charges. As there is no reply to the Show Cause Notice and no papers/documents in favour of O.P's contentions, it is very difficult, I should rather say impossible to accept the contention of O.P. regarding excess payment. As a matter of fact the O.P. has failed to make any case regarding ~~its~~ its occupation into the public ~~premises~~ premises. It is my strong and considered view that no one should be allowed to enjoy the public premises without making payment for such enjoyment. In course of hearing I specifically asked the O.P. regarding their view for making payment to Kolkata Port Trust atleast on ad-hoc basis pending final decision on merit. But the O.P. expressed their inability to pay up the dues/charges to Kolkata Port Trust. However, as there is no reply to the Show Cause Notice/s inspite of repeated chances, I do not find any scope but to allow the prayer of Kolkata Port Trust regarding order of eviction and payment of rental dues against O.P. on the following reasons :

- a) That the O.P. has failed and neglected to pay the rental dues to the Kolkata Port Trust in gross violation to the fundamental condition for grant of tenancy under lease.
- b) That the ejection notice dated 23.9.1999 as served upon the O.P. by the Kolkata

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Emmalla

Estate Officer, Calcutta Port Trust

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(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 570 & 570/R Of 2004 Order Sheet No. 9

BOARD OF TRUSTEES OF THE PORT OF CALCUTTA

VS

M/S. HIND GALVANIZING & ENGINEERING CO. LTD.

8
19.4.2004

Contd.....from pre-page.

Kolkata Port Trust Authority is valid,
lawful and binding upon the parties.

c) That the O.P. has failed to file Show Cause
and failed to produce any paper/document
and also failed to ~~is~~ laid any evidence
in support of their occupation into the
public premises inspite of repeated chances.

d) That the O.P. has lost its authority to
occupy the public premises after expiry of
the period as mentioned in the Notice of
ejectment dated ~~23.9.1999~~ 23.9.1999 that is to
say on and from 1.12.1999 and the O.P. is
liable to pay damages for such unauthorised
use and occupation of the public premises
up to the date of recovery/handing over of
clear vacant and peaceful possession by/to
Kolkata Port Trust.

ACCORDINGLY, Department is directed to draw up formal
order of eviction U/S.5 of the Act, giving 15 days time
to O.P. to vacat the public premises as per Rule made
under the Act. I make it clear that liberty is ~~is~~ given
to the Kolkata Port Trust to apply for realisation of
damages against O.P. in accordance with a law. It is
also ordered that a sum of Rs.4,29,747.32 on account
of arrear rental dues is payable by O.P. to the Kolkata
Port Trust in respect of the period commencing from
1.9.1992 to 30.11.1999. Accordingly, Department is
directed to draw up formal order for payment U/S.7 of

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Emallu (19/4/04)

Estate Officer, Calcutta Port Trust

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

Proceedings No. 570 & 570/R Of 2004 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF CALCUTTA
VS
M/S. HIND GALVANIZING & ENGINEERING CO. LTD.

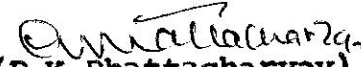
8
19.4.2004

Contd.....from pre-page.

U/S.7 of the Act as per rule made thereunder, requiring the O.P. to pay the said sum of Rs.4,29,747.32 to the Kolkata Port Trust by 31.5.2004 with interest @ of Rs.12% per annum with effect from 7.6.2000.

* Certified copy of the orders bearing No.8 dated 19.4.2004 and No.7 dated 15.3.2004 are required to be enclosed which also forms a part of the reasons for issuing order of eviction U/S.5 of the Act and order for payment of arrear rent to KOPT U/S.7 of the Act.

GIVEN UNDER MY HAND AND SEAL


(P.K. Bhattacharyay)
Estate Officer

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

9
21.6.2004

Present : M.Dutta, Jr. Inspector
&

S.De, Asstt. Land Manager(Legal) for KOPT

Perused the papers on record. It is seen that the O.P. has failed to comply with my order regarding payment of rental dues. Enquired into the matter. Let a certificate U/S.14 of the Act be issued to the Collector South 24-Parganas with the request to proceed to recover the same as arrears of land revenue.

GIVEN UNDER MY HAND & SEAL


(P.K. Bhattacharyay)
Estate Officer.

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

THE ESTATE OFFICER, CALCUTTA 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
15, STRAND ROAD
(4th Floor)
CALCUTTA-700001



REASONED ORDER NO. 8 OF 19.4.2004
PROCEEDINGS NO. 5704550/2004

BOARD OF TRUSTEES OF THE PORT OF CALCUTTA
-vs-

M/S. HIND GALVANIZING & ENGINEERING CO. LTD.

Certified copy of the Order

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 Shri/Smt./Km/M/s.. **Hind Galvanizing & Engineering
Co. Ltd. 96, Garden Reach Road, Kolkata-700023 and
Daighat, Watgunge, Kolkata AND ALSO 26A, Alipore Road, Kolkata-700027**

is/are in unauthorised occupation of the Public Premises specified
in the Schedule below :

REASONS.

THAT YOU HAVE FAILED AND NEGLECTED TO PAY THE RENTAL DUES TO THE KOLKATA
PORT TRUST IN GROSS VIOLATION TO THE FUNDAMENTAL CONDITION FOR GRANT OF
TENANCY UNDER LEASE. THAT THE EJECTMENT NOTICE DATED 23.9.1999 AS SERVED
UPON YOU BY THE KOLKATA PORT TRUST AUTHORITY IS VALID LAWFUL AND BINDING
UPON THE PARTIES. THAT ~~THE~~ YOU HAVE FAILED TO FILE SHOW CAUSE AND
FAILED TO PRODUCE ANY PAPER/DOCUMENT AND ALSO FAILED TO LAID ANY EVIDENCE
IN SUPPORT OF YOUR OCCUPATION INTO THE PUBLIC PREMISES INSPITE OF
REPEATED CHANCES. THAT YOU HAVE LOST ~~THE~~ YOUR AUTHORITY TO OCCUPY THE
PUBLIC PREMISES AFTER EXPIRY OF THE PERIOD AS MENTIONED IN THE NOTICE OF
EJECTMENT DATED 23.9.1999 AND YOU ARE LIABLE TO PAY DAMAGES FOR SUCH
UNAUTHORISED USE AND OCCUPATION OF THE PUBLIC ON AND FROM 1.12.1999
UP TO THE DATE OF RECOVERY/HANDING OVER OF CLEAR VACANT AND PEACEFUL
POSSESSION BY/TO KOLKATA PORT TRUST. CERTIFIED COPIES OF THE ORDERS DATED
19.4.2004 AND 15.3.2004 ARE ENCLOSED WHICH ALSO FORM A PART OF THE
REASONS.

Om...
ORDER OF
ESTATE OFFICER
CALCUTTA PORT TRUST

B...
26.4.2004

PLEASE SEE ON REVERSE.

Asst. Land Manager (Legal)
KOLKATA PORT TRUST

18
26.4.2004

NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby order the said Shri/Smt./Km/M/s. **Hind Galvanizing & Engineering Co. Ltd., 96, Garden Reach Road, Kolkata-700023** and Daighat Watgunge, Kolkata AND ALSO 26A, Alipore Road, Kolkata-700027

and all person 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 Shri/Smt./Km./M/s. **Hind Galvanizing & Engineering Co. Ltd., 96, Garden Reach Road, Kolkata-700023** and Daighat Watgunge, Kolkata AND ALSO 26A, Alipore Road, Kolkata-700027

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

THE piece or parcel of land msg.805.188 sq.m. or thereabouts is situate at Daighat, Thana Watgunge District 24-Parganas Registration District Alipore. It is bounded on the north by the lessors' land leased to M/s.Associated International Corporation, on the east partly by the said Trustees' land occupied by M/s. Sarjoo Ram Koiree and partly leased to M/s.Associated Engineering Ltd., on the south by the said Trustees' by M/s. Sarjoo Ram Koiree and partly by the Trustees' open land and partly by the Trustees' roadway on the west by the said Trustees' land partly leased to M/s. Associated International Corporation, partly by the Trustees' roadway and partly occupied by M/s. Sarjoo Ram Koiree. Trustees' means the Board of Trustees' for the Port of Calcutta.



[Handwritten Signature]

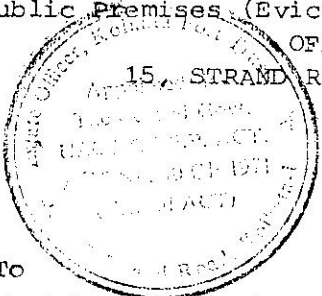
Signature & Seal of the Estate Officer.

Dated: 20.4.2004

COPY FORWARDED TO THE LAND MANAGER, KOLKATA PORT TRUST/LABOUR ADVISER & INDUSTRIAL RELATIONS OFFICER, KOLKATA PORT TRUST FOR INFORMATION.

[Handwritten Signature]
Asst. Land Manager (Legal)
KOLKATA PORT TRUST
26.4.04

ESTATE OFFICER, 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
15, STRAND ROAD (4TH FLOOR) KOLKATA-700001



FORM "E"

PROCEEDINGS NO. **570/R** OF **2004**
ORDER NO. **8** DATED **19.4.2004**

To
Shri/Smt./Km/.M/s... **Hind Galvanizing &
Engineering Co. Ltd.**
96, Garden Reach Road,
Kolkata-700023 And Baighat Watgunge, Kolkata
AND ALSO 26A, Ailpore Road, Kolkata-700027

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

AND WHEREAS, by written notice dated... **27.1.2004** . you were called upon to show cause on/or before... **1.3.2004** ... why an order requiring you to pay a sum of Rs. **4,29,747.32** (Rupees... **Four lakhs twenty-nine thousand seven hundred forty-seven and paise thirty-two only**) being the rent payable together with simple interest in respect of the said premises should not be made;

Consideration
AND WHEREAS I have considered your objections and the evidence produced by you;

AND WHEREAS you have not made any objections or produced any evidence before the said date;

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. **4,29,747.32** (Rupees... **four lakhs twenty-nine thousand seven hundred forty-seven and paise thirty-two only**) for the period Sept.1992 to Nov.1999 by 31.5.2004 to Kolkata Port Trust.

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

Contd.....

PLEASE SEE ON REVERSE

Emallacharya

25/4/2004
30.4.04

simple interest @ Rs. **12%**..... per annum on the above sum with effect from... **7.6.2000**..... till its final payment.

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

The piece or parcel of land Meq. 305.188 sq.m. or thereabouts is situate at Daighat, Thana Watgunge District 24-Parganas Registration District Alipora. It is bounded on the north by the lessors land leased to M/s. Associated International Corporation, on the east partly by the said Trustees' land occupied by M/s. Sarjoo Ram Koiree and partly leased to M/s. Associated Engineering Ltd., on the south by the said Trustees' by M/s. Sarjoo Ram Koiree and partly by the Trustees' open land and partly by the Trustees' roadway on the west by the said Trustees' land partly leased to M/s. Associated International Corporation, partly by the Trustees roadway and partly occupied by M/s. Sarjoo Ram Koiree. Trustees' means the Board of Trustees' for the Port of Calcutta.



Dated: 20.4.2004

Annalackar

Signature and seal of the Estate Officer.

26/4/2004

ANALACKAR
ESTATE OFFICER

26.4.04