



487 o/c

"READY FOR DELIVERY"
ON 05.06.2017
**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
15, STRAND ROAD
(4th Floor)
KOLKATA - 700 001

Court Room At the 2nd Floor
of Kolkata Port Trust's
Head Office, Old Buildings
15, Strand Road, Kolkata- 700 001.

REASONED ORDER NO. 60 DT 01.06.2017
PROCEEDINGS NO.1221 OF 2011

KHEMCHAND RAJKUMAR
KOL-27
Recd by Khemchand Rajkumar
Placed in 07-06-17
Time: 12.40

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/s Khemchand Rajkumar

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 Khemchand Rajkumar of 11 & 13, Alipore Road, P.O. & P.S. Alipore, Kolkata 700027** are in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

1. That the proceedings against yourselves is very much maintainable.
2. That you cannot claim "renewal of lease" as a matter of right, particularly when the lease in question does not contain any provision for exercising any option for renewal.
3. That there is no scope for considering any matter regarding **deemed renewal** of lease in question as contended by you.
4. That there is no foundation or basis to your contentions regarding taking of advantages by KoPT for its own wrong in violation of natural of justice.
5. That you have failed to bear any witness or adduce any evidence in support of your occupation as "authorised occupation" inspite of repeated chances for a considerable period and your act of continuing in occupation in the Public Premises without paying requisite charges is opposed to public policy.

Please see on reverse



- 2 -

6. That your occupation has become "unauthorized" in view of Sec. 2(g) of the P.P. Act and you are liable to pay damages for unauthorized use and enjoyment of the Port Property right from the date of expiry of the lease period on and from 06.12.2000 in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

A copy of the reasoned order No. 60 dated 01.06.2017 is attached hereto which also forms a part of the reasons.

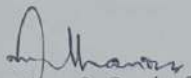
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **M/s Khemchand Rajkumar of 11 & 13, Alipore Road, P.O. & P.S. Alipore, Kolkata 700027** and all persons who may 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 Khemchand Rajkumar of 11 & 13, Alipore Road, P.O. & P.S. Alipore, 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. about 3168.08 sqm or thereabouts situated at Brooklyn Depot, Shed no. 18, Thana - West Port Police Station, District - 24 Parganas (South), Registration District - Alipore. It is bounded on the North by the Trustees' Brooklyn Shed no. 18, on the East by the strip of open land, on the South by Trustees' road, on the West by the Trustees' strip of open land, the Trustees' land occupied by "Oil India Ltd" & "Falcon Agency".

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

Dated: 01.06.2017


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

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Proceedings No. 1221, 1221/R/1221/D of 2011 Order Sheet No. -55-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Khemchand Rajkumar ^{VS}

"READY FOR DELIVERY"
ON 05.06.2017

FINAL ORDER

60

01.06.2017



Recd.
Khemchand Rajkumar
07-06-17
Time: 12.40

BY ORDER OF
THE ESTATE OFFICER,
KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER,
KOLKATA PORT TRUST

HEAD ASSISTANT,
OFFICE OF THE ESTATE OFFICER,
KOLKATA PORT TRUST
05/6/17

The matter is taken up today for delivering Final Order. Relevant facts are required to be put forward in a nut-shell for clear understanding of the issues involved in this proceedings. It is the case of Kolkata Port Trust (KoPT), Applicant herein, that land Msq. 3168.08 Sq.m situated at Brooklyn Depot, South of Shed No. 18, Dist.: South 24 Parganas, Thana: West Port Police Station, comprised under occupation No. D-151/1, was allotted to M/s. Khemchand Rajkumar, O.P. herein, by long term lease for 30 years commencing from 06.12.1970 without any option for renewal and O.P. violated the condition of tenancy under lease by way of not making payment of rental dues to KoPT and by way of unauthorised construction and unauthorised parting with possession of the Premises. It is argued on behalf of KoPT that O.P. has no authority under law to occupy the Public Premises after expiry of the period as mentioned in the lease deed that is to say on and from 06.12.2000 and O.P. is liable to pay damages for wrongful occupation upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

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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. 1221, 1221/Rf 1221/D of 2011 Order Sheet No. -56-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Khemchand ^{VS} Rajkumar

60

01.06.2017



BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST

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KOLKATA PORT TRUST

HEAD ASSISTANT
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST
05/06/17

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This Forum of Law formed its opinion to proceed against O.P. and issued Show Cause Notice u/s 4 of the Act (for adjudication of the prayer for issuance of order of eviction etc.) and two Show Cause Notice/s u/s 7 of the Act (one for adjudication of the prayer for recovery rental dues etc. and another for adjudication of the prayer for recovery damages etc.) all dated 23.09.2011. O.P. contested the matter through its Advocates by filing Vakalatnama in favour of Srimanta Dutta, Advocate and Rajashree Banerjee, Advocate on 22.12.2011. However, earlier Rajashree Banerjee, Advocate filed objection on behalf of O.P. on 01.12.2011, verified by Shri Binoy Kumar, Partner of O.P.

I have duly considered the papers/documents as brought before me in course of hearing on behalf of both the parties and the four sets of Paper Books No. I to IV as filed on 25.04.2017 by O.P. I have duly considered the petitions filed by O.P. on 09.07.2013, additional written statement filed on 27.08.2013, reply filed on 25.11.2014, 13.01.2015 and written notes on argument on behalf of O.P. filed on 06.09.2016 and Petition of O.P. filed on 14.03.2017. I

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Estate Officer, Kolkata Port Trust

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

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Proceedings No. 1221, 1221/R & 1221/D Of 2011 Order Sheet No. -57-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Khemchand Rajkumar VS

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01.08.2017

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I have also duly considered the petitions/objections filed on behalf of KoPT in course of hearing.

After due consideration of all the papers/documents as brought before me in course of hearing and after careful consideration of the submissions/arguments made on behalf of the parties, I think following issues have come up for my adjudication:-

Whether proceedings against O.P. is maintainable or not;

Whether proceedings against O.P. is barred by limitation or not;

Whether O.P. is in default in making payment of rental dues to KoPT or not;

Whether KoPT is under legal obligation to raise demand notes to O.P. for payment of the same in terms of the lease deed or not;

Whether O.P. has got any authority under law to occupy the Public Premises after expiry of the period of lease in question or not;

Whether O.P.'s contention regarding "deemed renewal" of lease after expiry of the period of lease by way of payment of rent and acceptance of the same by the Port Authority has got any merit or not;

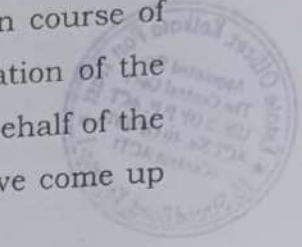
Whether O.P. is liable to pay damages to KoPT for unauthorised use and occupation of the Public Premises or not;

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PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
HEAD ASSISTANT
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST



BY OR BY THE ESTATE OFFICER
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KOLKATA PORT TRUST

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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. 1221, 1221/R & 1221/O of 2011 Order Sheet No. -58-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Khemchand Rajkumar ^{VS}

60
01/6/2017



BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST

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KOLKATA PORT TRUST

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HEAD ASSISTANT
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST
05/6/17

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With regard to issue No.1, a question has been raised on behalf of O.P. that proceedings is not maintainable as M/s. Khemchand Rajkumar is not a Registered Partnership Firm. There is no authority under law to the proposition that a proceedings under P.P. Act cannot be initiated against a Partnership Firm like O.P. for adjudication of KoPT's prayer for order of eviction etc. against O.P. in respect of the Public Premises in question. However, such point on maintainability has got no merit in the facts and circumstances of the case where O.P. appeared and contested the matter through its Advocate. With the affixation of notice u/s 4 of the Act on the property, the notice is deemed to have been served to all concerned. The properties owned and controlled by the Port Authority has been declared as "public premises" by the Public Premises (Eviction of Unauthorised 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 and/or damages, etc. KoPT has come up with an application for declaration of O.P's status as

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Estate Officer, Kolkata Port Trust

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

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Proceedings No. 1221, 1221/R & 1221/D of 2011 Order Sheet No. -59-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Khenechand ^{VS} Raj Kumar

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01/6/2017



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as unauthorized occupant in to the public premises with the prayer for order of eviction, recovery of rental dues and damages against O.P. on the ground of revocation of licence or termination of authority to occupy the premises as earlier granted to O.P. 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/s u/s 4 & 7 of the Act is very much maintainable and there cannot be any question about the maintainability of proceedings before this Forum of Law.

A close look into the provisions of sec 4 of the P.P. Act is relevant. According to sub-sections (1), (1A) and (1B) of Sec 4 of the Act, as amended in 2015, if the Estate Officer has information that any person is in unauthorised occupation of any public premises and that he should be evicted or if the Estate Officer knows or has reasons to believe that any person is in unauthorised occupation of any public premises, the Estate Officer shall issue a notice calling upon the person concerned to show cause why an order of eviction should

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[Signature]

BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST
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KOLKATA PORT TRUST
HEAD ASSISTANT
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST
05/6/17

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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. 1221, 1221/K + 1221/D of 2011 Order Sheet No. - 60 -

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. ^{VS} Khenchand Rajkumar

60
01/06/2017



BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST

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KOLKATA PORT TRUST

HEAD ASSISTANT
OFFICE OF THE LD. ESTATE OFFICER
KOLKATA PORT TRUST

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Should not be made and any delay in issuing such notice shall not vitiate the proceedings under the Act.

The proceedings before this Forum of Law is not even statutorily barred unless there is any specific order of stay of such proceedings by any competent court of law. In view of the above, I have no hesitation in my mind to decide the issue against O.P. that is to say in favour of the Port Authority.

Issue No. 2, regarding time barred claim under the Limitation Act requires serious consideration of fact and law as well. Admittedly, O.P is in occupation and enjoyment of the Public Premises after expiry of the contractual period of lease as granted by the Port Authority. O.P. by their petition filed on 01.12.2011 never repudiated KoPT's claim on account of rental dues/charges but only stated *that they are ready and willing to pay the dues, if any, after due reconciliation and proper scrutiny of the record.*

It is also argued that even Limitation Act does not permit O.P to take the plea of "time barred claim", while in occupation and enjoyment of the property as per Sec.22 of the Limitation

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Estate Officer, Kolkata Port Trust

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 THE PORT OF KOLKATA

M/s. ^{VS} Khemchand Raj Kumar

60
01/06/2017



BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST

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KOLKATA PORT TRUST

HEAD ASSISTANT
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST
05/06/17

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Limitation Act as continuing breaches on the part of O.P after expiry of the contractual period of lease. It is submitted with argument that as per law, O.P was under obligation to hand over possession of the property to KoPT in vacant and unencumbered condition and failure on the part of O.P to discharge such statutory liability is a breach of contract. Now the question survives whether O.P can take the plea of time barred claim under Limitation Act, while in possession and enjoyment of the property, particularly when the liability towards payment of rental dues/charges for such occupation has been admitted by O.P. Even without considering (for the sake of argument), the question of liability towards payment of dues/charges at the enhanced rate as per claim of KoPT, it is my considered view that O.P cannot escape from their liability towards payment of dues/charges on the plea of "limitation" as per Sec. 25 of the Indian Contract Act, while acknowledging the jural relationship as debtor. No attempt has been made on behalf of O.P as to how O.P's occupation could be termed as "authorised" in view of Sec. 2(g) of the P.P Act, after expiry of the period of lease in question.

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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 1221, 1221/R & 1221/D Of 2011 Order Sheet No. 62-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Khamehand Rajkumar ^{VS}

60
01/06/2017



BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER
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KOLKATA PORT TRUST

HEAD ASSISTANT
OFFICE OF THE LD. ESTATE OFFICER
KOLKATA PORT TRUST
05/06/17

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The core submissions made on behalf of KoPT regarding non-applicability of the Limitation Act in proceedings before this Forum is based on various decisions of the Hon'ble Apex Court of India and Calcutta High Court, wherein it has been decided that Limitation Act has no application before quasi-judicial authorities like this Forum of Law which is not a civil court to be governed by the Civil Procedure Code.

With the introduction of Sec 15 of the P.P. Act, 1971, there is no scope for the courts to entertain any matter regarding recovery of arrear dues/charges and damages etc arising out of the public premises. In the present scenario, when the statute, in its own wisdom, has imposed a restriction upon the civil court, to adjudicate upon such matter it would be very difficult to accept the contention of O.P. with regard to application of Limitation Act in the proceedings before this Forum of law, which is not a civil court to be governed by the civil procedure code.

The judgment of the Hon'ble Apex Court of India reported in New India Assurance Case - 2008 (3) SCC 279 = AIR 2008 SC 876 is very

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Estate Officer, Kolkata Port Trust

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

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Proceedings No. 1221, 1221/R & 1221/D Of 2011 Order Sheet No. -63-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S. ^{VS} Hemchandra Rajkumar

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01/06/2017



BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST

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KOLKATA PORT TRUST
05/6/17

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very much relevant in deciding the question whether this Forum is a court or not. It was decided by the Supreme Court that Civil Procedure Code and Indian Evidence Act are not applicable for proceedings before the Estate Officer under P.P. Act which provided a complete code. The Limitation Act applies to "suits" to be governed by CPC and Indian Evidence Act. In this connection, I am fortified by a judgment of the Hon'ble High Court, Calcutta in S.N. BHALOTIS -VS- L.I.C.I. & Ors. reported in 2000(1) CHN 880 with reference to the judgment reported in AIR 1972 Tripura 1 (Hemchandra Charkraborty -Vs- Union of India) wherein, it was clearly held that proceedings initiated by an Estate Officer are not in the nature of suit nor the Estate Officer acts as a Court while deciding proceedings before him.

It is worthy to record that there is no prescribed period of limitation in the Limitation Act itself for recovery of "damages".

It would not be out of scope to mention that Limitation Act bars the remedy by way of "suit" but not the entitlement. In my view, there is a clear distinction between 'rent' and 'damages'.

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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. 1221, 1221/R & 1221/D of 2011 Order Sheet No. -64-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S. Kameshwar Rajkumar
VS

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01/06/2012



BY ORDER OF:
THE ESTATE OFFICER
KOLKATA PORT TRUST

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KOLKATA PORT TRUST

HEAD ASSISTANT
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KOLKATA PORT TRUST

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So long both the parties admit their relationship as landlord and tenant, the question of paying damages does not arise. In other words, if the tenant is asked to pay rent by the landlord, the element of authorized occupation could be inferred but in case of demand for damages, there is element of unauthorized use and enjoyment of the property, as held in (1996) 5 SCC 54 (Shangrila Food Products Ltd. & Anr -vs- Life Insurance Corporation of India & Another).

It is very much relevant to point out that as per Section 7(1) of the P.P. Act, the word used is 'rent payable' whereas in Section 7(2) it is in respect of 'recovery of damages', having regard to the principle of assessment of damages. Thus the interpretation of the powers under Section 7(1) for recovery of arrears of rent has a wide range of difference between the powers exercised under Section 7(2) of the P.P Act, as there is nothing like the term 'rent payable' as used under Section 7(1) of the P.P Act in Section 7(2) of the P.P Act, 1971. Moreover, the legislative intention for recovery of damages for any time and the power conferred upon the Estate Officer is very much embedded in

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Estate Officer, Kolkata Port Trust

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

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Proceedings No. 1221, 1221/R & 1221/D of 2011 Order Sheet No. -85-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. ^{VS} Khemchand Rajkumar

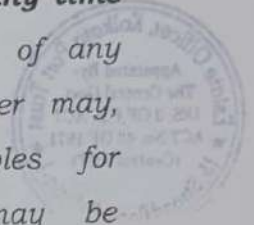
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01/06/2017



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in Section 7(2) of the Act which reads as follows:-

"Where any person is, or has at any time been, in unauthorised occupation of any Public Premises, the Estate Officer may, having regard to such principles for assessment of damages as may be prescribed, assess the damages on account of use and occupation of such premises and may, by order, require that person to pay the damages within such time and in such instalments as may be specified in the order".



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OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST
05/6/17

In view of the discussion above, I am of the view that this Forum of Law is very much competent under law to adjudicate the claim of KoPT against O.P. and Limitation Act has no application to the proceedings before the Estate Officer which is a quasi-judicial authority under P.P. Act and is neither a Civil Court to be governed by the Civil Procedure Code nor a "court" within the scheme of the Indian Limitation Act.

The applicability of the Limitation Act before the quasi-judicial authority like this forum of

[Signature]

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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. 1221, 1221/R & 1221/D of 2011 Order Sheet No. -66-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. ^{VS} Khemchand Rajkumar

Go
01/06/2017



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KOLKATA PORT TRUST

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forum of law was the subject-matter of consideration before the Hon'ble Apex Court of India. By the judgment delivered by the Hon'ble Supreme Court of India on 23.4.2015 in Civil Appeal No. 4367 of 2004 (M.P. Steel Corporation -vs- Commissioner of Central Excise) reported in (2015) 7 SCC 58 it was emphatically observed in para 16 that

".....
....."

On a plain reading of the provisions of the Limitation Act, it becomes clear that suits, appeals and applications are only to be considered (from the limitation point of view) if they are filed in courts and not in quasi-judicial bodies".

Para-19 of the said judgment is an authority for decision that Limitation Act does not apply to quasi-judicial bodies like this Forum of Law. The relevant portion of the judgment reads as follows:

"A series of decisions of this court have clearly held that the Limitation Act applies only to courts and does not apply to quasi-judicial bodies. Thus, in Town Municipal Council, Athani -VS- Presiding Officer,

[Signature]

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Estate Officer, Kolkata Port Trust

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

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Proceedings No. 1221, 1221/R & 1221/D Of 2011 Order Sheet No. - 67 -

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
M/s. Khemchand Rajkumar

60
01/06/2017



BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST

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KOLKATA PORT TRUST

HEAD ASSISTANT
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST
05/6/17

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Athani -VS- Presiding Officer, Labour Court, (1969) 1 SCC 873 a question arose as to what applications are covered under Art. 137 of the Schedule of the Limitation Act.

....." At Para-26, a reference to judgment in Consolidated Engg. Enterprises -vs- Principal Secretary, Irrigation Department, (2008) 7 SCC 169 has been made. The observations made by the Hon'ble Apex Court are authoritative and an excerpt of the said observation is reproduced below :-

"A 3- Judges Bench of this court was asked to decide whether Section 14 of the Limitation Act would apply to Section 34(3) of the Arbitration and Reconciliation Act 1996. After discussing the various provisions of the Arbitration Act and the Limitation Act, this court held :

"23. At this stage it would be relevant to ascertain whether there is any express provision in the Act of 1996, which excludes the applicability of Section 14 of the Limitation Act. On the review of the provisions of the Act of 1996 this Court

Athani

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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. 1221, 1221/RR/1221/D of 2011 Order Sheet No. 68

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s. Khemchand ^{VS} Rajkumar

60
01/06/2017



BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST

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BY THE ESTATE OFFICER
KOLKATA PORT TRUST

ASSISTANT
STATE OFFICER
05/06/17

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Court finds that there is no provision in the Act which excludes the applicability of the provisions of Section 14 of the Limitation Act to an application submitted under section 34 of the said Act. **On the contrary, this Court finds that Section 43 makes the provisions of the Limitation Act, 1963 applicable to arbitration proceedings.** The proceedings under Section 34 are for the purpose of challenging the award whereas the proceeding referred to under Section 43 are the original proceedings which can be equated with a suit in a court".

"44. It may be noticed at this juncture that the Schedule of the Limitation Act prescribes the period of Limitation only to proceedings in Courts and not to any proceedings before a tribunal or quasi-judicial authority. **Consequently Section 3 and 29(2) of the Limitation Act will not apply to proceedings before the tribunal.**

This means that the Limitation Act

[Signature]

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Estate Officer, Kolkata Port Trust

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

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Proceeding No. 1221, 1221/R-1221/D Of 2011 Order Sheet No. -69-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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Limitation Act will not apply to appeals or applications before the tribunals, unless expressly provided.

There is no scope for deciding the matter otherwise after observations made by the Apex Court in M.P. Steel Corporation case at Para 27 which reads as follows :

“Obviously, the ratio of Mukti Gopalan does not square with the observation of 3-judge Bench in Consolidated Engineering Enterprise. In the latter case, this court has unequivocally held that Paterson Tool is an authority for proposition that the Limitation Act will not apply to quasi-judicial bodies or Tribunals. To the extent that Mukti Gopalan is in conflict with the Judgment of Consolidated Engineering Enterprises case, it is no longer good law”.

In my view, Hon'ble Supreme Court's judgement in M.P. Steel Corporation Case (Supra) has gone to the root of the question regarding applicability of the Limitation Act before quasi-judicial proceedings.

Thus, the plea taken by O.P. regarding applicability of Limitation Act in the

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Estate Officer, Kolkata Port Trust

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

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in the proceedings before the Estate Officer under P.P. Act has, to my considered view, got no merit. I have taken a note of Sec.29 of The Limitation Act, 1963 read with Sec.25 of the Indian Contract Act, 1872. It is my well considered view that even if for the sake of argument, Limitation Act is taken to apply to the proceedings before the Estate Officer (not admitting), Sec.25 of the Indian Contract Act will definitely come into play against O.P's plea for "time barred" claim under Limitation Act. I am of the view that O.P. acknowledged its relationship as debtor and Sec.25 of the Contract Act debars O.P. to take the plea of "barred by limitation", in the facts and circumstances of the case. Hence, the issue is decided in favour of KoPT.

The issues no. 3 and 4 are taken up together for the sake of convenience. The lease deed in question under "Rent payable" clause never puts any responsibility on the part of KoPT for raising any demand to O.P. as lessee in order to discharge their liability towards rental dues. Rather, it is the responsibility of O.P. as lessee to pay regularly the rent to KoPT on or before 15th day of the month following which such

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which such rent is due, in KoPT's Head Office at 15, Strand Road, whether demanded or not. I have duly considered the orders dated 22.12.2011, 02.02.2012, 22.03.2012 and 22.01.2013 passed by the then Ld. Estate Officer. It is seen that 19 nos. of demand drafts amounting to Rs 49,026/- favouring KoPT were submitted on behalf of O.P. and direction was issued to KoPT to accept such demand drafts without prejudice to the rights and contentions of both the parties. By order dated 22.12.2011, KoPT was directed to accept Banker's Cheque from O.P. upon revalidation of the same on account of occupational charges and/or compensation (ad hoc) for use and enjoyment of the Port Property in question without prejudice to the rights and contentions of both the parties. There is no specific contention on the part of O.P. either on the basis of papers/documents or on the basis of evidence that O.P. paid all the rental dues as billed for, for the relevant period, that is to say upto 05.12.2000. Mere statement, denying non-payment of rental dues as alleged against O.P., is not sufficient to prove the payments made to KoPT on account of rental dues upto 05.12.2000. During hearing, parties were

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were directed to undertake reconciliation work of the respective books of accounts, in order to arrive at a correct financial position. But O.P. instead of producing relevant "payment receipts" only disputed the quantum of monthly demand/bill from KoPT by their petition filed on 14.03.2017 without showing any basis of such dispute. However, I find that statement of accounts as prepared and maintained by KoPT was handed over to O.P. during hearing and KoPT's statement of accounts, containing the comprehensive details is very much a reliable document to come into conclusion that O.P. was in default in making payment of rental dues to KoPT. Hence, I am convinced that O.P. violated the condition of tenancy under lease by way of default in making payment of rental dues and the cause of action of KoPT regarding non-payment of rental dues is very much sustainable. The issues are decided accordingly.

Issues No. 5, 6 & 7 are required to be clubbed for convenient discussion as the issues are related with each other and each issue has direct impact over the other. In fact, the

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the question of O.P's authority to occupy the Public Premises after determination of lease in question is the fundamental point for discussion in pursuance with the grounds as mentioned in the Show Cause Notice u/s 4 of the Act. It is the case of O.P. that after expiry of the period of lease in question, KoPT has accepted rent from O.P. and as such the lease is deemed to have been renewed. KoPT on the other hand submits that nothing has been accepted as "rent" after expiry of the period of lease in question and the payments accepted from O.P's end in course of hearing strictly in terms of the order passed by this Forum without prejudice to the rights and contentions of KoPT as provided of the said order. During hearing no case has been made out or nothing has been produced on behalf of O.P. as to how their contention regarding acceptance of payment as "rent" by KoPT after expiry of the period of lease in question could be substantiated. As per Transfer of Property Act, acceptance or payment made after institution of proceedings cannot be considered as waiver to the right of lessor to get back possession of

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possession of the property in question. Now, the question arises whether O.P. can take the plea of "Tenant Holding Over" or not in the present facts and circumstances of the case. The lease in question expired on and from 06.12.2000 and there was no provision in the expired lease for exercising any option for renewal of the same. In absence of any "renewal clause" that is to say any provision for exercising option for renewal by O.P., I do not find any scope to consider any matter of "renewal of lease" in favour of O.P. In fact O.P. cannot claim "renewal of lease" in question as a matter of right.

Hon'ble Apex Court of India had the occasion to discuss and dwell upon the impact and incidence of claim regarding "tenant holding over" u/s 116 of the T.P. Act and "Deemed Renewal" in the context of Sec.2(g) of the P.P. Act. I have applied my mind to the papers/documents as contained in Paper Books (4 Nos.) as submitted by O.P. But I do not find any scope to consider anything on the issue of O.P's authority to occupy the Public Premises after expiry of the lease period in

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period in question upon careful consideration of the recent judgment of Hon'ble Apex Court of India. The observations made by the Hon'ble Supreme Court of India reported in (2016) 11 SCC 406 (Delhi Development Authority -Vs- Anantraj Agencies Pvt. Ltd.) decided on 12.04.2016 is very much instrumental in deciding the question of the rights and liabilities of the parties in dispute and it would be a complete answer to the contentions raised by O.P. An attractive submission regarding renewal of lease (lessee had the option for renewal of lease) was made on behalf of the respondent which reads as follows:

"Para 16 Per contra, Mr. C.S. Vaidyanathan, the learned Senior Counsel appearing on behalf of the respondent contended that the present appeal is not maintainable as DDA itself has intentionally acquiesced and agreed to the original lessee's continued use of the said property after the expiry of first term of lease on 10-8-1968. It was further submitted that DDA after more than one year of the expiry of the first term of lease demanded rent in respect of the said property vide notice dated 3-10-1969, pursuant to which payments

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payments towards rent were made by the original lessee. The learned Senior Counsel further emphasised upon the point that the instant case differs from those cases where rent is tendered by the lessee sans demand from the lessor. He further submitted that the acceptance of rent by DDA on various occasions pursuant to demand made by it, clearly proves the intention of DDA that the lease is renewed in favour of the original lessee."

The relevant paras of the judgment of the Hon'ble Apex Court is reproduced below:

"Para 31, From the above discussion, it is clear that in the absence of renewal of lease, the status of the original lessee, in relation to the property in question, is that of an unauthorised occupant as he had contained in occupation of the property in question as an "unauthorised person" in terms of Section 2(g) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, which reads as under.

2(g) "unauthorised occupation" in relation to any public premises, means to occupation by any person of the public premises without authority for such occupation and includes the

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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."

Para-32: In the absence of renewal of lease after 10-08-1968, the pleadings of the original lessee that DDA is estopped from taking the plea that there is no renewal of lease after having accepted the rent after 10.8.1968, in respect of property in question and after accepting certain sums in respect of the same, subsequently, for change of the property in question from leasehold to freehold are all irrelevant aspects for the reason that the same are contrary to the aforesaid provisions of the DD Act, the Nazul Land Rules applicable to the fact situation and the terms and conditions of the lease deed. Further, it is clear from the contents of the termination notice dated 1-9-1972 served upon the original lessee by DDA that it has not only refused to renew the lease of the property but also asked the original lessee to hand over the possession of the property in question within 30 days, which is

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which is absolutely in consonance with Section 5 of the Public Premises (Eviction of unauthorised Occupants) Act 1971.

Para-33, Without examining the case in the proper perspective that the property in question being a public premises in terms of Section 2(e) of the Public Premises (Eviction of Unauthorised Occupants) Act,1971 and that after expiry of lease period the original lessee has become unauthorised occupants in terms of Section 2(g) of the said Act in the light of relevant statutory provisions and rules referred to supra and law laid down by the Constitution Bench of this Court in Ashoka Mktg. Ltd, the concurrent findings of the courts below on the contentious issue is not only erroneous but also suffer from error in law and therefore, liable to set aside.

Para 37: The contention urged by the Learned Senior Counsel for the respondent that it has deposited a sum of Rs.96,41,982 as conversion charges of the property in question from leasehold to freehold right of the same is also of no relevance and lends no support to the respondent for the reason that in the absence

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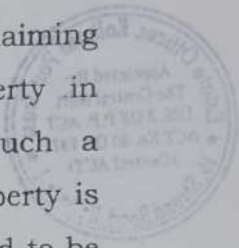
BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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absence of renewal of lease of the property by DDA, the original lessee himself becomes an unauthorised occupant of the property in question. The deposition of conversion charges in respect of the same to the office of DDA cannot help the respondent in claiming any right with respect to the property in question. The question whether such a procedure in respect of the public property is permissible in law or not is not required to be decided in this case. The instant case having peculiar facts and circumstances, namely, after 10-8-1968 the *lease stands terminated by efflux of time*, which is further evidently clear from the termination notice dated 01-09-1972 and thereafter, the original lessee becomes an unauthorised occupant in terms of Section 2(g) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and consequently, not entitled to deal with the property in question in any manner. The very concept of conversion of leasehold rights to freehold rights is not applicable to the fact situation.



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Para-39: Since we have answered the points framed in this appeal in favour of the appellant DDA, we further, direct DDA to take

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take possession of the property immediately without resorting to eviction proceedings, as the respondent has been in unauthorised possession of the property in question, by virtue of erroneous judgment passed by the courts below. The respondent has been unlawfully enjoying the public property which would amount to unlawful enrichment which is against the public interest".

In the case in hand there is no option for exercising renewal of the lease in question and KoPT never accepted any payment either in the form of rent or in the form of any charges from O.P.

In my view, a lessee having right to exercise option for renewal of lease holds a property with superior status than that of a lessee holding property without any option for renewal. The judgment of the Apex Court as cited above has gone to such a level that even there is acceptance of rent or charges by a landlord/lessor it cannot be considered as consent on the part of landlord/lessor in order to constitute "holding over" in the context of Sec.2(g) of the P.P. Act. With reference to decision of the Apex Court in Santi Prasad Devi's case (2005) 5 SCC 543 and Sarup Singh

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Sarup Singh Gupta's case reported in (2006) 4 SCC 205, the Hon'ble Supreme Court of India had the occasion to come into conclusion that mere acceptance of rent did not by itself constitute an act of the nature envisaged by Sec. 113 of the T.P. Act showing intention to treat the lease as subsisting. While interpreting Sec.116 of T.P.Act with regards to its applicability and the effect of "holding over", the Apex Court held that it is necessary to obtain ascent of the Landlord for continuation of lease after expiry of lease period and mere acceptance of rent by the lessor, in absence of agreement to the contrary, for subsequent months where lessee continues to occupy lease premises cannot be said to be conduct signifying assent on its part. I have duly taken note of the provision of the expired lease deed in question which contained the responsibility of O.P./lessee regarding eliding of the demised land at the expiry or determination of the term as per clause 10 under "lessee covenant" which reads as follows:

"AND will at the expiration or sooner determination of the said term quietly and peacefully yield up vacant possession of the demised land as a whole unto the

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unto the Commissioners (read KoPT) with all factories and buildings or structure or erection, and other structures, if any, erected thereon that shall not have been previously removed by the Lessees”

This clause of handing over possession after expiry of the lease period is a clear manifestation of KoPT's intention to get back possession after expiry of the lease period which was “an agreement to the contrary” within the meaning of Sec.116 of the T.P. Act. and there cannot be any question of deemed renewal as contended on behalf of O.P.

In view of the discussion above, I have no hesitation to hold that the plea taken by O.P. as has got no merit in the facts and circumstances on the case and O.P's occupation has become unauthorised in view of Sec. 2(g) of the P.P. Act.

I should rather say that the Port authority is well within its jurisdiction to get back possession from O.P. after expiry of the lease period. Notice demanding possession is not at all mandatory for the Port Authority to get back possession from O.P. in respect of the subject long term lease for 30 years (without

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(without any option of renewal) which has already expired on account of efflux of time.

The judgment of the Hon'ble High Court, Calcutta reported in 2015 (5) CHN (Cal) 399(Om Prakash Sakshna -vs- Kolkata Port Trust) is strikingly relevant in deciding the question of requirement of Service of Notice in respect of the Public Premises in question. The relevant portion of the judgement reads as follows:-

"As to whether a person in occupation of any public premises is in unauthorised occupation thereof needs necessarily to be assessed in the light of the definition of the expression in Section 2(g) of the Act".

*"What is clear from the aforesaid provision and the definition of "unauthorised occupation" in the 1971 Act is that a person occupying any public premises after the expiry of the period for which such party was inducted thereat would amount to unauthorised occupation of the relevant public premises; and, the continuance in occupation after the expiry of the relevant period would also amount to unauthorised occupation. **It necessarily follows that it is not imperative that a notice to quit** has to*

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has to be issued by the owner of the public premises before proceeding under the 1971 Act. The notice has to be issued only if the right of a party to occupy the public premises is determined during the period that the party is authorised by any grant or any other mode of transfer to occupy the public premises; for, without the notice there would be no determination of the grant".

"The statute does not mandate that a person in unauthorised occupation of any public premises has to be issued a specific notice to quit and vacate the premises before such party is proceeded against under the 1971 Act."

The properties of the Port Trust are coming under the purview of "public premises" as defined under the Act. Now the question arises how a person become unauthorized occupant into such public premises. As per Section 2 (g) of the Act the "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

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

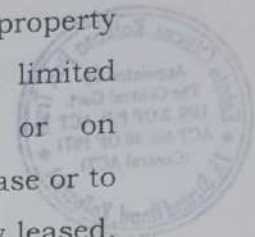
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under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever. As per Transfer of Property Act, a lease of immovable property determines either by efflux of time limited thereby or by implied surrender or on expiration of notice to determine the lease or to quit or of intention to quit the property leased, duly given by one party to another. Here KoPT did not recognize O.P. as tenant by way of not issuing rent demand after expiry of the period of lease in question. "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 lease which expired long back on and from 06.12.2000, O.P. had 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



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HEAD ASSISTANT
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7988 of 2004, decided on 10th December 2004, reported (2005)1 SCC 705, para-11 (Atmaram's case) of the said judgement reads as follows.

Para:11-" 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 the tenant.

Undoubtedly, the tenancy under lease is governed by the provisions of the Transfer of Property Act 1882 and there is no scope for denial of the same.

In course of hearing, the representative of KoPT states and submits that Port Authority

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Estate Officer, Kolkata Port Trust

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^{VS}
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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 KoPT'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 question of "Holding Over" cannot arise in the instant case as the Port Authority never consented to the occupation of O.P. In the instant case, the lease was doubtlessly determined by efflux of time limited thereby. Therefore, there can be no doubt that the O.P. was in unauthorized occupation of the premises, once the lease expired due to efflux of time. In my opinion, institution of this proceedings against O.P. is sufficient to express the intention of KoPT to obtain an order of eviction and declaration that KoPT is not in a position to recognize O.P. as tenant.

In the instant case there was no consent on the part of the Port Authority either by way of accepting rent from O.P. or by any other mode, expressing the assent for continuance in such occupation after expiry of the period of lease in

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Estate Officer, Kolkata Port Trust

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 THE PORT OF KOLKATA

M/s. Khemchand Rajkumar ^{VS}

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01/06/2017



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lease in question. The Port Authority has a definite legitimate claim to get its revenue involved into this matter as per the KoPT's Schedule of Rent Charges for the relevant period and O.P. cannot claim continuance of its occupation without making payment of requisite charges as mentioned in the Schedule of Rent Charges. To take this view, I am fortified by the Apex Court judgment reported in JT 2006 (4) Sc 277 ~, Equivalent Citation 2006 (4) SCC 205) (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 use and occupation of the premises, an amount equal to the monthly rent payable by the tenant. In course of hearing, it is submitted on behalf of KoPT that the charges claimed on account of damages is on the basis of the KoPT's Schedule of Rent Charges as applicable for all the tenants/occupiers of the premises in a similarly placed situation and such Schedule of Rent Charges is notified rates of charges

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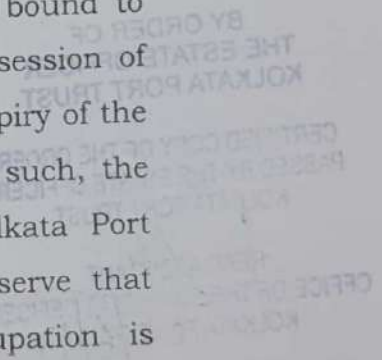
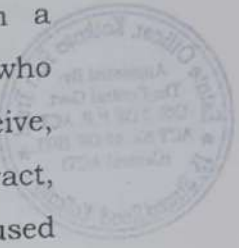
BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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charges under provisions of the Major Port Trusts Act 1963. In my view, such claim of charges for damages by KoPT 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 KoPT after expiry of the period in its original condition. As such, the issue is decided in favour of Kolkata Port Trust. I have no hesitation to observe that O.P's act in continuing in 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 KoPT. With this observation, I must reiterate that the Port Authority is very much within their jurisdiction to get back



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Estate Officer, Kolkata Port Trust

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 THE PORT OF KOLKATA

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KOLKATA 05/06/17

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get back possession of the Public Premises from O.P. as LandLord of the premises. In view of the discussions above, the issues are decided in favour of KoPT.

It is made clear that I have not gone into the merit of KoPT's allegations against O.P. regarding carrying out of unauthorized construction and unauthorised parting with possession as in my view, expiry of the period of lease in question is sufficient for considering O.P's occupation as "unauthorized occupation" in the context of Sec. 2(g) of the P.P. Act.

NOW THEREFORE, it is a fit case for allowing KoPT's prayer for order of eviction u/s 5 of the Act on the following grounds/reasons:

- That the proceedings against O.P. is very much maintainable.
- That O.P. cannot claim "renewal of lease" as a matter of right, particularly when the lease in question does not contain any provision for exercising any option for renewal.
- That there is no scope for considering any matter regarding **deemed renewal** of lease in question as contended by O.P.
- That there is no foundation or basis to the contentions of O.P. regarding taking of advantages by KoPT for its own wrong in violation of natural of justice. **Contd..**

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- That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation" inspite of repeated chances for a considerable period and O.P's act of continuing in occupation in the Public Premises without paying requisite charges is opposed to public policy.
- That O.P's occupation has become unauthorized in view of Sec. 2(g) of the P.P. Act and O.P. is liable to pay damages for unauthorized use and enjoyment of the Port Property right from the date of expiry of the lease period on and from 06.12.2000 in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

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ACCORDINGLY, I sign the 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 Law up to the date of recovery of possession of the

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01/08/2017



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KOLKATA PORT TRUST
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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 could be taken for execution of the order of eviction u/s 5 of the Act as per Rule made under the Act.

KoPT is directed to submit a report regarding its claim on account of damages against O.P., indicating there in the details of the computation of such damages with the rate of charges so claimed for the respective period (details of computation with rates applicable for the relevant period) for my consideration in order to assess the damages as per the Act and the Rules made there under.

In my opinion KoPT's claim for damages upto February, 2017 for Rs. 1,90,07,511.30 (including interest of Rs 73,78,238.96/- 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 is 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. In course of hearing, I find that KoPT has

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Estate Officer, Kolkata Port Trust

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"READY FOR DELIVERY"
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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. as per KoPT's Rule. KoPT is accordingly directed to submit a statement comprising details of its calculation of damages indicating there in the details of the rate of such charges together with the basis on which such charges are claimed against O.P. for my consideration for the purpose of assessment of 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 pay the amounts to KoPT as aforesaid; Port Authority is entitled to proceed further for recovery of its claim in accordance with law. All concerned are directed to act accordingly.

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HEAD ASSISTANT
OFFICE OF THE ESTATE OFFICER
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[Signature]

GIVEN UNDER MY HAND AND SEAL

[Signature]
(A. Chaudhuri)
ESTATE OFFICER

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