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REGISTERED POST WITH A/D.  
HAND DELIVERY  
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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  
OFFICE OF THE ESTATE OFFICER  
15, STRAND ROAD  
(4th Floor)  
KOLKATA-700 001  
\*\*\*\*\*

Received  
East-India Warehousing  
30.11.2012  
Kok-18

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

REASONED ORDER NO. 23 DT 20.07.2017  
PROCEEDINGS NO.1313 OF 2012

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-  
M/s East India Warehousing Corporation

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 East India Warehousing Corporation, of 19, Brooklyn Depot Road, Kolkata 700024** are in unauthorized occupation of the Public Premises specified in the Schedule below:

**REASONS**

1. That this Forum of Law is well within its jurisdiction to adjudicate upon the matters relating to eviction and recovery of arrear of rental dues/damages etc. as prayed for on behalf of KoPT and the Notice/s issued by this Forum are in conformity with the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act 1971.
2. That the lease as granted to yourselves by KoPT had doubtlessly determined by efflux of time, in the facts and circumstances of the case.
3. That you cannot claim fresh lease from the Port Authority as a matter of right and cannot dictate the terms and conditions of any lease that may be offered by the Port Authority in terms of their Estate Management Policy.
4. That KoPT's notice dated 08.06.2009 demanding possession of Port property from yourselves is very much valid, lawful and enforceable in the facts and circumstances of the case
5. That no case has been made out on your behalf as to how your occupation in the Public Premises could be termed as "authorised occupation" after

Please see reverse...



issuance of notice dated 08.06.2009, demanding possession by the Port Authority and your occupation has become unauthorized in view of Sec.2(g) of the P.P. Act, 1971.

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- 6. That right from the date of expiry of the lease, you have lost all authority to occupy the Public Premises and you are liable to pay dues/compensation charges with interest for wrongful use and enjoyment of the Public Property upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

A copy of the reasoned order No. 23 dated 20.07.2017 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 East India Warehousing Corporation, of 19, Brooklyn Depot Road, Kolkata 700024** 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 East India Warehousing Corporation, of 19, Brooklyn Depot Road, Kolkata 700024** 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. 966.37 sqm or thereabouts situated at Brooklyn Depot Road opposite T.N. Shed no. 20, Thana-West Port Police Station, Calcutta. District 24 Parganas, Registration District - Alipore. It is bounded on the North by the Trustees' Roadways, on the east by the Trustees' open land beyond which is the Oil Pipe Line, on the South by the Trustees' open land beyond which is their drain and on the West by the Trustees' strip of open land reserved as Railway margin of safety alongside Port Trust Railway Siding. Trustees' means the Board of Trustees of the Port of Kolkata.

Dated: 20.07.2017

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

Proceedings No. 1313 Of 2012 Order Sheet No. -24-

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S East India <sup>VS</sup> Warehousing Corporation

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### FINAL ORDER

1. The instant proceedings No. 1313, 1313/D of 2012, arose out of an application being No. No.Lnd.4772/09/1258 dated 29.07.2009 filed by Kolkata Port Trust (KoPT), Applicant herein, praying for an order of eviction and payment of arrear rent, taxes, compensation along with interest etc. against East India Warehousing Corporation, O.P. herein, under relevant provisions of the Public Premises (Eviction of Unauthorised Occupant) Act 1971. The facts of the case is summarised here under.
2. By letter being No. 4208/Tender dated 28.07.1978, KoPT granted a long term lease of Land measuring 966.37 sqm under Occupation No. D-150/3/7 situated at Brooklyn Depot Road, opposite T.N. Shed No. 20, Thana- West Port Police Station, Calcutta, Dist. 24 Parganas, Registration Dist. Alipore for a period of 30 years (without any option for renewal) by a registered deed of lease. As per the lease deed, the lease commenced with effect from 15.11.1978 and expired

*D. Hanu*

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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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expired on 14.11.2008 due to efflux of time. KoPT submits that even after the expiry of the lease, O.P. continues to occupy the port premises unauthorisedly and is in default in making payment of rent/compensation despite KoPT's demand. KoPT further submits that O.P. has unauthorisedly parted with possession, has made unauthorised construction in the port premises and has also encroached upon KoPT's vacant land in clear violation to the terms and conditions of lease in question.

It is also the case of KoPT that notice to quit dated 08.06.2009 was issued to the O.P. asking the O.P. to hand over clear, vacant, peaceful and unencumbered possession of the property to KoPT on 06.07.2009. By the said notice dated 08.06.2009 KoPT also notified the O.P. that all its relationship with KoPT stood determined on the expiry of lease w.e.f. 15.11.2008. KoPT submits that O.P. has no authority under law to occupy the public premises after issuance of notice to quit dated 08.06.2009 and was

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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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and was required to hand over the possession of the property in question to KoPT on 06.07.2009 as required under the notice to quit. It is the case of KoPT that O.P. is in wrongful occupation in the public premises on and from 15.11.2008 and accordingly, KoPT is entitled to have the O.P. evicted from the port premises. Further, O.P. is liable to pay compensation charges/mesne profits for unauthorized use and occupation of the Port Property in question.

3. Notice/s u/s 4 and 7 of the Act, both dated 28.04.2016 were issued by this Forum to O.P. to show cause as to why an order of eviction and an order requiring O.P. to pay damages together with interest should not be made against the O.P. on the various grounds mentioned in the said Notice/s. By the said notice/s, O.P. was also called upon to appear before this Forum in person or through the duly authorised representative capable to answer all material questions connected with the matter along with the evidence which the O.P. intends to produce in support of the cause for personal hearing. **Contd...**

*[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. 1313 Of 2012 Order Sheet No. -27-

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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O.P. contested the matter by submission of its reply to show cause notice dated 06.06.2016 (filed on 10.06.2016). The reply was duly signed by Mr. Siddharth Jain, Partner/Authorised Signatory of O.P. Finally, Mr. Nilanjan Palchaudhuri, Ld. Advocate for O.P. filed written arguments on 27.02.2017. Both the parties were heard on several occasions. Upon considering the deliberations of the parties and carefully going through the documents placed on record, I find that the following issues have come up for my consideration.

- (I) Whether the instant proceedings against the O.P. is maintainable or not,
- (II) Whether the O.P. had committed the breaches as alleged by KoPT, or not,
- (III) Whether O.P. can claim automatic renewal of the expired lease, or not,
- (IV) Whether KoPT's notice dated 08.06.2009 as issued to O.P., demanding possession from O.P. is valid and lawful or not;

*[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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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S East India <sup>VS</sup> Warehousing Corporation

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(V) Whether O.P. is in unauthorised occupation of port property in terms of Sec 2 (g) of the PP Act, and whether O.P. is liable to pay compensation along with interest to the Port Authority for unauthorised occupation of the public premises, or not.

4. In order to address the Issue No. (I), I need to refer to Sec 2 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 which defines the properties belonging to any Board of Trustees constituted under the Major Port Trust Act, 1963 as "public premises". 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

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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

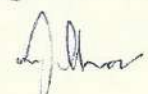
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concerned to show cause why an order of eviction should not be made and any delay in issuing such notice shall not vitiate the proceedings under the Act. Further, Sec 15 of the Act puts a complete bar on Court's jurisdiction to entertain any matter relating to eviction of unauthorized occupants from the public premises and recovery of rental dues and/or damages, etc. In view of the above, adjudication process by serving Notice/s u/s 4 & 7 of the Act in respect of KoPT's property is undoubtedly maintainable before this Forum of Law.

5. As regards Issue no. (II), I have come across application dated 18.08.2015 of the KoPT, wherein it has been claimed that during an inspection in the year 2010, it was found that the entire premises was under occupation of one M/s LMJ. Further, it is claimed that during inspection, breaches like unauthorised construction and encroachment were also found. As per KoPT's application dated 09.11.2015, the same breaches were again detected

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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 East India <sup>VS</sup> Warehousing Corporation

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detected during the inspection held on 27.08.2015 pursuant to the direction of this Forum. Existence of the breaches like unauthorised construction and encroachment were reconfirmed during the Joint Inspection of the premises held on 25.07.2016, as produced by KoPT alongwith its application dated 26.07.2016. Although such breaches were no longer detected during the subsequent Joint Inspection held on 25.01.2017, I think the Report of Joint Inspection held on 25.07.2016 is sufficient to prove that the breaches of unauthorised construction and encroachment by the O.P. existed at least till 25.07.2016. To draw such conclusion, I have taken a note of the fact that the O.P. in its reply to show cause notice filed on 10.06.2016 has denied parting with possession but has not at all denied having carried out unauthorised construction and encroachment. Such being the case, I have no hesitation to hold that the O.P. had definitely carried out unauthorised construction and encroached upon the land of KoPT, at least till 25.07.2016. **Contd.....**



# 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 East India <sup>VS</sup> Warehousing Corporation

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6. On Issue III, it is evident from the Lease Deed dated 05.07.1980 executed between KoPT and O.P. (Registered with Sub-Registrar, Alipore, 24-Parganas on 07.07.1980) that the lease was for a period of 30 years with effect from 15.11.1978. Therefore, there can be no doubt that the lease in question expired on 14.11.2008 due to efflux of time. There were no clauses for renewal of the lease, rather Clause 11 of the registered lease deed reads as follows:

*"11. 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 Trustees with all buildings and erections, if any, erected thereon that shall not have been previously removed by the Lessees".*

However, even after expiry of the said lease period, O.P. did not yield up vacant possession of the demised land to KoPT which necessitated Port Authority to serve a notice to quit dated 08.06.2009 demanding possession of the premises. It



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# Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises  
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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s East India Warehousing Corporation <sup>VS</sup>

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It is therefore clear that the KoPT never intended to renew the lease or grant a fresh lease to O.P.

Notable here is that O.P. by its letter dated 29.07.2016 during the course of this proceedings (i.e., approx. 8 years after the expiry of the lease) writes to the Estate Manager, KoPT saying - "This is to inform you that our lease in respect of the subject plot of land expired in the year of 2008 and the said lease did not have in built renewal clause. In view of this we request you to grant fresh lease in our favour at the earliest. ...."

Further, O.P. in its written notes of arguments filed on 27.02.2017 also admits saying - "That M/s East India Warehousing Corporation came into occupation of the port property measuring about 966.37 sqm situated at .... as a long term lessee for a period of thirty years w.e.f. 15.11.1978 ... The lease with respect to the subject plot expired on 15.11.2008 however M/s East India continued to remain in possession of

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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 East India Warehousing Corporation <sup>VS</sup>

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*possession of the aforesaid land after paying appropriate payments towards rent and compensation charges .... ..”.*

From the facts cited as above, it is undoubtedly established that the lease in question stood determined on 14.11.2008 due to efflux of time, and that there is no scope for automatic renewal of the lease in the facts and circumstances of the case. Now, so far as the prayer of the O.P. for grant of fresh lease is concerned, I must say that O.P. as former lessee cannot dictate the terms and conditions for grant of any fresh lease by the Port Authority and KoPT as landlord of the premises has every authority under law to impose terms and conditions for grant of fresh lease in terms of their estate management policy. As per law, the terms and conditions as embodied in a lease deed had lost all its force of law on the expiry of the contractual period of such lease, in the facts and circumstances of the case. As such, this Forum has nothing to consider in respect of the prayer of the O.P. for “renewal” of the lease. The issue III is thus decided against the O.P.



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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 East India Warehousing Corporation <sup>VS</sup>

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7. Issues IV and V are taken up together, as the Issues are related with each other. On evaluation of the factual aspects involved in this matter, the logical conclusion which could be arrived at is that KoPT's notice dated 08.06.2009 as issued to O.P., demanding possession of port property from O.P. is valid and lawful and binding upon the O.P. 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 which he was allowed to occupy the premises has **expired** or has been determined for any reason whatsoever. The lease granted to O.P. was determined by efflux of time limited thereby and the Port Authority by due service of notice demanded possession from O.P. KoPT's application for order of eviction is a clear manifestation of Port Authority's



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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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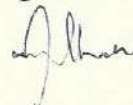
## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S East India Warehousing Cooperation <sup>VS</sup>

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Port Authority's intention to get back possession of the premises. In course of hearing, the representative of KoPT submits that O.P. cannot claim its occupation as "authorized" without receiving any rent demand note. The lease was doubtlessly determined by efflux of time and by KoPT's notice demanding possession, whose validity for the purpose of deciding the question of law cannot be questioned by O.P. Therefore, there cannot be any doubt that the O.P. was in unauthorized occupation of the premises, once the lease was expired, and that too, upon demand for possession from KoPT's side. In such a situation, I have no bar to accept KoPT's contentions regarding enforceability of the notice dated 08.06.2009, on evaluation of the facts and circumstances of the case. With this observation, I must reiterate that the notice to quit, demanding possession from O.P. as stated above has been validly served upon O.P. in the facts and circumstances of the case and such notice is valid, lawful and binding upon the parties. 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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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S East India Warehousing Corporation  
<sup>VS</sup>

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As per law O.P. is bound to deliver up vacant and peaceful possession of the public premises in its original condition to KoPT after expiry of the period as mentioned in the notice to quit.

8. "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 said notice to Quit dated 08.06.2009, O.P. has lost its authority to occupy the public premises 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 2004, decided on 10<sup>th</sup> December 2004, reported (2005)1 SCC 705, para-11 of the said judgment 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*

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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 East India Warehousing Cooperation  
<sup>VS</sup>

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*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. ....*

*.....”*

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 as "authorized occupation" without making payment of requisite charges. I am fortified by the Apex Court judgment reported in JT 2006 (4) Sc 277 (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

*Author*

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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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occupation of the premises, an amount equal to the monthly rent payable by the tenant. In my view, the case in hand is very much relevant for the purpose of determination of damages upon the guiding principle as laid down by the Hon'ble Apex Court in the above case. 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 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

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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 East India Warehousing Corporation <sup>VS</sup>

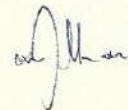
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which the parties knew, when they made the contract to be likely to result from the breach of it. As regards the three times rate of compensation in respect of unauthorised occupation, the order dated 03.09.2012 passed by Hon'ble Justice Dipankar Datta in WP no. 748 of 2012 (M/s Chowdhury Industries Corporation Pvt. Ltd. versus Union of India & others) is very relevant. The said Order reads as follows:

".....  
It is undisputed that there has been no renewal of the lease prior to its expiry or even thereafter. There is also no fresh grant of lease. The petitioner has been occupying the property of the Port Trust unauthorisedly and, therefore, the Port Trust is well within its right to claim rent at three times the normal rent in terms of the decision of the TAMP, which has not been challenged in this writ petition.

Furthermore, enhancement to the extent of three times the normal rent for persons in unauthorised occupation of Port Trust property does not appear to be utterly



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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 East India Warehousing Cooperation  
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*utterly unreasonable and arbitrary  
warranting interference of the Writ Court.*

.....”  
O.P. failed to substantiate as to how its occupation could be termed as “authorised” in view of Sec. 2(g) of the P.P Act, after expiry of the period as mentioned in the KoPT’s notice dated 08.06.2009, demanding possession from O.P. I have no hesitation to observe that O.P’s act in continuing occupation after expiry and determination of the lease 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. In this regard, I must mention that O.P cannot escape its liability towards payment of dues/charges on any plea of “limitation” as per Sec. 25 of the Indian Contract Act, while acknowledging the jural relationship as debtor and while still being in possession of the public premises. In any event, the Limitation Act has no application to the proceedings

*[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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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S East India Warehousing Corporation <sup>VS</sup>

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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. Thus, any plea taken by O.P. regarding applicability of Limitation Act in the proceedings before the Estate Officer under P.P. Act has, to my considered view, got no merit. The Issues IV and V are thus decided in favour of KoPT.

9. NOW THEREFORE, I consider it is a fit case for allowing KoPT's prayer for eviction against O.P. u/s 5 of the Act for the following grounds/reasons:

(i) That this Forum of Law is well within its jurisdiction to adjudicate upon the matters relating to eviction and recovery of arrear of rental dues/damages etc. as prayed for on behalf of KoPT and the Notice/s issued by this Forum are in conformity with the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act 1971.



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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 East India Warehousing Corporation <sup>VS</sup>

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- (ii) That the lease as granted to O.P. by KoPT had doubtlessly determined by efflux of time, in the facts and circumstances of the case.
- (iii) That O.P. cannot claim fresh lease from the Port Authority as a matter of right and cannot dictate the terms and conditions of any lease that may be offered by the Port Authority in terms of their Estate Management Policy.
- (iv) That KoPT's notice dated 08.06.2009 demanding possession of Port property from O.P. is very much valid, lawful and enforceable in the facts and circumstances of the case
- (v) That no case has been made out on behalf of O.P. as to how its occupation in the Public Premises could be termed as "authorised occupation" after issuance of notice dated 08.06.2009, demanding possession by the Port Authority and O.P's occupation has become unauthorized in view of Sec.2(g) of the P.P. Act, 1971. **Contd....**

*[Signature]*



## 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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(vi) That right from the date of expiry of the lease, O.P. has lost its authority to occupy the Public Premises and O.P. is liable to pay dues/compensation charges with interest for wrongful use and enjoyment of the Public Property upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

10. ACCORDINGLY, I sign 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 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

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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.

11. In my opinion KoPT's claim for damages upto February, 2017, for Rs. 3,82,156.93/- (including interest of Rs 15,419.93/- 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 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

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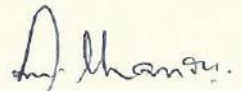
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KoPT is accordingly directed to submit a statement comprising details of its calculation of damages indicating there in the details of the rate of such charges together with the basis on which such charges are claimed against O.P. for my consideration 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.

12. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

  
(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 \*\*\*