

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

*o/e*

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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 Unauthorised Occupants) Act 1971  
OFFICE OF THE ESTATE OFFICER  
15, STRAND ROAD  
(4th Floor)  
KOLKATA - 700 001  
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Court Room At the 2nd Floor  
of Kolkata Port Trust's  
Head Office, Old Buildings  
15, Strand Road, Kolkata - 700 001

REASONED ORDER NO. 15 OF 20.02.2007  
PROCEEDINGS NO. 732 & 752/R OF 2005  
BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
- Vs -

**SMT. CIRIJA DEVI**

F O R M - "B"

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

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below  
that Shri/Smt./Km/M/s. ~~Smt. Ciriya Devi, Plot No. 10, Chetia Railway~~  
~~Siting, Kolkata-700027.~~

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

R E A S O N S

THAT YOU HAVE FAILED TO PAY THE RENTAL DUES TO KoPT IN GROSS VIOLATION OF THE CONDITION OF MONTHLY TERM TENANCY AS GRANTED BY THE PORT AUTHORITY. THAT YOU CANNOT DENY YOUR LIABILITY TOWARDS PAYMENT OF RENTAL DUES TO KoPT IN TERMS OF THE KoPT'S SCHEDULE OF RENT CHARGES AS TIME TO TIME CAME INTO FORCE AS PER NOTIFICATION PUBLISHED UNDER DUE PROCESS OF LAW IN ACCORDANCE WITH THE MAJOR PORT TRUST ACT, 1963. THAT YOU HAVE FAILED TO ESTABLISH YOUR AUTHORITY TO OCCUPY THE PUBLIC PREMISES AFTER DUE SERVICE OF EJECTMENT NOTICE DATED 30.11.1993. THAT YOU ARE AN UNAUTHORISED OCCUPANT IN TERMS OF THE DEFINITION OF " UNAUTHORISED OCCUPATION" AS PER THE P.P.ACT. THAT THE PORT AUTHORITY IS WELL WITHIN ITS JURISDICTION TO SERVICE EJECTMENT NOTICE DATED 30.11.1993 TO YOU AND SUCH NOTICE IS VALID, LAWFUL AND BINDING UPON THE PARTIES. THAT YOU ARE LIABLE TO PAY DAMAGES FOR YOUR UNAUTHORISED USE AND OCCUPATION OF THE PORT PROPERTY, BEING THE PUBLIC PREMISES IN QUESTION ON AND FROM 1.2.1994 UPTO THE DATE OF HANDING OVER OF CLEAR, VACANT AND UNENCUMBERED POSSESSION TO KoPT BY YOU. A CERTIFIED COPY OF THE ORDER DATED 20.02.2007 IS ATTACHED HERETO WHICH ALSO FORMS A PART OF THE REASONS.

*05/3/07* *Received*  
*गिरीजा देवी*  
*8/3/07*

PLEASE SEE ON REVERSE

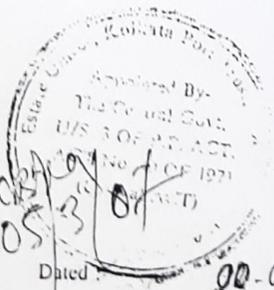
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby order the said Shri / Smt. / Km / M/s. Smt. Girija Devi, Plot No. 10, Chetla Railway Siding, Kolkata-700027.

and all person who may be in occupation of the said premises or any part thereof to vacate the said premises within 15 days of the date of publication of this order. In the event of refusal or failure to comply with this order within the period specified above the said Shri / Smt. / Km. / M/s. Smt. Girija Devi, Plot No. 10, Chetla Railway Siding, 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. 133.780 sq.m. or thereabouts is situated at Chetla Station Yard, Thana-New Alipore, Dist. 24-Parganas (S) Registration District. Alipore. It is bounded on he north by Trustees strip of open land reserved as railway margin of safety on the east by the Trustees land leased to Ram Chandra Singh on the south by the Trustees Roadway and on the west by he Trustees land leased to Paresh Nath Singh and Ambika Singh: Trustees' means the Board of Trustees for the Port of Kolkata.



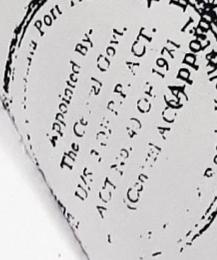
Dated: 00-02-2007

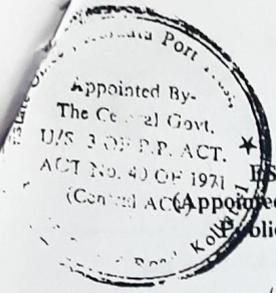
*Ghosh*  
Signature & Seal of the Estate Officer.

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

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ESTATE OFFICER, KOLKATA PORT TRUST  
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971 Central Act)  
Public Premises (Eviction of Unauthorised Occupant) Act 1971  
Office of the Estate Officer.  
15, Strand Road, (4<sup>th</sup> Floor) Kolkata-700 001.

FORM-“ E ”

PROCEEDINGS NO.732/R OF 2005

ORDER NO. 15 DATED: 20.2.2007

To  
Shri/Smt./Km./M/s.  
Smt. Girija Devi,  
Plot No.10,  
Chetla Railway Siding,  
Kolkata-700027.

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

AND WHEREAS, by written notice dated 24.10.2005 you ~~are~~were called upon to show cause on/or before 11.11.2005 why an order requiring you to pay a sum of Rs.37,597/- (Rupees Thirty seven thousand five hundred ninety seven only. ) being the rent payable together with simple interest in respect of the said premises should not be made;

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

NOW, THEREFORE, in exercise of the powers conferred by Sub-section (1) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby require you to pay the sum of Rs. Rs.37,597/- (Rupees Thirty seven thousand five hundred ninety seven only .) to Kolkata Port Trust by 31.03.2007.

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PLEASE SEE ON REVERSE

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Proceedings

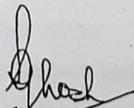
IN exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest @ 15% per annum upto 18.9.1996 and thereafter @ 18% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Calcutta Gazette.

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

SCHEDULE

The piece or parcel of land msg. 133.780 sq.m. or thereabouts is situated at Chetla Station Yard, Thana-New Alipore, Dist.24-Parganas (S) Registration District. Alipore. It is bounded on he north by Trustees strip of open land reserved as railway margin of safety on the east by the Trustees land leased to Ram Chandra Singh on the south by the Trustees Roadway and on the west by he Trustees land leased to Paresh Nath Singh and Ambika Singh. Trustees' means the Board of Trustees for the Port of Kolkata.

Dated: 20.02.2007

  
Signature and seal of the  
Estate Officer.

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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.

732, 732/2005

Order Sheet No.

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

SMT GIRIJA DEVI

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## FINAL ORDER

20.02.2007

The factual aspect involved into this matter is so simple that I do not consider it necessary to extend by elaborate discussion. It is the case of Kolkata Port Trust (KoPT), the Applicant herein that land msg. 133.780 sq.m. situated at Chetla Station Yard, Thana, New Alipore, Kolkata was granted to O.P. on monthly term lease basis with certain terms and conditions as embodied in the said lease deed. It is also the case of KoPT that the O.P. in gross violation of the condition of tenancy as granted to O.P. under lease, has failed to pay the rental dues to KoPT and eventually, notice of ejection dated 30.11.1993 was served upon O.P. It is argued on behalf of KoPT that the O.P.'s occupation into the public premises is unauthorized after service of ejection notice dated 30.11.1993 and as such the O.P. is liable to be evicted from the public premises. This Forum of Law after formation of its opinion to proceed against O.P. served notices dated 24.10.2005 u/s.4 and u/s.7 of the Act, for the purpose of showing cause on or before 11.11.2005 for adjudication of the prayer of KoPT with regard to order of eviction against O.P. and recovery of arrear rental dues. In reply the O.P. vide its letter as filed on 11.11.2005 states that necessary orders be passed for payment after adjusting the amounts paid by the O.P. at the old rate in compliance with the High Court's order in C.O. No. 1063 (W) of 1989 (Ashoke Kr. Banerjee & Ors. -vs- KoPT & Ors.). In course of hearing it was the sole contention of O.P. that during pendency of the aforesaid writ petition, KoPT cannot claim at the enhanced

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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. 732, 732/R of 2005 Order Sheet No. 9

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Smt. Girija Devi

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enhanced rate. In course of hearing it is submitted with  
argument on behalf of O.P. that the matter of enhancement of  
rent is sub-judice vide C.O. No. 1063 (W) of 1989 and the  
KoPT cannot claim charges at the enhanced rate because of  
pendency of writ petition before the Hon'ble High Court,  
Calcutta. Mr. Uma Shankar Singh, Advocate for O.P. submits  
with argument that the Port Authority cannot claim charges for  
occupation on the basis of KoPT's 1996 Schedule of Rent  
Charges as such schedule has been stayed by the Hon'ble  
Supreme Court of India (no paper/document has been  
produced to support his contention) and the proceeding before  
this Forum of Law is not maintainable. KoPT on the other  
hand submits that the proceedings is maintainable under the  
provision of the P.P. Act and my attention is drawn to the  
judgement delivered by His Lordship Hon'ble Mr. Justice  
Jayanta Biswas on 9.3.2006, dismissing the writ petition being  
C.R. No. 1063 (W) of 1989 (Ashoke Kumar Banerjee & Ors. -  
vs- Board of Trustees of KoPT & Ors.). It is argued on the  
basis of the order dated 16.9.1998 passed by the Calcutta High  
Court in Port Tenants Welfare Association case that KoPT  
cannot claim rent charges as 1983 and 1988 Schedule of Rent  
Charges. I have duly considered the statements/arguments  
made on behalf of the parties in course of hearing and  
carefully applied my mind to the orders passed by the Calcutta  
High Court dated 16.9.1998 passed by His Lordship Hon'ble  
Mr. Justice Mitra (as His Lordship then was) in the context of  
the KoPT's Rent Schedules which were effective from

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# Estate Officer, Kolkata Port Trust

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

Proceedings No. 732, 732/R of 2005 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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effective from 20.1.1983 and 31.3.1988. I am taking notice of the fact that by judgement of the Calcutta High Court, the KoPT's 1996 Rent Schedule, which was effective from 19.9.1996, has been upheld. In consideration of the Judgement of Calcutta High Court in C.R. No.1063 (W) of 1989, I think there is no scope for O.P. to deny its liability towards payment of rent charges as per 1983 Schedule of Rent Charges (effective from 20.1.1983). Regarding KoPT's 1988 Schedule of Rent Charges (effective from 31.3.1988), nothing has been produced on behalf of O.P. to make out a case in its support. In fact the O.P. has failed as to how the order of Justice Mitra in respect of W.P. No. 347 of 1989 has become operative in its case. No material has been produced to show either the O.P. is a writ petitioner to the said writ petition or to show that the O.P. is a member of Port Tenant Welfare Association. I distinctly remember that in course of hearing the representative of Kolkata Port Trust submitted that the order dated 16.9.1998 has its no application to the O.P.'s occupation as the O.P. is not a party to that writ petition and the operation of the order dated 16.9.1998 is strictly restricted to the members of that Port Tenant Welfare Association only as per subsequent order of the Hon'ble High Court, Calcutta passed by His Lordship Hon'ble Mr. Justice Amitava Lala. After careful consideration of all relevant papers/documents brought before me I am convinced that the Port Authority is very much within its jurisdiction to claim for rental dues against O.P. in accordance with the KoPT's Schedule of Rent

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# Estate Officer, Kolkata Port Trust

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

Proceedings No. 732, 732/R of 2005 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Smt. Girija Devi

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Rent Charges for the relevant period as per notification published in the Calcutta Gazette, strictly in terms of the provisions of the Major Port Trust Act 1963.

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20.02.2007.

As the non-payment of rental dues to KoPT by O.P. has been established beyond doubt, I have no hesitation in my mind to allow the prayer of KoPT regarding order of eviction u/s.5 of the Act. Therefore, it is a fit case for passing an order of eviction u/s.5 of the Act on the following reasons/grounds:

1. That the O.P. has failed to pay the rental dues to KoPT in gross violation of the condition of monthly term tenancy as granted by the Port Authority.
2. That the O.P. cannot deny its liability towards payment of rental dues to KoPT in terms of the KoPT's Schedule of Rent Charges as time to time came into force as per notification published under due process of law in accordance with the Major Port Trust Act, 1963.
3. That O.P. has failed to establish its authority to occupy the public premises after due service of ejection notice dated 30.11.1993.
4. That O.P. is an unauthorized occupant in terms of the definition of "unauthorized occupation" as per the P.P. Act.

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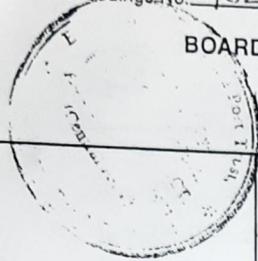
# Estate Officer, Kolkata Port Trust

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  
VS

Smt. Girija Devi

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5. That the Port Authority is well within its jurisdiction to service ejection notice dated 30.11.1993 to O.P. and such notice is valid, Lawful and binding upon the parties.
6. That the O.P. is liable to pay damages for its unauthorized use and occupation of the Port property, being the public premises in question on and from 1.2.1994 upto the date of handing over of clear, vacant and unencumbered possession to KoPT by O.P.

ACCORDINGLY, Department is directed to draw up formal order of eviction u/s.5 of the Act as per Rule made thereunder, 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 occupation of the property against O.P. in accordance with Law up to the date of recovery of possession of the same.

I am also satisfied that a sum of Rs.37,597/- for the period 1.4.1998 to 31.1.1994 is due and recoverable from O.P. on account of arrear rental dues in respect of proceedings No.732/R 2005, which is required to be paid to KoPT by 31.3.2007. It is also hereby ordered that the arrear rental dues

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সর্বস্বত্ব সংরক্ষিত।  
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কলকাতা

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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**

VS

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rental dues as aforesaid shall be payable by O.P. to KoPT with accrued interest from the date of incurrance of their liability at the rate of 15% per annum up to 18.9.1996 and thereafter at the rate of 18% per annum as per KoPT's rule till its final payment. Accordingly, Department is also directed to draw up formal order u/s.7 of the Act as per Rule, giving time upto 31<sup>st</sup> March 2007 for making payment to Kolkata Port Trust. KoPT is directed to submit a report regarding its claim on account of damages against O.P., indicating therein 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 thereunder. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

(S. GHOSH)

ESTATE OFFICER.

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

05/3/07