

o/c



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

**ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(erstwhile 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
6, Fairlie Place (1st FLOOR) KOLKATA-700001

Court Room At the 1st Floor
of Kolkata Port Trust's
Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO. 1000/D OF 2008
ORDER NO. 26 DATED : 05.07.2021

Form- G

Form of order under Sub-section (2) and (2A) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

To

M/S. Madhavlal & Co
11, Ezra Street,
Kolkata-700001.

WHEREAS I, the undersigned, am satisfied that you were in unauthorised occupation of the public premises mentioned in the Schedule below:

AND WHEREAS by written notice dated 28.10.2020 you are called upon to show cause on or before 11.11.2020 why an order requiring you to pay damages of Rs. 33,89,939.39 (Rupees Thirty Three Lakhs Eighty Nine Thousand Nine Hundred Thirty Nine and paise Thirty Nine only) together with [compound interest] for unauthorised use and occupation 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 on me by Sub-section (2) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby order you to pay the sum of Rs. 33,89,939.39 (Rupees Thirty Three Lakhs Eighty Nine Thousand Nine Hundred Thirty Nine and paise Thirty Nine only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.02.2007 to 07.12.2018 (both days inclusive) to SMP, Kolkata by 20.07.2021

PLEASE SEE ON REVERSE



: 2 :

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay compound interest @ 6.20 % per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

In the event of your refusal or failure to pay the damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue through the Collector.

SCHEDULE

Plate No. K-104

The said space msg. 371.612 sq.m.(Trustees' 4(Four) bays) at "Y" shed, Kantapukur, P.S: South Port Police Station, Kolkata, Dist: 24 Parganas (South), Registration Dist. Alipore. It is bounded on the north by the Trustees' "Y" shed occupied by the M/S Universal Agency, on the south by the Trustees' dilapidated Latrine then Trustees' road then ALPHA shed, on the east by the common passage then DELTA shed, on the west by the common passage then U shed.

Trustees' means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata).

Date 05-07-2021

Signature & Seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA 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. 1000/D Of 2008 Order Sheet No. 39

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Madhablal & Co. VS

26

05.07.2021

FINAL ORDER

The instant proceedings No. 1000/D of 2008 arises out of the application bearing No. Lnd. 1435/87 (Dup)/19/1060 dated 04.07.2019 filed by the Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust], hereinafter referred to as SMP, Kolkata, the applicant herein, praying for an order of recovery of dues and other charges etc. along with accrued interest in respect of the public premises as defined in the Schedule of said application, against **M/S Madhablal & Co.**, the O.P herein, under relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

The fact of the case in a nutshell is that the O.P. came into occupation of the Port property being godown space measuring 371.612 sq.mtrs. or thereabout at "Y" shed, Kantapukur, Thana-South Port Police Station (under Plate No.K-104) as monthly term Lessee. Thereafter, O.P has defaulted in making payment of SMP, Kolkata's dues/charges. Notice to Quit was issued by SMP, Kolkata to O.P on 23.12.1985. Thereafter, Proceeding was initiated by SMP, Kolkata before this Forum against the O.P under relevant provisions of the Act which numbered as Proceeding No.1000, 1000/R & 1000/D of 2008. The O.P appeared before the Forum and contested the case. Thereafter, the Final Order of Eviction and payment of dues by the O.P was passed on 20.07.2012. It appears that thereafter SMP, Kolkata vide its application dated 04.07.2019 has intimated that possession of the premises was taken over from O.P on 07.12.2018 in terms of the said Order of eviction dated 20.07.2012. It has also been intimated by SMP, Kolkata that a huge amount of compensation/damages/mesneprofit is still

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Assistant
OFFICE OF THE LD ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



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. 1000/D of 2008 Order Sheet No. 40

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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due and recoverable from O.P. After considering the allegation levelled by SMP, Kolkata against the O.P that while in possession of the Port Property, the O.P has defaulted in making payment of damages /compensation and taxes and also accrued interest thereon, this Forum being prima facie satisfied with claim of SMP, Kolkata has issued Notice to Show Cause dated 28.10.2020 (vide Order No.15 dated 28.10.2020) upon the O.P U/S 7 of the Public Premises (Eviction of Unauthorised Occupant) Act 1971 to Show Cause as to why an order requiring to pay arrear damages/compensation together with interest should not be made against O.P. The O.P was called upon to appear before this Forum in person or through authorised representative capable to answer all material questions connected with the matter along with the evidence which the Opposite Party intends to produce in support of this case.

It is the case of SMP, Kolkata that the O.P. was asked to pay damages/compensation upto 07.12.2018 as because the subject premises was taken over by SMP, Kolkata on 07.12.2018.

The said Notice was served through speed Post as well as by hand delivery to the recorded address of O.P at 11, Ezra Street, Kolkata-700001. However, both the Notice/s was returned back to the Forum as unserved. Thereafter, following the principles of natural justice, this Forum made further attempt to serve the notice upon O.P by directing SMP, Kolkata to provide alternative address, if any, of the O.P. However, SMP, Kolkata has submitted that no other alternative address is available with them. It appears that in spite

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CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SMP, KOLKATA PORT
Head Assistant
OFFICE OF THE ESTATE OFFICER
SMP, KOLKATA PORT

[Handwritten signature]

[Handwritten signature]



Estate Officer, Kolkata Port Trust

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Proceedings No. 1000/D of 2008 Order Sheet No. 41

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Madhablal & Co. VS

26

08.07.2021

of such efforts being made, the appearance of O.P could not be procured in order to contest the claim of SMP, Kolkata by usual course of business followed by this Forum and such efforts remain futile. Accordingly a decision was taken to publish a Notice in a widely circulated News Paper for a notice to all concerned about the pendency of the instant proceeding in order to give further chance to O.P to appear before the Forum and to represent their case. Such Notice was published in the classified column of Times of India(Kolkata) on 19.03.2021 fixing the ultimate date of O.P's appearance on 07.04.2021. But all the efforts went into vain as the O.P failed to appear before the Forum despite publication of such Notice in the News Paper.

Now in view of the spirit laid down in the Public Premises Act, 1971 for speedy and summary disposal of the case and further considering the continuous non appearance of O.P in spite of sufficient opportunities being given and after exhaustion of all available means of service, this Forum finds no need to keep the matter pending and final Order was reserved in the matter on 07.04.2021. Now this Forum has decided to adjudicate the matter ex-parte.

As no one from O.P's side appears and no reply to the Show Cause Notice u/s 7 of the Act has been filed as yet, I have no bar to accept the claim of SMP, Kolkata on account of damages /compensation etc. In fact, I have nothing to disbelief in respect of claim of SMP, Kolkata against O.P. as per statement of accounts maintained regularly in SMP, Kolkata's office in regular course of business.

It is my considered view that a sum of Rs.33,89,939.39 (Rupees Thirty Three Lakhs Eighty

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OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MUKHERJEE PORT



Estate Officer, Kolkata Port Trust

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1000/D of 2008 Order Sheet No. 42

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

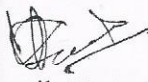
M/s Madhablal & Co. ^{VS}

26
05-07-2021

Nine Thousand Nine Hundred Thirty Nine and paisa Thirty Nine Only) for the period 01.02.2007 to 07.12.2018 (both days inclusive) for the respective plate in question is due and recoverable from O.P. by the Port authority on account of damages and O.P. must have to pay such dues to SMP, Kolkata on or before 20.07.2021. The said damages shall attract compound interest @ 6.20 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrence of liability, till the liquidation of the same, as per the adjustment of payments, if any made so far by O.P., in terms of SMP, Kolkata's books of accounts. I sign the formal orders u/s 7 of the Act.

Department is directed to draw up formal order as per Rule u/s 7 of the Act. I make it clear that in the event of failure on the part of O.P. to pay the dues/charges as aforesaid; SMP, Kolkata is at liberty to recover the dues etc. in accordance with law. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL


(Kausik Kumar Manna)
ESTATE OFFICER

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

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THE ESTATE OFFICER
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CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT