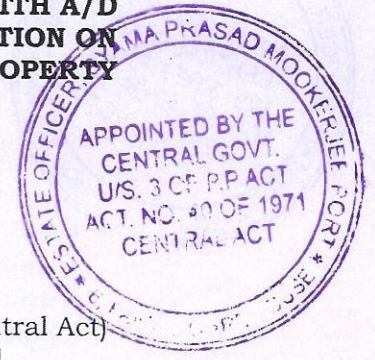


Website

**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

**Form " E "**

PROCEEDINGS NO.1639/R of 2018  
ORDER NO. 11 DATED: 17.12.2021

Form of order under Sub-section (1) and (2A) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971

To  
**Estate Harihar Nath Mishra',  
represented by Sri Rajesh Mishra,  
C.L. 139, Sector -2  
Salt Lake,  
Kolkata- 700 091.**

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

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

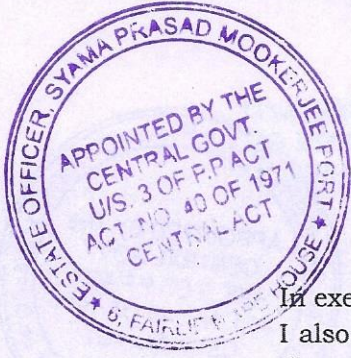
AND WHEREAS, by written notice dated 22.05.2018 ( Vide Order No 04 dated 04.05.2018) you were called upon to show cause on/or before 22.06.2018 why an order requiring you to pay a sum of Rs. 88,282/- ( Rupees Eighty Eight Thousand Two Hundred Eighty Two only) being the rent payable together with compound interest in respect of the said premises should not be made;

AND WHEREAS, I have considered your objection and/or the evidence produced by you.

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. 88,282/- ( Rupees Eighty Eight Thousand Two Hundred Eighty Two only) for the period 09.02.1993 to 30.09.2006 (both day inclusive) to Kolkata Port Trust by 07.01.2022.

*sd*

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, which is the current rate of interest as per the Interest Act, 1978 (as gathered from the official website of the State Bank of India) till liquidation of the same from the date of incurrance of liability in accordance with the notification of KoPT issued under Authority of Law as per adjustments of payments made so far by O.P. as per KoPT's books of accounts.

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

#### Plate no - SB 564

The said piece or parcel of land msg. 126.81 sqm or thereabouts is situated on Turner Road, Cossipore, Thana - Chitpur, Sub -Registry Sealdah, Regn. Dist. Alipore, Kolkata. It is bounded on the North by Trustees' land, on the South by Nawab Putty Road, on the East partly by the Trustees' land occupied by Shew Achal Tewari and party by Nawab Putty Road and on the West by private property.

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

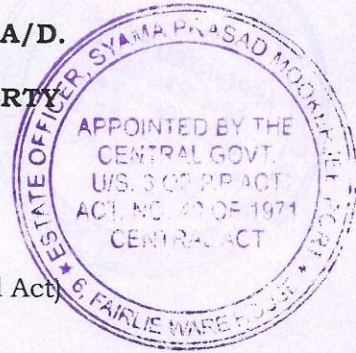
By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
27-12-2021  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

Dated: 27.12.2021.

Signature and seal of the  
Estate Officer

**COPY FORWARDED TO THE ESTATE MANAGER, SYAMA PRASAD MOOKERJEE PORT, KOLKATA FOR INFORMATION.**

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 Unauthorized Occupant) Act 1971  
OFFICE OF THE ESTATE OFFICER  
6, Fairley Place (1st Floor)  
KOLKATA - 700 001  
\*\*\*\*\*

Court Room At the 1<sup>st</sup> Floor  
of Kolkata Port Trust's  
Fairley Warehouse  
6, Fairley Place, Kolkata- 700 001.

-11-  
REASONED ORDER NO. 04 DT 17.12.2021.  
PROCEEDINGS NO. 1639/D OF 2018

**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  
**Estate Harihar Nath Mishra,**  
represented by **Sri Rajesh Mishra,**  
C.L. 139, Sector -2  
Salt Lake,  
Kolkata- 700 091.

By Order of:  
**THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT**  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
27.12.2021  
Head Assistant  
OFFICE OF THE I.D. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

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

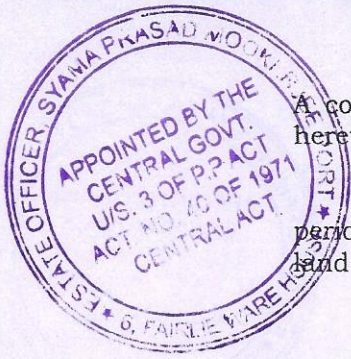
And whereas by written notice dated 22.05.2018 you were called upon to show- cause on/or before 22.06.2018 why an order requiring you to pay a sum of Rs 9,74,565/- (Rupees Nine Lakhs Seventy Four Thousands Five Hundred Sixty Five Only) being damages payable together with compound interest for unauthorised 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 6,53,841/- (Rs. Six Lakhs Fifty Three Thousand Eight Hundred Forty One only ) for the period from 01.10.2006 to 30.06.2017 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust, by 07.01.2022.

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, 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) on the above sum with effect from the date of incurrance of liability, till its final payment in accordance with Notification Published in Official Gazette/s.

Please see on reverse



:2:

A copy of the reasoned order no. -11- dated 17.12.2021 is attached hereto.

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.

### SCHEDULE

#### Plate no - SB 564

The said piece or parcel of land msg. 126.81 sqm or thereabouts is situated on Turner Road, Cossipore, Thana - Chitpur, Sub -Registry Sealdah, Regn. Dist. Alipore, Kolkata. It is bounded on the North by Trustees' land, on the South by Nawab Putty Road, on the East partly by the Trustees' land occupied by Shew Achal Tewari and party by Nawab Putty Road and on the West by private property.

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

Dated: 27-12-2021

Signature and seal of the  
Estate Officer.

**COPY FORWARDED TO THE ESTATE MANAGER, KOLKATA PORT TRUST FOR INFORMATION.**

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  
27-12-2021

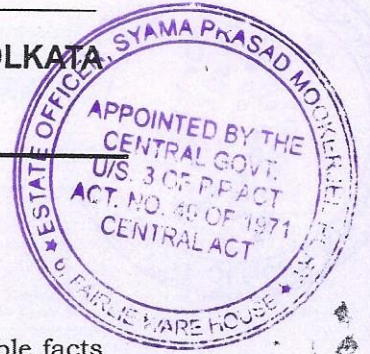
# Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1639, 1639/R. 1639/D of 2018 Order Sheet No. 13

## BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

*Estate Harihar Nath Mishra* VS



### FINAL ORDER

The matter is taken up today for final disposal. Noticeable facts are required to be put forward in a nutshell for convenient discussion of the issues involved in this matter. It is the case of **Syama Prasad Mookerjee Port, Kolkata** [erstwhile Kolkata Port Trust], hereinafter referred to as '**KoPT**', the applicant herein that piece or parcel of land measuring about 126.81 square meter comprised under occupation no SB 564 situated on Turner Road, Cossipore was allotted to **Sri Harihar Nath Mishra** (hereinafter referred to as '**O.P.**') on a month to month lease basis and O.P. violated the condition of tenancy by way of not making payment of rental dues to KoPT and parting with the possession of the premises to unauthorized persons. It is submitted that O.P. has no authority under law to occupy the public premises after issuance of notice to quit dated 25.08.2006 and was required to hand over the peaceful vacant possession of the property in question to KoPT on 01.10.2006 in terms of the said notice. My attention is drawn with a strong argument that the cause of action arises upon failure on the part of the O.P. to hand over possession in terms of the said notice dated 25.08.2006 as served upon O.P. and thereafter.

This Forum of Law formed its opinion to proceed against O.P. and issued Show Cause Notice upon O.P. u/s 4 of the **Public Premises (Eviction of Unauthorised Occupants) Act, 1971** (hereinafter referred to as 'the Act') (for adjudication of the prayer for recovery of possession etc.) and 2 (two) no of Show Cause Notices u/s 7 of the Act (for adjudication of the prayer recover of arrear rental dues, damages/ mesne profit/ compensation etc.) all dated 22.05.2018 (vide Order No 04 dated 04.05.2018) as per the mandate under the Act.

On the day fixed for answering the Show Cause one Dr. Rajesh Mishra expressing himself as the son of Sri Harihar Nath Mishra

11

17.12.2021

*[Handwritten initials]*

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
27.12.2021  
Head Assistant  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

*[Handwritten signature]*

# Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1639, 1639/R/1639/D Of 2018 Order Sheet No. 14

**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**VS**

*Estate Harihar Nath Mishra.*

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17-12-2021

appeared before this Forum with the submission that Sri Harihar Nath Mishra has expired. It is seen from records that photocopies of the Aadhaar Card, PAN Card of Sri Rajesh Mishra and also a copy of death certificate of Sri Harihar Nath Mishra have been filed before this Forum (date of death, as recorded - 19.03.2007) in support of his statement. Be it mention here that the original Death Certificate was produced before this Forum in order to compare the same with the copy thereof. This Forum finds no reason to disbelieve the facts as brought out by said Sri Rajesh Mishra and hence, the instant proceedings was allowed to be continued against '**Estate Harihar Nath Mishra**', represented by Sri Rajesh Mishra as O.P., thereby complying with the mandate of the Act for giving opportunity of hearing to all concerned who are interested in the property. Sri Rajesh Mishra has stated that no representative/s of the deceased Sri Harihar Nath Mishra has been presently occupying the premises as the possession of the premises had already been handed over to KoPT by his deceased father back in the year 1998. Accordingly, a joint inspection of the premises was ordered vide Order no 05 dated 22.06.2018. On the following day it was submitted on behalf of KoPT that on an inspection one Sri B.N. Chaturbedi was found to be occupying the subject premises.

Thereafter the proceeding continued for fair long time. During continuance of the proceeding, the handing over of the possession was decided and took place by and between the parties and a certificate was prepared and submitted before this Forum clearly stating that the possession of the premises was handed over to the representative of KoPT in vacant condition on 27.08.2018. It appears that the certificate bears the signatures of both the representative of KoPT and Sri Rajesh Mishra with the endorsement of Sri Mishra recorded as 'The possession of the plot SB 564 was handed over by my father, Lt Sri Harihar Nath Mishra on 17.09.1998 (ref letter dt. 06.08.1998). To evict illegal user of land the court has directed to help in eviction by being

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  
17-12-2021  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

*Sud*

# Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

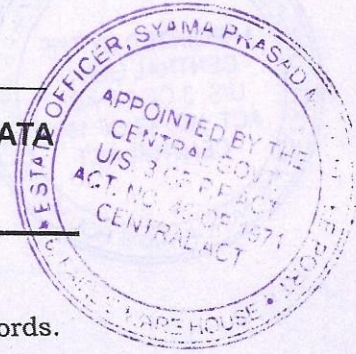
Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1639, 1639/R & 1639/D of 2018 Order Sheet No. 15

## BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

*Estate Harihar Nath Mishra.*



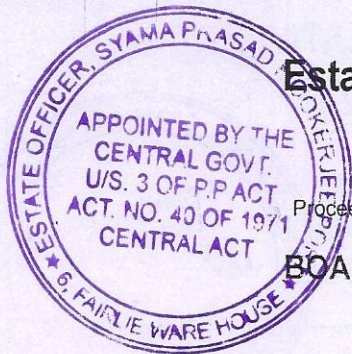
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17.12.2021

present at the site and to regularise irregularities in its records. Accordingly, without prejudice to our rights and contentions, I am helping Port Trust Authorities without any financial liability on us whatsoever'. Accordingly, the proceeding u/s 4 of the Act relating to eviction was dropped vide Order no 07 dated 04.09.2018 and hearing of the proceeding continued u/s 7 of the Act.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions advanced before me. I find that the main contention of Sri Rajesh Mishra is that the possession of the subject premises was handed over to KoPT by his deceased father Sri Harihar Nath Mishra back in the year 1998 in terms of his deceased father's letter dated 06.08.1998 addressed to KoPT. In support of such contention a copy of the letter dated 06.08.1998 was filed. It appears from the copy of the letter that the 'Central Despatch Section' of KoPT has received it under acknowledgement. It appears that KoPT has issued a reply to Sri Harihar Nath Mishra, since deceased thereafter on 31.08.1998, intimating that the site/ premises would be inspected by KoPT's representative on 07.09.1998, when O.P. was requested to depute representative at the site. It further appears that a note was written on the body of the letter that the same was 'received on 02.09.1998'. Further, a note appears to be handwritten on the body of the said letter dated 31.08.1998 perhaps by Sri Harihar Nath Mishra, since deceased recording 'Calcutta Port Trust Officers called and they were given the possession as was desired by them', 'To call on their office on Thursday, 17<sup>th</sup> September, 98- Needful was done'. It appears that the above two communications dated 06.08.1998 and 31.08.1998 forms the basis of the case alleged by Sri Rajesh Mishra that the handover of the premises took place during the lifetime of his deceased father back in the year 1998. Hence, it was argued by him that no money is payable on account of dues of KoPT such as rent dues, mesne profit/ compensation dues etc.

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
J. H. 27-12-2021  
Head Assistant  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

*Sud*



# Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1639, 1639/R/201639/D Of 2018 Order Sheet No. 16

## BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

*Estate Haribor nath Mishra*

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17.12.2021

after the premises handed over in the year 1998 and the proceeding should be dropped. The exact date of handing over, however, has not been confirmed with certainty by Sri Rajesh Mishra as the same has been mentioned as '17.08.1998' (as is found in his written submission filed under the cover of application dated 28.03.1998) as contrary to '17.09.1998' (as is found in his letter dated 30.10.2018 addressed to the Estate Manager, KoPT).

KoPT on the other hand maintained that the alleged surrender of the premises was neither effected on 17.08.1998 (in terms of deceased O.P.'s letter dated 06.08.1998) as KoPT has replied the said letter vide their letter dated 31.08.1998 requesting for an inspection of the premises, nor on 17.09.1998 as the letter dated 31.08.1998 does not bear any endorsement/ signature/ seal of any officials of KoPT recording the alleged surrender of possession. It is argued on behalf of KoPT that the possession of the premises was handed over to KoPT on 27.08.2018 under an executed certificate recording the handing over. KoPT has maintained that nowhere in the records a single document has been found indication the alleged hand over in the year 1998. Further, it is the case of KoPT that O.P. has unauthorisedly parted with the possession of the premises to outsiders. It is stated by KoPT that the possession of the premises was handed over to KoPT on 27.08.2018 from one Sri B.N. Chaturbedi, the unauthorised occupant with whom KoPT has no connection at all. KoPT has relied on the application of Sri Rajesh Mishra dated 28.03.2019 wherein Sri Mishra has himself confirmed the issue of handing over possession of the premises to KoPT from that Sri B.N. Chaturbedi on 27.08.2018.

In the instant case, it is not a disputed matter of fact that the lease between the parties had come to an end on 01.10.2006 in terms of the Notice to Quit dated 25.08.2006. In my view, O.P.'s occupation after 01.10.2006 must be termed as "unauthorised"

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  
27-12-2021

*Sudh*



# Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

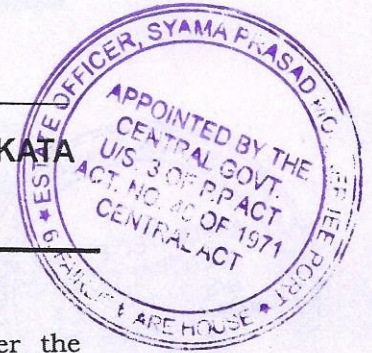
Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1639, 1639/R & 1639/D of 2018 Order Sheet No. 17

## BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

*Estate Haribor Nath Mishra.*



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17-12-2021

under sec 2 (g) of the P.P. Act, that is to say, after the termination of the lease in question. I must say that as per Transfer of Property Act, lessee is bound to deliver back possession to its lessor in its original condition and in the event the lessee fails to handover the possession in its original condition to the lessor, the occupation becomes unauthorised, immediately after termination of the lease period. It is needless to mention that Transfer of Property Act provides for determination of lease on the expiration of a notice to determine the lease as per section 111 of the Act. As such O.P. was liable to hand over clear, vacant and unencumbered possession of the premises on the date of termination of lease by notice to Quit dated 25.08.2006. It is not the case of O.P. that O.P. did not receive the Notice to Quit dated 25.08.2006. Rather O.P. has advanced an argument that it is liable for the occupational charges only till 1998. It has been alleged on behalf of O.P. that the authorised representative of KoPT went to the said land in either of the two days (17.08.1998 or 17.09.1998) to take over possession, but KoPT did not maintain record of the same. I am not at all impressed by said submission of the O.P. Had the possession of the land been handed over to KoPT on 17.08.1998 or 17.09.1998, O.P. would have definitely taken up the matter with the KoPT in writing immediately thereafter. It is very difficult to believe that the O.P. would keep mum over an issue as serious as handing over of a public premises to a statutory authority for the next two decades. In my view, mere claim of being surrendering the possession of the premises in 1998 without there being any proof in support does not inspire my confidence in the facts and circumstances of the case. There is explanation from O.P.'s side as to how O.P. did not take any steps after the Notice to Quit issued by KoPT. It suffices to say that the lease was granted to the O.P. with express condition prohibiting sub-letting, assignment etc, and the premises was found to be under the occupation of one Sri B.N. Chaturbedi while taking over the same on 27.08.2018, which is an admitted position in the case.

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
27.12.2021  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

*Sud*

# Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

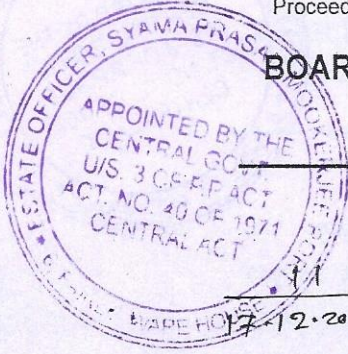
Appointed by the Central Govt. Under Section 3 of the Public Premises  
(Eviction of Unauthorised Occupants ) Act 1971

Proceedings No. 1639, 1639/RA/1639/D Of 2018 Order Sheet No. 18

## BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

*Estate Harifar Nath Mishra*



As such, I have no doubt or confusion to hold that the period of unauthorised occupation of the O.P. is from 01.10.2006 to 27.08.2018.

It is my considered view that a sum of Rs. 88,282/- ( Rupees Eighty Eight Thousand Two Hundred Eighty Two only) for the period from 09.02.1993 up to 30.09.2006 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of arrear rent fees and O.P. must have to pay the rent fees to KoPT on or before 07-01-2022.

I must first say that it is settled principle of law that a person is liable to compensate the landowner, in case of unauthorised occupation of land. As per law, O.P. is bound to deliver up vacant and peaceful possession of the public premises in its original condition to KoPT on the expiration of a notice to determine the lease, which the O.P. had failed to do. "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 lease in question, O.P. had lost its authority to occupy the public premises, and O.P. is liable to pay damages for such unauthorised use and occupation. Now, the question arises at what rate O.P. was liable to pay the compensation/damages. KoPT has submitted that during the period of unauthorised occupation, O.P. is liable to pay damages/compensations as per rates notified in the Official Gazette from time to time by the Tariff Authority for Major Ports (TAMP). It is the submission of KoPT that such rates are uniformly applicable on all users of the port property and an unauthorised occupant like that of the O.P. cannot claim any preferential treatment. I take note of the fact that in 1997, Sec. 52 of the Major Port Trusts Act, 1963 was repealed and different mechanism was evolved by which power to fix rent was given to the Tariff Authority for Major Ports. Sec. 49 of said Act was also amended by the Port Laws (Amendment) Act

By Order of  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
Head Assistant  
OFFICE OF THE LD ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
12.2021

*Sub*

# Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

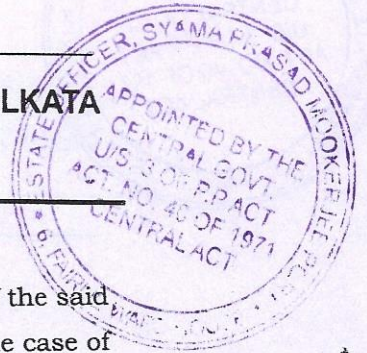
Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1639, 1639/R & 1639/D Of 2018 Order Sheet No. 19

## BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

*Estate Horilax Nath Mishra.*



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17.12.2021

1997 in the year 1997. The validity of these provisions of the said MPT Act was upheld by the Hon'ble Supreme Court in the case of Luga Bay Shipping Corporation -Vs- Board of Trustees of the Port of Cochin and Ors. Reported in AIR 1997 SC 544 = 1997(1) SCC 631. In such a situation, I find that the rates notified by the said TAMP has statutory force and is binding on all concerned. With such conclusion, I hold that the calculations of monthly damages/compensation amounts by KoPT are correct and just and O.P. is liable to pay such amounts to KoPT.

As such, I must say that Rs. 6,53,841/- (Rs. Six Lakhs Fifty Three Thousand Eight Hundred Forty One only ) as claimed by the Port Authority as damages, is correctly payable by O.P. for the period 01.10.2006 to 30.06.2017 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by 07.01.2022.

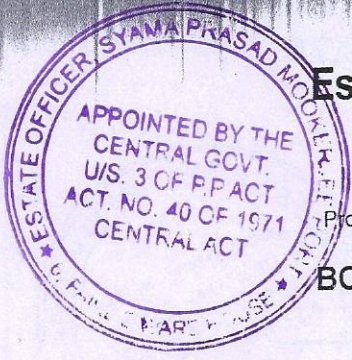
Such dues attracts Compound Interest @ 6.20 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrence of liability, till the liquidation of the same, as per the adjustment of payments, if any made so far by O.P., in terms of SMP, Kolkata's books of accounts.

I sign the formal order as per Rule, u/s 7 of the Act.

As discussed, O.P. is liable to pay damages for unauthorized use and enjoyment of the property right upto the date of handing over of possession of the public premises to KoPT i.e. upto 27.08.2018. Hence, 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 periods for my consideration in order to assess the damages as per the Act and the Rules made thereunder.

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
17.12.2021  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

*Sud*



**Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

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

Proceedings No. 1639, 1639/R/1639/D of 2018 Order Sheet No. 20

**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**VS**  
*Estate Haritor Nath Mishra.*

11  
17.12.2021

I make it clear that in the event of failure on the part of O.P. to pay the dues/charges as aforesaid; KoPT 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

(S.Mitra)  
ESTATE OFFICER.

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

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  
27.12.2021