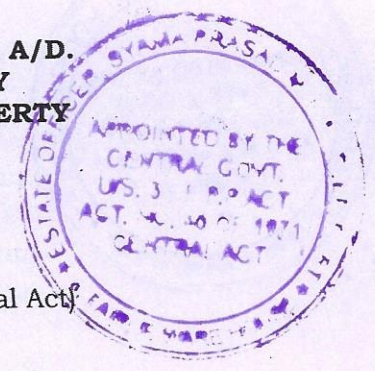


Web-site

**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 1st Floor
6, Fairlie Place Warehouse
Kolkata-700001.

Form "E"

PROCEEDINGS NO.1838/R OF 2020
ORDER NO. 14 DATED: 04.01.2022.

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

To
**M/s Commercial Cargo Movers Pvt. Ltd.,
31, Giri Babu Lane,
Kolkata-700012.**

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
J Head Assistant
04-01-2022
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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

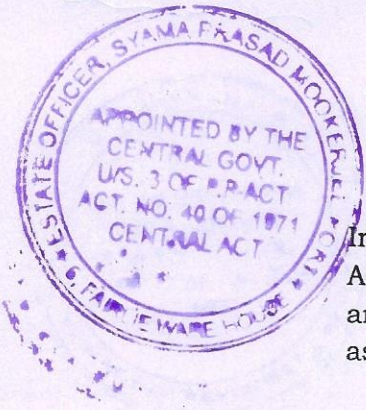
AND WHEREAS, by written notice dated 07.12.2020 you are called upon to
show cause on or before 21.12.2020 why an order requiring you to pay a sum
of Rs.1,58,647/- (Rupees One Lakh fifty eight thousand six hundred forty seven
only) being the rent payable together with compound interest in respect of the
said premises should not be made;

AND WHEREAS, I have considered your objections and/or evidence produced
before this Forum;

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.1,58,647/- (Rupees One Lakh
Fifty eight thousand six hundred forty seven only) for the period 01.12.1999 to
31.07.2000 (both days inclusive) to SMP, Kolkata by 19.01.2022.

SA

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 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.

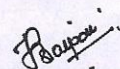
SCHEDULE

Plate No. CG-248

The Trustees' godown space msg. 638 sq.m. or thereabouts is situate at Cossipore Receiving shed (North side) Cossipore, Thana-NPPS, Calcutta in the Presidency town of Calcutta. It is bounded on the north by the private property, on the east by the Trustees' godown leased to Govt. Medical Stores, on the south by the Trustees' godown leased to Govt. Medical stores beyond which the Trustees' godown leased to Rasha India (P) Ltd., on the west by the Trustees' Road beyond the Trustees' land occupied by Sri Kanta Pandey.

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

Dated: 04.01.2022.


Signature and seal of the
Estate Officer

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE
DECEASED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
04.01.2022

COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA FOR INFORMATION.

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. 1838/R Of 2020 Order Sheet No. 11

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s. Commercial Cargo Movers Pvt. Ltd. ^{VS}



FINAL ORDER

The matter is taken up today for final disposal. Factual matrix is required to be put forward in a nutshell to link up the chain of events leading to this proceedings. Godown space Msg. 638 Sq.m situated on the north side of Cossipore receiving shed, Cossipore, Thana-NPPS, Dist. Calcutta under **Plate No. CG-248** was allotted to **M/s. Commercial Cargo Movers Pvt Ltd** (O.P.) by Syama Prasad Mookerjee Port, Kolkata (erstwhile Kolkata Port Trust) herein after referred to as SMP, Kolkata, Applicant herein, on certain terms and conditions as embodied in the short term monthly lease in question.

SMP, Kolkata took over possession of the subject premises on 18.07.2000 in vacant and unencumbered condition being the land in question leaving behind Rs. 1,58,647/- on account of arrear rental dues etc. It is the case of SMP, Kolkata that O.P. is under obligation to pay the rental dues to SMP, Kolkata with interest accrued thereon etc.

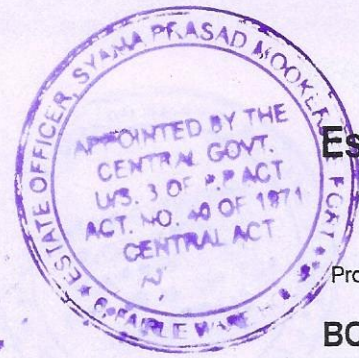
The Forum of Law issued Show Cause Notice u/s 7 of the Act to O.P. (for adjudication of the prayer for recovery of rental dues etc.) as per Rule made under the Act on 07.12.2020 (vide Order No.02 dated 23.11.2020) to Show Cause why an order requiring O.P. to pay the arrears of rent together with interest should not be made.

Mr. Laxmi Agarwal, Ld' Advocate enters his appearance on behalf of O.P. by filing Vakalatnama. It is seen from the Vakalatnama dated 01.02.2021 that Mr. Agarwal, Advocate is authorised to represent the instant case by Sri Jaimal Singh one of the representative of O.P.A reply to the Show Cause Notice is filed on 08.03.2021 by the Ld' Advocate of O.P. It is admitted by O.P. that the land was surrendered however, it is alleged by them that SMP, Kolkata had delayed in taking over possession of such land and it was on 18.07.2000 when such land was finally taken over. O.P.

14
04.01.2022

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

sd/-



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. 1838/R Of 2020 Order Sheet No. 12

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
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14
04.01.2022

further put their objection against the Notice under Section 7 of the PP Act issued by this Forum for payment of the arrear rental dues. O.P submits that the instant proceeding initiated by SMP, Kolkata is not maintainable in the eye of Law and is barred by the Law of Limitation. Denying the statements and the contentions of SMP, Kolkata, O.P further submitted that they have clean up the monthly rent upto 31st December 1999 and for procedural delay on the part of SMP, Kolkata in taking over possession O.P is not liable for any arrear of rent.

Representative of SMP, Kolkata filed its comments being No. Lnd.251/B/Cossipore Receiving Shed/21/840 dated 22.03.2021 on date. SMP, Kolkata in the said application vehemently objected to the contentions of O.P. and submitted that the claim is very much maintainable and O.P. is liable to liquidate the same with interest.

Considering all the pleadings filed by both the parties and after going through the contention raised therein, this Forum is of the view that admittedly the possession of the subject premises was taken over by the representative of SMP, Kolkata and the same was handed over by the O.P. in a peaceful and vacant condition on 18.07.2000. It is also a fact that at the time of vacating the possession, there were arrear rental dues/charges as also interest for delayed payment payable by O.P. Such outstanding rental dues/charges although denied by O.P., but it reveals from the Statement of Accounts dated 13.11.2020 as annexed by O.P. that still there is outstanding dues on the part of O.P.

It is further the case of O.P. that SMP, Kolkata's claim against O.P. is hopelessly barred by limitation. SMP, Kolkata on the other hand submits with argument before this Forum of Law that their claim is not hit by Law of

By Order of:
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SYAMA PRASAD MOOKERJEE PORT,
KOLKATA
CERTIFIED COPY OF THE
ORDER PASSED BY THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT,
KOLKATA
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT,
KOLKATA
04.01.2022

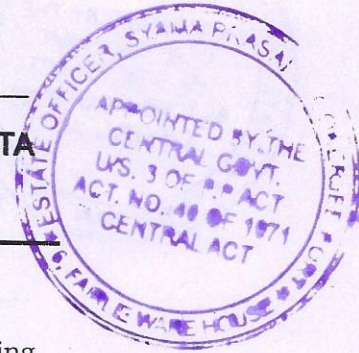
Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1838/R Of 2020 Order Sheet No. 13

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
M/s. Commercial Cargo Movers Pvt. Ltd.



14
04.01.2022

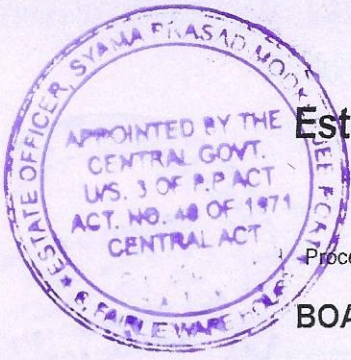
Limitation. However, On the question of legality of defending SMP, Kolkata's claim on the ground of time barred claim as advocated on behalf of O.P., I am of the view that Limitation Act has its no application to the proceeding s before this Forum of Law which is not a 'Civil Court' to be governed by the Civil Procedure Code.

For occupation and enjoyment of the public premises, one must have to pay the requisite charges for such occupation. O.P. must have to pay the charges for occupation and enjoyment of the Port Property either in the form of arrear charges equivalent to rent/ licence fees for the relevant period or in the form of damages as the case may be and occupation of a public premises without paying requisite charges is opposed to public policy.

On the question of time barred claim of SMP, Kolkata on "limitation", opposing submissions have received my due attention. It is the case of O.P. that SMP, Kolkata's claim against O.P. is time barred. However, I have come across a decision of the Madhya Pradesh High Court in AIR 1980 MP 196(DB) wherein it was decided that Limitation Act has no application to the proceedings before the Estate Officer as it is not a Court to be governed by the Civil Procedure Code, keeping in view the bar under Sec.15 of the P.P. Act. Admittedly, O.P. has accepted the Jural relationship between SMP, Kolkata and itself that is to say as debtor. In my view a combined reading of the relevant provisions of the Limitation Act read with the provision of the Indian Contract Act leaves no room for doubt that O.P. has specifically acknowledged its dues/charges for occupation into the Port property while acknowledging the jural relationship between the parties as debtor and as such cannot take the plea of time barred claim. The situation in which the Hon'ble Apex Court delivered its judgment has drastically changed upon amendment of the Public

By Order of:
THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT,
KOLKATA.
CERTIFIED COPY OF THE
ORDER PASSED BY THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT,
KOLKATA, ON 04.01.2022.
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT

Handwritten initials



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. 1838/R Of 2020 Order Sheet No. 14

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
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Premises Act, 1971 with the introduction of Sec.15 of the Act. The Apex Court delivered its judgment in New Delhi Municipal Corporation case on Public Premises Act 1958 wherein Sec.15 regarding taking away of jurisdiction of all Courts into the matters concerning the public premises was not there. The Public Premises Act 1971 has come into force after eliminating all constitutional infirmities. At the time of the Apex Court judgment, the 1958 Act was in force being the Public Premises (Eviction of Unauthorized Occupants) Act, 1958. This Act gave a choice of procedure to the Government. The fact that a contradictory process could be followed led to repeal of the 1958 Act and enactment of the Public Premise (Eviction of Unauthorized Occupants) Act 1971 which introduced Sec. 15 with the object of making the Act constitutionally valid and not violative of Article 14 of the Constitution of India. The Limitation Act is applicable for Civil Courts to try suits unless barred by some other Act. Sec.9 of the Civil Procedure Code reads as follows:

"The courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred."

There are provisions for filing of suit in Civil Court with regard to territorial jurisdiction, pecuniary jurisdiction and jurisdiction with regard to subject matter of dispute. But in case of recovery of possession of public premises and recovery of arrear rental dues and damages etc. in respect of public premises, this Forum of Law is the only competent adjudicating authority and civil court has no jurisdiction to entertain any matter in respect of the public premises as defined under the P.P. Act.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE
PROCESSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
04.01.2022

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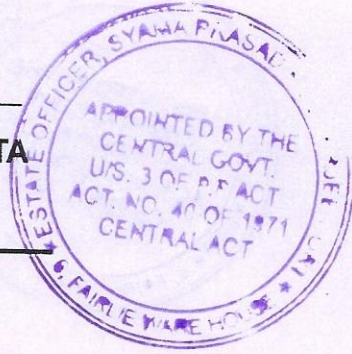
Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1838/B Of 2020 Order Sheet No. 15

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
M/S. Commercial Cargo Movers Pvt. Ltd.



14
04.01.2022

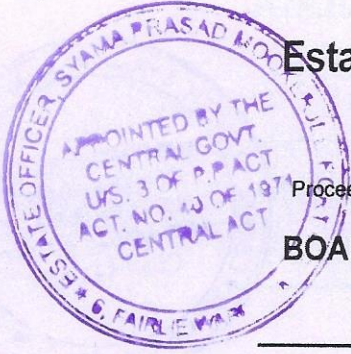
The Limitation Act has no application in the proceedings before the Estate Officer which is not a Civil Court, governed by the Civil Procedure Code. Sec. 15 of the Act puts a complete bar on entertaining any matter before the Civil Court in respect of Public Premises. I am firm in holding that Limitation Act has its no application in the instant case and the Division Bench judgment of Madhya Pradesh High Court has its applicability in all sense of law.

In my understanding Civil Suits are tried by the Courts as per the Civil Procedure Code and proceedings before this Forum of Law are guided by the P.P. Act which provides a code for adjudication of matters relating to public premises. However, Civil Procedure Code has only a limited application to the proceedings before the Estate Officer in-as-much-as that an Estate Officer shall for the purpose of holding an enquiry under the P.P. Act, have the powers as are vested in a Civil Court under the Code of Civil Procedure while trying a suit in respect of summoning and enforcing attendance of any person and examining him on oath which requires the discovery and production of documents. Section 8 of P.P. Act makes it abundantly clear that an Estate Office under P.P. Act enjoys a very restricted power of CPC in terms of the Order-XVI, Rules 1 to 21 of the Civil Procedure Code (CPC) and Order- XI, Rule 12 to 21. No doubt the Estate Officer has been given power as vested in a Civil Court under CPC for the limited purpose of holding enquiry under the P.P. Act. Yet it is not a court to be governed by the Civil Procedure Code. As per CPC, the courts shall have jurisdiction to try all suits of a civil nature, excepting suits for which their cognizance is either expressly or impliedly barred.

There is no scope for interpretation with regard to jurisdiction of the Civil Court in respect of the matters specified under P.P. Act against the legislative mandate

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
04.01.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

82



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. 1838/R of 2020 Order Sheet No. 16

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
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14

04.01.2022

u/s.15 of the P.P. Act read with Sec.9 of CPC. As it is abundantly clear that Estate Officer, the Adjudicating Authority under the P.P. Act is not a Civil Court to be governed by the Civil Procedure Code, the proceedings before the Estate Officer cannot be considered under law to be a suit or proceedings under the CPC. As such, I am firm in holding that Limitation Act has no application in the instant case. The Division Bench judgment of Madhya Pradesh High Court reported in AIR 1980 MP 196 (D.B) (L.S. Nair -VS-Hindusthan Steel Ltd. & Ors.) has its applicability in all sense of law. In this connection I am fortified by a judgment of the Hon'ble High Court, Calcutta in S.N. BHALOTIS -VS- L.I.C.I. & Ors. reported in 2000(1) CHN 880 with reference to the most celebrated judgment reported in AIR 1972 Tripura 1 (Hemchandra Charkraborty -Vs- Union of India) wherein it was clearly held that proceedings initiated by an Estate Officer are not in the nature of suit nor the Estate Officer acts as a Court while deciding proceedings before him. It is my considered view that the contention with regard to "limitation" on behalf of O.P. is applicable in case of Civil suit before the Civil Court to be governed by CPC not before this Forum of Law, which is a quasi-judicial authority under P.P. Act which provides a complete code. More specifically, Limitation Act has its application for suits to be governed under CPC. Hence, the issue is decided in favour of SMP, Kolkata. I am firm in holding that this Forum of Law is very much competent under law to adjudicate the claim of SMP, Kolkata against O.P. and Limitation Act has no application to the proceedings before the Estate Officer which is a quasi-judicial authority under P.P. Act and neither a Civil Court to be governed by the Civil Procedure Code nor a "court" within the scheme of the Indian Limitation Act.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSES BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Administrator
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
04-01-2022

[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. 1838/R Of 2020 Order Sheet No. 17

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
M/s. Commercial Cargo Movers Pvt. Ltd.



14
04.01.2022

In fact, I have nothing to disbelieve in respect of SMP, Kolkata's claim 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.1,58,647/- (One Lakhs fifty eight thousand six hundred forty seven only) for the period 01.12.1999 to 31.07.2000 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of rental dues and O.P. must have to pay the rental dues to SMP, Kolkata on or before 19.01.2022. Such dues, in terms of Section 7 (2-A) of the PP Act, 1971, 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 order u/s 7 (1) & (2-A) of the Act. I make it clear that in the event of failure on the part of O.P. to pay the amount to SMP, Kolkata as aforesaid, Port Authority is entitled to proceed further for recovery of its claim in accordance with law. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

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. Boipai
Head Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

J. Boipai
(J.P Boipai)
ESTATE OFFICE

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