

0/L



**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
of Kolkata Port Trust's
Fairley Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 30 DT 24/01/2022
PROCEEDINGS NO. 1143/D OF 2011

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 **1334**
**The General Secretary, The New Alipore Association,
109B, Block- F, New Alipore,
Kolkata- 700 053.**

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 28.09.2021 you were called upon to show- cause on/or before 25.10.2021 why an order requiring you to pay a sum of Rs 97,53,389.46 (Rupees Ninety Seven Lakhs Fifty Three Thousand Three Hundred Eighty Nine and paise Forty Six 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 Rs 97,53,389.46 (Rupees Ninety Seven Lakhs Fifty Three Thousand Three Hundred Eighty Nine and paise Forty Six Only) for the period from 01.06.2008 to 10.12.2019 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust, by the 15th day of February, 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. 30 dated 24.01.2022 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.

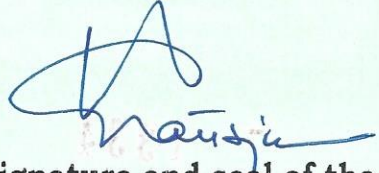
SCHEDULE

Plate no : D 412

The piece or parcel of land comprising Plot- A, Msg 333.99 sqm or thereabouts and Plot- B, msg. 351.73 sqm or thereabouts altogether msg. 685.72 sqm or thereabouts situated at New Alipore, P.S. : New Alipore, Kolkata, Dist: 24 Pgs. (S), Regn. Dist: Alipore. It is bounded on the North by Trustees' open land, on the East, South and West by the Road belonging to the Corporation of Kolkata.

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

Dated: 24.01.2022


Signature and seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, KOLKATA PORT TRUST 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.

1143-1143/D

Of

2011

Order Sheet No.

-35-

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

The General Secretary, The New Alipore Association,

30

24.01.2022

FINAL ORDER

The instant proceedings No. 1143 & 1143/D of 2011 based on the application bearing No. Lnd.4539/IV/21/971 dated 05.04.2021 filed by the Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust/ KoPT, hereinafter referred to as 'SMP, Kolkata'], the applicant herein, praying for an order of recovery of dues on account of Compensation/ damages/ mesne profit along with accrued interest thereon, in respect of the subject public premises, against **The General Secretary, The New Alipore Association**, (hereinafter referred to as **O.P.**), under the relevant provisions of **Public Premises (Eviction of Unauthorized Occupants) Act, 1971** (hereinafter referred to as '**the Act**').

The fact of the case in a nutshell, as revealed from records, is that the O.P., came into occupation of the port property of piece or parcel of land comprising Plot- A, measuring 333.99 sqm or thereabouts and Plot - B, measuring 351.73 or thereabout altogether measuring 685.72 sqm or thereabouts, situate at New Alipore, P.S. New Alipore, Kolkata, as a long term lessee for 20 years w.e.f. 14.11.1967, which was further renewed for a period of 10 years without any option of renewal w.e.f. 14.11.1987. The said lease was expired on 13.11.1997. On the ground that the O.P. failed and neglected to hand over the possession of the premises after the determination of lease by efflux of time, unauthorisedly parted with the possession of a major portion of the premises and failed to pay the demand of SMP, Kolkata of occupational charges/ compensation for their continued use and occupation of the premises, a proceeding was initiated before this Forum by SMP, Kolkata, which culminated into an Order of eviction u/s 5 of the Act dated 30.06.2016 directing the O.P. to vacate the premises. It is the submission of SMP, Kolkata, that on 04.12.2019 the O.P. expressed its willingness to surrender the subject premises to SMP, Kolkata authorities and in pursuance thereof, the possession of the premises was handed over by the O.P. on 11.12.2019 in vacant and unencumbered condition. In this regard, the representative of SMP, Kolkata draws my attention to the Minutes dated 11.12.2019,

By Order of:

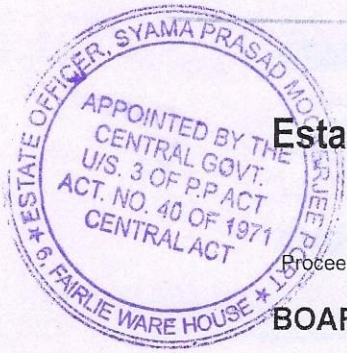
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

24.01.2022

Head Assistant

OFFICE OF THE I.D. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



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. 1143/D Of 2011 Order Sheet No. -36-

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
The General Secretary, The New Alipore Association,

30
24.01.2022

recording the incident of handing over of possession, filed under the cover of SMP, Kolkata's application dated 03.01.2020. In terms of the said application dated 03.01.2020, as well as the subsequent applications dated 04.08.2020 and 05.04.2021, SMP, Kolkata has huge amount due and recoverable from the O.P. on account of compensation/ mesne profit/ damage charges, for O.P.'s use and enjoyment of the port property in question till 11.12.2019. In terms of the said application of SMP, Kolkata dated 05.04.2021, the O.P. is in default of Rs 86,66,936.23 (Rupees Eighty Six Lakhs Sixty Six Thousand Nine Hundred Thirty Six and paise Twenty Three only) for the period 01.06.2008 to 10.12.2019, calculated at single rate of Schedule of Rent Charges (SoR) framed by the Ministry of Shipping under gazette notification, and Rs 10,86,453.23 (Rupees Ten Lakhs Eighty Six Thousand Four Hundred Fifty Three and paise Twenty Three only) for the period 01.07.2017 to 10.12.2019 calculated at the stipulated rate of twice the said SoR /Schedule of Rent Charges, totalling a sum of Rs 97,53,389.46 (Rupees Ninety Seven Lakhs Fifty Three Thousand Three Hundred Eighty Nine and paise Forty Six Only) against the public premises in question.

After considering the claim of SMP, Kolkata, this Forum formed its opinion to proceed against the O.P. and issued Show Cause Notice dated 28.09.2021 u/s 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 (vide Order-25 dated 17.09.2021). The Notice was issued calling upon the O.P. to show cause as to why an order requiring payment of arrear compensation/ mesne profit/ damage together with interest would not be made against the O.P.

The said Notice was sent through 'Speed Post' to the recorded address of O.P., viz., at '109B, Block - F, New Alipore, Kolkata- 700 053'. However, the notice was returned undelivered by the Postal Department with the remarks "Door Locked" dated 30.09.2021 and "Left" dated 01.10.2021. The 'Process Server' attached with this Forum, for service of such Notice/ Order etc., has submitted a report dated 30.09.2021 intimating the failure to serve notice due to the "Door Closed" condition of the premises. Following the

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY IN THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
24.01.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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. 1143, 1143/D Of 2011 Order Sheet No. -37-

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

The General Secretary, The New Alipore Association,

30

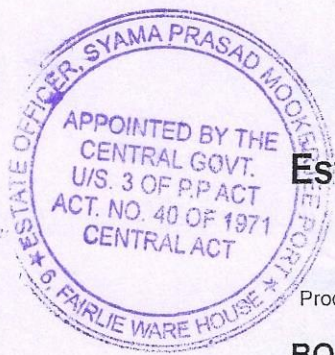
24.01.2022

principles of natural justice that no one should be condemned unheard ('Audi Alteram Partem'), direction was given to SMP, Kolkata in terms of the Order dated 25.10.2021 to provide alternative address, if any, of O.P. However, such efforts remained infructuous as no alternative address of O.P. could be filed by SMP, Kolkata. It may be said that in spite of such efforts being made, the appearance of O.P. could not be procured and the efforts remained ineffective. A decision was then taken to publish a notice in a widely circulated English newspaper for a notice to all concerned about the pendency of the instant proceeding, in order to provide an opportunity to the O.P. to appear before this Forum and to represent their case. Such a notice was published in 'The Times of India (Kolkata edition)' on 30.11.2021 fixing the date for the O.P's appearance/ filing reply to Show Cause on 13.12.2021, but such effort too went in vain, as none appeared from O.P's side and as such, I am, perforce, left with no other alternative but to proceed ex-parte against the O.P.

I find that SMP, Kolkata has produced the statement of accounts dated 01.01.2020, 05.04.2021 in respect of the said premises in question. It appears from the said statements of account that less payments compared to the actual amount due/ occupational charges per month were made by O.P. in respect of the premises in question. In my view, such statements maintained by a statutory authority/ SMP, Kolkata in its usual course of business, has a definite evidentiary value, unless challenged by a contesting person/entity with fortified documents/evidences etc, ready to bear the test of legal scrutiny. During the course of hearing, I am given to understand by SMP, Kolkata that the rent as well as mesne profit/compensation/ damages, charged from time to time is based on the rates notified by the Tariff Authority for Major Ports (TAMP) in the Official Gazette, which is binding on all users of the port property. Non-payment of the actual dues by O.P. is very much prominent and established, as per records submitted by SMPK, discussed above. Hence, I have no bar to accept the claim of SMP, Kolkata on account of damages/compensation/ mesne profit etc. I have nothing to disbelieve in respect of SMP, Kolkata's claim

By Order of:

THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
24.01.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



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. 1143/D Of 2011 Order Sheet No. -38-

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
The General Secretary, The New Alipore Association.

30
24.01.2022

against O.P. as per the statement of accounts maintained regularly in SMP, Kolkata's office, in discharge of its regular course of business and office transactions as a statutory authority.

Thus, it is my considered view that a sum of Rs 97,53,389.46 (Rupees Ninety Seven Lakhs Fifty Three Thousand Three Hundred Eighty Nine and paise Forty Six Only) for the period 01.06.2008 to 10.12.2019 is due and recoverable from O.P. by the Port authority on account compensation/ mesne profit/ damage charges. The O.P. must have to pay such dues to SMP, Kolkata on or before 15th day of February, 2022.

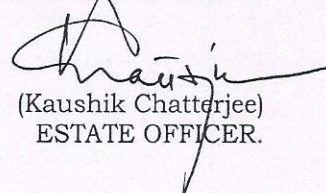
Such dues attracts Compound Interest @ 6.20 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrence of liability, till the full and final liquidation of the same, as per the adjustment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

The formal order u/s 7 of the Act is signed accordingly.

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


(Kaushik Chatterjee)
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
24.01.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT