



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 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.

REASONED ORDER NO. 26 DT 07.02.2022  
PROCEEDINGS NO. 1690 OF 2019

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-

M/s Calcutta Posta Sramik Sanghstha (O.P)

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 **M/s Calcutta Posta Sramik Sanghstha, 67/50, Strand Bank Road, Kolkata-700007 And 78/1, Strand Bank Road, Kolkata-700007** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

1. That this Forum of Law is well within its jurisdiction to adjudicate upon the matters relating to eviction and recovery of arrear dues/damages etc. as prayed for on behalf of SMP, Kolkata.
2. That the plea taken by O.P. as regards the change of name from "Board of Trustees' for Port of Kolkata" to the said "Syama Prasad Mookerjee Port, Kolkata" without issuance of any prior notice by the appropriate government has got no merit on evaluation of the factual aspect involved in this matter.
3. That the plea taken by O.P. on the ground of "Tenant holding over" has also got no merit in the present fact and circumstances of the instant matter.
4. That O.P has parted with possession of the subject public premises without having any authority of law.
5. That O.P. cannot take the shield of Limitation Act to defend SMP, Kolkata's claim for compensation charges for use and enjoyment of the Public Premises in question.
6. That the O.P or any other person/occupant has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation".
7. That the notice/s to quit dated 29.03.2000 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P.'s occupation and that of any other occupant of the premises has become unauthorised in view of Sec.2 (g) of the P.P. Act.
8. That O.P. is liable to pay damages for wrongful use and occupation of the public premises up to the date of handing over the clear, vacant and unencumbered possession to the port authority.

PLEASE SEE ON REVERSE



(2)

A copy of the reasoned order No. 26 dated 07.02.2022 is attached hereto which also forms a part of the reasons.

NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **M/s Calcutta Posta Sramik Sanghstha, 67/50, Strand Bank Road, Kolkata-700007 And 78/1, Strand Bank Road, Kolkata-700007** and all persons 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 **M/s Calcutta Posta Sramik Sanghstha, 67/50, Strand Bank Road, Kolkata-700007 And 78/1, Strand Bank Road, Kolkata-700007** 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

##### Plate No - SB-550

The said piece or parcel of land msg.150.50 Sq.m. or thereabouts is situate at J.N Ghat, Lohaputty, Kolkata Thana-North Port Police Station in the Presidency Town of Kolkata. It is bounded on the north partly by the Trustees' land used as passage partly by the Trustees' land leased to Santosh Kumar Mullick & Sons Pvt. Ltd. and partly by the Trustees' land leased to Behani Lal Dey(Trading) Pvt. Ltd. On the east by the Trustees' land occupied by Prionath Bodhak and Sons on the south by the Trustees' land used as 8 feet wide passage and on the west by the Trustees' Roadway. Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata).

Dated: 09.02.2022.



  
Signature & Seal of  
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 Unauthorised Occupants) Act 1971  
OFFICE OF THE ESTATE OFFICER  
6, Fairlie Place (1st FLOOR) KOLKATA-700001  
\*\*\*\*\*

Court Room at the 1<sup>st</sup> Floor  
Of Kolkata Port Trust's  
Fairlie Warehouse  
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.1690/D OF 2019  
ORDER NO.26 DATED: 07.02.2022.

**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 Calcutta Posta Sramik Sanghstha,  
67/50, Strand Bank Road,  
Kolkata-700007.

And  
78/1, Strand Bank Road,  
Kolkata-700007.

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

AND WHEREAS by written notice dated 23.12.2020 you are called upon to show cause on or before 06.01.2021 why an order requiring you to pay damages of Rs.45,91,741.63 (Rupees Forty five Lakh ninety one thousand seven hundred forty one and paise sixty three Only) for Plate No.SB-550 together with [compound interest] for unauthorised use and occupation 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 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.45,91,741.63 (Rupees Forty five Lakh ninety one thousand seven hundred forty one and paise sixty three Only) for Plate No.SB-550 assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.04.2000 to 31.03.2019 (both days inclusive) to SMP, Kolkata by 22.02.2022.

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 - SB-550**

The said piece or parcel of land msg.150.50 Sq.m. or thereabouts is situate at J.N Ghat, Lohaputty, Kolkata Thana-North Port Police Station in the Presidency Town of Kolkata. It is bounded on the north partly by the Trustees' land used as passage partly by the Trustees' land leased to Santosh Kumar Mullick & Sons Pvt. Ltd. and partly by the Trustees' land leased to Behani Lal Dey(Trading) Pvt. Ltd. On the east by the Trustees' land occupied by Prionath Bodhak and Sons on the south by the Trustees' land used as 8 feet wide passage and on the west by the Trustees' Roadway. Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata).



Date 09.02.2022.

Signature & Seal of the  
Estate Officer.

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. 1690 & 1690/D of 2019 Order Sheet No. 23

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

*M/s. Calcutta Posta Sramik Sanghstha* VS *Sanghstha*

## FINAL ORDER

The instant proceeding No.1690, 1690/D of 2019 is taken up today for final disposal. The factual aspect involved in this matter is required to be put forward in a nutshell in order to link up the chain of events leading to this proceedings. It is the case of Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust], hereinafter referred to as SMP, Kolkata, Applicant herein, that land msg. 150.50 Sq.m or thereabouts situated at J.N. Ghat Lohaputty, Thana- North Port Police Station, District-Kolkata, comprised under occupation Plate No. SB-550 was allotted to **M/s Calcutta Posta Sramik Sanghstha**, O.P. herein, on long term Lease for a period of 10 years with effect from 1<sup>st</sup> April 1990 without any option of renewal on certain terms and condition. It is argued on behalf of SMP, Kolkata that after expiry of such lease by efflux of time, said O.P. remained on the premises unauthorisedly and neglected to pay monthly rent, taxes and also accrued interest thereon and also sublet/sold/transferred the tenancy right without prior approval from SMP, Kolkata.

In view of the aforesaid breaches committed by the O.P., SMP, Kolkata had issued notice to quit dated 29.03.2000 asking the O.P. to hand over clear, vacant, peaceful and unencumbered possession of the property to SMP, Kolkata on 01.04.2000. But O.P has failed and neglected to vacate/hand over the possession of such premises to SMP, Kolkata after service of the said Notice to Quit.

This Forum of Law formed its opinion to proceed against O.P. and issued Show Cause Notice u/s 4 of the Act (for adjudication of the prayer for order of eviction etc.) and Show Notice/s u/s 7 of the Act (for adjudication of the prayer for compensation etc.) all dated 23.12.2020 (vide Order No.13 dated 23.12.2020).

The said notice/s were sent through Speed Post/hand delivery to the recorded address of O.P. at 67/50, Strand

26  
07.02.2022

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
07-02-2022  
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. 1690/1690/D of 2019 Order Sheet No. 24

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

m/s. Calcutta Pasta <sup>VS</sup> Gramik Sangstha

26

07.02.2022

Bank Road, Kolkata-700007 and also 78/1, Strand Bank Road, Kolkata-700007. Notice/s sent through speed post was not returned back to the Forum. However, the report of the Process Server dated 24.02.2021 depicts that said notice/s were duly affixed on the subject premises in question as per the mandate of the P.P Act.

On the schedule dated of appearance and filing of reply to the Show Cause i.e on 06.01.2021 O.P entered appearance through their representative Amit Kumar Gupta. Thereafter, the said Representative of O.P. by filing his Letter of Authority, prayed one month time to file his reply to the Show Cause on behalf of O.P. Considering his submission, Forum allowed him further opportunity to file such reply. Thereafter, on 27.01.2021, One Satyajit Senapati expressing himself as an Advocate of O.P. appeared and filed his Vakalatnama to contest the instant matter on behalf of O.P. along with a prayer for supplying them copy of the original application dated 22.08.2002. Thereafter on 19.02.2021, Ld' Advocate of O.P. filed an application /petition challenging the maintainability of the instant proceeding. On 23.04.2021 SMP, Kolkata filed their comment against the said maintainability petition of O.P. Thereafter on 06.08.2021 the said Advocate of O.P. filed his further comments on SMP, Kolkata's application dated 23.04.2021 and SMP, Kolkata filed their rejoinder on such application of O.P. dated 06.08.2021. Ld' Advocate of O.P. prayed couple of time to file his reply to the Show Cause but when the matter was finally taken up for hearing without filing any reply to the Show Cause, O.P. filed a sur-rejoinder against the supplementary/Additional objection of SMP, Kolkata on 29.09.2021 and the matter was reserved accordingly for passing the final Order.

I have duly considered the applications of O.P as filed on 19.02.2021, 06.08.2021 & 29.09.2021 and also SMP, Kolkata as filed on 23.04.2021 & 06.08.2021. After due



By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
09-02-2022  
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. 1690 A 1690/D of 2019 Order Sheet No. 25

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

*M/s. Calcutta Pasta Granik Sanghastha.*

26

07.02.2022

consideration of the submissions/arguments made on behalf of the parties, I find that following issues have come up for my adjudication/decision:

- I) Whether the proceedings against O.P. is maintainable or not;
- II) Whether the application dated 22.08.2002 as filed by the Asst. Land Manager-II, SMP, Kolkata for institution of proceedings is valid or not;
- III) Whether the plea taken by O.P. regarding "service of Show Cause notice/s after a lapse of 18 years" for eviction of O.P. dated 23.12.2020 has got any merit for determination of the points at issue or not.
- IV) Whether O.P.'s contention as regards the change of name from Board of Trustees' for Port of Kolkata to the said Syama Prasad Mookerjee Port Kolkata without issuance of any prior notice by the appropriate government has got any merit or not;
- V) Whether O.P. has sublet/parted with possession unauthorisedly, or not;
- VI) Whether the plea of O.P. on the ground of "Tenant Holding Over" has got any merit or not.
- VII) Whether the proceedings against O.P. is barred by Limitation Act or not;
- VIII) Whether SMP, Kolkata's notices dated 29.03.2000 as issued to O.P., demanding possession from O.P. are valid and lawful or not;
- IX) Whether after alleged expiry of such Quit Notices O.P.'s occupation could be termed as "unauthorised occupation" in view of Sec.2 (g) of the P.P. Act and whether O.P. is liable to pay damages to SMP, Kolkata during the period of their unauthorised occupation or not;

With regard to **issue No.I**, I must say that the properties owned and controlled by the Port Authority has been declared as "public premises" by the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and Section-15 of the Act puts a complete bar on Court's

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
07.02.2022  
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. 1690 & 1690/D Of 2019 Order Sheet No. 26

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

**VS**  
*M/s. Calcutta Pasta Granik Sanghatha*

26

07.02.2022

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

*[Signature]*

jurisdiction to entertain any matter relating to eviction of unauthorized occupants from the public premises and recovery of rental dues and/or damages, etc. SMP, Kolkata has come up with an application for declaration of O.P's status as unauthorized occupant into the public premises with the prayer for order of eviction, recovery of rental dues and damages against O.P. on the plea of determination of lease, earlier granted to O.P. in respect of the premises in question. So long the property of the Port Authority is coming under the purview of "public premises" as defined under the Act, adjudication process by serving Show Cause Notice/s u/s 4 & 7 of the Act is very much maintainable and there cannot be any question about the maintainability of proceedings before this Forum of Law. In fact, proceedings before this Forum of Law is not statutorily barred unless there is any specific order of stay of such proceedings by any competent court of law. To take this view, I am fortified by an unreported judgment of the Hon'ble High Court, Calcutta delivered by Hon'ble Mr. Justice Jyotirmay Bhattacharya on 11.03.2010 in Civil Revisional Jurisdiction (Appellate Side) being C.O. No. 3690 of 2009( M/s Reform Flour Mills Pvt. Ltd. -Vs- Board of Trustees' of the Port of Calcutta) wherein it has been observed specifically that the Estate Officer shall have jurisdiction to proceed with the matter on merit even there is an interim order of statusquo of any nature in respect of possession of any public premises in favour of anybody by the Writ Court.

Relevant portion of the said order is reproduced below:

"In essence the jurisdiction of the Estate Officer in initiating the said proceedings and/or continuance thereof is under challenge. **In fact, the jurisdiction of the Estate Officer either to initiate such proceedings or to continue the same is not statutorily barred.** As such, the proceedings

*[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. 1690 & 1690/D of 2019 Order Sheet No. 27

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

M/S. Calcutta <sup>VS</sup> Pasta Sramik Sanghotta

26  
07-02-2022

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 09.02.2022  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

*[Handwritten signature]*

cannot be held to be vitiated due to inherent lack of jurisdiction of the Estate Officer.

The bar of jurisdiction, in fact, was questioned because of the interim order of injunction passed in the aforesaid proceedings”.

Hon’ble Division Bench of Calcutta High Court had the occasion to decide the jurisdiction of the Estate Officer under P.P. Act in Civil Appellate Jurisdiction being MAT No.2847 of 2007 (The Board of Trustees of the Port of Kolkata and Anr –vs- Vijay Kumar Arya &Ors.) reported in Calcutta Weekly Note 2009 CWN (Vol.113)-P188 The relevant portion of the judgment (Para-24) reads as follows:-

“The legal issue that has arisen is as to the extent of Estate Officer’s authority under the said Act of 1971. While it is an attractive argument that it is only upon an occupier at any public premises being found as an unauthorized occupant would he be subject to the Estate Officer’s jurisdiction for the purpose of eviction, the intent and purport of the said Act and the weight of legal authority that already bears on the subject would require such argument to be repelled. Though the state in any capacity cannot be arbitrary and its decisions have always to be tested against Article 14 of the Constitution, it is generally subjected to substantive law in the same manner as a private party would be in a similar circumstances. That is to say, just because the state is a Landlord or the state is a creditor, it is not burdened with any onerous covenants unless the Constitution or a particular statute so ordains”

In view of the authoritative decisions as cited above, I have no hesitation in my mind to decide the issue in favour of the Port Authority.

On the **issue No.II**, i.e on the validity of Original application filed by Asst. Land Manager-II, SMP, Kolkata, I must say

*[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. 1690 & 1690/D of 2019 Order Sheet No. 28

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

*M/s. Calcutta VS  
Pasta Gramik Sanghata*

26  
07-02-2022

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

*[Handwritten signature]*

that the Asst. Land Manager- II of SMP, Kolkata is very much competent to file application, acting on behalf of the Board of Trustees' of the Port of Kolkata(now Syama Prasad Mookerjee Port, Kolkata), particularly when specific approval of the Chairman, SMP, Kolkata is obtained before institution of such proceedings. The Asst. Land Manager-II, SMP, Kolkata is merely communicating the decision of the Chairman, SMP, Kolkata and such ministerial act on the part of the Asst. Land Manager-II cannot be said to be out of jurisdiction. I am also of the view that the Asst. Land Manager-II, SMP, Kolkata has acted as an agent of Board of Trustees' of the Syama Prasad Mookerjee Port Kolkata and such act cannot be questioned by O.P. on the plea of "incompetency". To take this view, I have borrowed my support from the decision of the Division Bench of Calcutta High Court delivered on 28.01.2013 by their Lordship Hon'ble Mr. Justice Girish Chandra Gupta and Hon'ble Mr. Justice Tarun Kumar Dutta in A.P.O. No. 108 of 2010 (Kolkata Port Trust -Vs- M/s Universal Autocrafts Pvt. Ltd. & Anr.).It may be re-called that service of notice, determining a tenancy under lease by the Land Manager, KoPT was the subject matter of challenge before the Hon'ble High Court, Calcutta and the Division Bench of Calcutta High Court confirmed that Land Manager is very much competent in serving ejection notice on behalf of Board of Trustees of the Port of Kolkata. The matter regarding competency in serving of ejection notice on behalf of Board of Trustees of the Port of Kolkata went upto the Apex Court of India and the Hon'ble Apex Court by its judgment and order dated 16.04.2014 (In SLP (Civil) No.18347/2013-Sidhartha Sarawgi -Versus- Board of Trustees for the Port of Kolkata and Others With SLP (Civil) Nos.19458-19459/2013- Universal Autocrafts Private Limited and Another -versus-Board of Trustees for the Port of Kolkata and others) etc. upheld the authority of the Land

*[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. 1690/1690/D of 2019 Order Sheet No. 29

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

*M/s. Calcutta Pasta Granik Sanghatha* <sup>VS</sup>

26  
07-02-2022

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

Manager/Officer of Kolkata Port Trust in serving ejectment notice by confirming the judgment of the Division Bench of Calcutta High Court in APO No. 108 of 2010 (Kolkata Port Trust -Vs- M/s Universal Autocrafts Pvt. Ltd. &Anr.). It has been decided by the Hon'ble Apex Court of India that lease/license can be terminated by the same authority who executed the lease/license deed and issuance of notice is a ministerial act for implementation. In this instant matter the Chairman, SMP, Kolkata having duly authorized the Asst. Land Manager-II with regard to filing such application, it cannot be said that application filed by the Asst. Land Manager-II, SMP, Kolkata is without jurisdiction. On the same score, allegation of incompetency against the Officer-on-Special Duty for instituting the instant proceedings against the O.P., does not and cannot survive.

**Issues No.III & IV** are taken up together for convenient discussion. Regarding the service of Show Cause notice/s after 18 years, O.P. vide their application submitted that Show Cause notice/s were issued by the Forum after a lapse of 18 years without being assured of the sustenance of such ground. However, I must say that such allegation of O.P. has no ground because the Forum without being satisfied of the grounds of eviction and without making query to SMP, Kolkata u/s 8 of the P.P Act never issue any Show Cause Notice/s to O.P. Moreover, nothing has been shown by O.P. wherefrom it could at least be inferred that SMP, Kolkata willfully allowed O.P. to continue in occupation. As per law, O.P. as lessee of the property was under obligation to hand over possession of the premises in its original condition to SMP, Kolkata/Land Lord after expiry of the lease period.

It is also to be noticed that the lease in question was without any option for renewal and as such O.P. had no

VA >





# 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. 1690 A1690/D Of 2019 Order Sheet No. 30

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

m/s. Calcutta VS Parita Sramik Sanghatha.

26  
07.02.2022

legal right to exercise any right for renewal of the lease. Institution of this proceedings against O.P. by the Port Authority for recovery of possession is sufficient demonstration of SMP, Kolkata's intention to get back possession and issuance of Show Cause Notice/s after 18 years is not so material in deciding this issue.

As regards the O.P.'s contention regarding the change of name from Board of Trustees' for Port of Kolkata to the said Syama Prasad Mookerjee Port Kolkata without issuance of any prior notice by the appropriate government, I must say that such contention of O.P. has no basis because SMP, Kolkata has already vide their application dated 23.04.2021 filed a Gazette Notification (bearing No.REGD.No.d.1-33004/99) before the Forum as regards the effect of such changes. Relevant portion of such notification dated 24<sup>th</sup> June 2020 is reproduce below:

S.O.2020(E)-in exercise of powers conferred by subsection(2) of section 33 of Indian Ports Act1908(15 of 1998), the Central Government hereby makes the following amendments in the first Schedule to the said Act namely:-

In the First schedule, in "Part-I Major Port", in column (1) for the entry "Calcutta", the entry Syama Prasad Mookerjee Port, Kolkata" shall be substituted.

Considering such gazette notification, I am not at all inspired by the submissions of O.P. therefore the issues are decided in favour of SMP, Kolkata.

As regards the **issue No.V** i.e on the issue of unauthorised parting/subletting of the subject premises O.P. vide their application dated 19.02.2021 has submitted that such allegation of SMP, Kolkata is misleading and has no support of law because no inspection was made by SMP, Kolkata in support of their allegation of unauthorised parting. However, in my view, such submission of O.P is not

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
12.02.2022  
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. 1690/1690/D of 2019 Order Sheet No. 31

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

*M/s. Calcutta Porta Granik Sanghatha.*

26  
07-02-2022

By Order of :  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
*09.02.2022*  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

*[Handwritten signature]*

sufficient to rebut the charges unless it is corroborated by sufficient evidence. Here, no such attempt has been made by the O.P. at all. Further, from records, I find copies of several letters of SMP, Kolkata addressing the O.P (such as letter dated 19.05.1999, 29.10.1999 and 21.02.2000) etc. whereby SMP, Kolkata repeatedly requested O.P for removal of unauthorised sub-tenants but in spite of receiving the copy of such letters, O.P apparently did not pay any heed to that matter. As such it is very difficult to accept the mere claim of the O.P which is bereft of any cogent reason. Moreover, induction of a third party without the approval of SMP, Kolkata is also against spirit of tenancy. Therefore, the issue is decided in favour of SMP, Kolkata.

As regards the **issue No.VI** i.e. on the issue of "holding over" even for the sake of argument, if it is accepted (not admitted) that there is "Holding Over", the conduct of O.P. is of paramount importance. It is not the case of O.P. that they have all along paid the rental dues per month to SMP, Kolkata as per SMP, Kolkata's demand or at the rates specified in the SMP, Kolkata's Schedule of Rent Charges in accordance with lease in question. Though the Lease Deed specifically provides a liability upon a lessee to pay the rental dues, whether demanded or not, to the lessor, there is no material to show that O.P. has tendered such amount of rental dues at least, to the Port Authority. "Holding Over" means continuance of occupation with the same terms and conditions as it was granted to O.P. at the time of handing over of possession to O.P. by SMP, Kolkata. Evaluation of factual aspect and the papers/documents brought before me in course of hearing leaves no room for doubt that the SMP, Kolkata never consented in O.P's occupation into the public premises after expiry of the period as mentioned in the notice to quit dated 29.03.2000. The essential element of "consent" for constituting the matter of holding over is absent and the O.P. has failed to



**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. 1690 & 1690/D Of 2019 Order Sheet No. 32

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

**VS**  
*M/s. Calcutta Porta Gramik Sanghatha*



2-6  
07-02-2022

adduce any evidence or bear any witness in support of its contention regarding "holding over". To take this view I have borrowed my support from the Apex Court judgment reported in Judgment Today 2006 (4) SC Page- 277 wherein it was observed by the Hon'ble Supreme Court as follows:

"A somewhat similar situation arose in the case of Santi Prasad Devi and Anr. -vs- Shankar Mahato & Ors. That was a case where the landlord accepted rent even on expiry of the period of lease. A submission was argued on behalf of the tenant in that case that Section 116 of the Transfer of Property Act was attracted and there was a deemed renewal of the lease. Perusing the contention, the Court observed that mere acceptance of rent for subsequent months in which the lessee continued to occupy the premises even after the expiry of the period of lease, cannot be said to be a conduct signifying his assent to the continuing of the lease even after expiry of the lease period. Their Lordship noticed the conditions incorporated in the Agreement itself, which provided for renewal of the lease and held those conditions having not been fulfilled, the mere acceptance of rent after expiry of the period of lease did not signify assent to the continuance of the lease."

In the instance case there was no consent on the part of the Port Authority either by way of accepting rent from O.P. or by any other mode expressing the assent for continuance in such occupation after expiry of the period as mentioned in the notice to vacate the premises. In view of the ratio of judgment of the Hon'ble Supreme Court of India, I do not find any scope to consider the matter of "Holding Over" as advocated by O.P. in the facts and circumstances of the case.

No evidence has been laid on behalf of O.P. by way of producing any Receipt for acceptance of any payment wherefrom it could at least be inferred that the Port

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. B. 09-02-2022*  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

*[Handwritten signature]*

*[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. 1690 & 1690/D Of 2019 Order Sheet No. 33

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

*m/s. Colcutta VS Pasta Szamek Sanghota*

26  
07.02.2022

Authority has any intention to the continuance in occupation by accepting any amount as rent for such occupation. The Port Authority has a definite legitimate claim to get its revenue involved into this matter as per SMP, Kolkata's Schedule of Rent Charges for the relevant period.

The judgment of the Hon'ble Apex Court reported in JT 2006 (4) SC 277 (Sarup Singh -Vs- S. Jagdish Singh &Ors.) is very much instrumental in dealing with such issues and can be accepted as a guiding principle for deciding such matter. The relevant portion of the judgment reads as follows:

".....  
.....

In our view, mere acceptance of rent did not by itself constitute an act of the nature envisaged by sec.113 Transfer of Property Act showing an intention to treat the lease as subsisting. The fact remains that **even after accepting the rent tendered, the landlord did file a suit for eviction and even while prosecuting the suit accepted rent which was being paid to him by the tenant, it cannot, therefore, be said that by accepting rent, he intended to waive the notice to quit and to treat the lease as subsisting** .....

.....  
.....

It cannot, therefore, be said that mere acceptance of rent amounts to waiver of notice to quit unless there be any other evidence to prove or establish that the landlord so intended. In the instant case, we find no other fact or circumstances to support the plea of waiver. On the contrary, the filing of a prosecution of the eviction proceedings by the landlord suggests otherwise."

In the case in hand, there is no case of accepting of rent from O.P. by SMP, Kolkata rather the Port Authority prefers

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
07.02.2022  
Head Assistant  
OFFICE OF THE I.D. 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. 1690 & 1690/D Of 2019 Order Sheet No. 34

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

*m/s. Calcutta Parva Granik Sanghatha* <sup>VS</sup>

26

07-02-2022

to institute instant proceedings against O.Ps for order of eviction against O.Ps under the P. P. Act which is the only remedy available to SMP, Kolkata in respect of the property, being the public premises in question as defined under the P.P. Act. This clearly indicates the intention of the Port Authority to proceed against O.Ps for recovery of possession on the basis of the notice, demanding possession and SMP, Kolkata's act cannot be considered as waiver of notice to quit as served against O.P. Hence the issues are decided against O.P.

As regards the **issue No. VII** i.e on the issue of applicability of limitation Act, Opposing submissions have received my due attention. However, I must say that the decision of Madhya Pradesh High Court in AIR 1980 MP 196(DB) is very much instrumental in deciding the question of applicability of Limitation Act in the proceedings before the Estate Officer, 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.

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

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. B. 09-02-2022  
Head Assistant  
OFFICE OF THE I.D. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

*[Signature]*

*[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. 70 81690/D Of 2019 Order Sheet No. 35

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

**VS**  
M/s. Calcutta Porta Granik Sanghatha

26  
07-02-2022

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.

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. 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 judgement 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. In my view, the contention of O.P. is devoid of particulars necessary for consideration and effective adjudication. Hence the issue is decided against O.P.

**Issues VIII and IX** are taken up together, as the Issues are related with each other. On evaluation of the factual aspects involved in this matter, the logical conclusion which could be arrived at is that SMP, Kolkata's notice dated 29.03.2000 as issued to O.P., demanding possession of port property from O.P. is valid and lawful and binding upon the O.P. As per Section 2 (g) of the Act the "unauthorized occupation", in relation to any public premises, means the occupation by any person of the

*[Handwritten signature]*

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. 09-02-2022  
Head Assistant  
OFFICE OF THE LD. 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. 1690 & 1690/D Of 2019 Order Sheet No. 36

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

*M/S. Calcutta VS  
Pasta Granik Sanghastha*

26

07-02-2022

public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever. The lease granted to O.P. was determined and the Port Authority by due service of notice/s to Quit demanded possession from O.P. SMP, Kolkata's application for order of eviction is a clear manifestation of Port Authority's intention to get back possession of the premises. In course of hearing, the representative of SMP, Kolkata submits that O.P. cannot claim its occupation as "authorized" without receiving any rent demand note. The lease was doubtlessly determined by SMP, Kolkata's notice demanding possession, whose validity for the purpose of deciding the question of law cannot be questioned by O.P. Therefore, there cannot be any doubt that the O.P. was in unauthorized occupation of the premises, In such a situation, I have no bar to accept SMP, Kolkata's contentions regarding enforceability of the notice dated 29.03.2000, on evaluation of the facts and circumstances of the case. With this observation, I must reiterate that the notice to quit, demanding possession from O.P. as stated above have been validly served upon O.P. in the facts and circumstances of the case and such notice is valid, lawful and binding upon the parties. As per law O.P. is bound to deliver up vacant and peaceful possession of the public premises in its original condition to SMP, Kolkata after expiry of the period as mentioned in the notice/s to quit.

"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 determination of lease by way of Quit Notice, O.P. has lost its authority to occupy the public premises and O.P. is

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE COPY  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
2019-02-2022  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

*[Signature]*

*[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. 1690/1690/D of 2019 Order Sheet No. 37

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

*M/s. Calcutta Pasta Bramik Sanghastha* <sup>VS</sup>

26  
07.02.2022

liable to pay damages for such unauthorized use and occupation. To come into such conclusion, I am fortified by the decision/observation of the Hon'ble Supreme Court in Civil Appeal No.7988 of 2004, decided on 10<sup>th</sup> December 2004, reported (2005)1 SCC 705, para-11 of the said judgment reads as follows.

*Para:11-" under the general law, and in cases where the tenancy is governed only by the provisions of the Transfer of Property Act 1882, once the tenancy comes to an end by determination of lease u/s.111 of the Transfer of Property Act, the right of the tenant to continue in possession of the premises comes to an end and for any period thereafter, for which he continues to occupy the premises, he becomes liable to pay damages for use and occupation at the rate at which the landlord would have let out the premises on being vacated by the tenant. ....*

The Port Authority has a definite legitimate claim to get its revenue involved into this matter as per the SMP, Kolkata's Schedule of Rent Charges for the relevant period and O.P. cannot claim continuance of its occupation as "authorized occupation" without making payment of requisite charges. I am fortified by the Apex Court judgment reported in JT 2006 (4) Sc 277 (Sarup Singh Gupta -vs- Jagdish Singh &Ors.) wherein it has been clearly observed that in the event of termination of lease the practice followed by Courts is to permit landlord to receive each month by way of compensation for use and occupation of the premises, an amount equal to the monthly rent payable by the tenant. In my view, the case in hand is very much relevant for the purpose of determination of damages upon the guiding principle as laid down by the Hon'ble Apex Court in the above case. In course of hearing, it is submitted on behalf of SMP, Kolkata that the charges claimed on account of

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, 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. 16908/690/D of 2019 Order Sheet No. 38

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

*M/s. Calcutta Pasta Sramik Sanghatha*  
**VS**

damages is on the basis of the SMP, Kolkata's Schedule of Rent Charges as applicable for all the tenants/occupiers of the premises in a similarly placed situation and such Schedule of Rent Charges is notified rates of charges under provisions of the Major Port Trusts Act 1963. Recently the Act of 1963 has been replaced by the Major Port Authorities Act, 2021 as it received the assent of the President of India on 17.02.2021. As per the earlier Act of 1963, the Tariff Authority for Major Ports (TAMP) fixes the scale of rates for assets and services available at ports. Under the new law, the Board or committees appointed by the Board will determine these scale of rates for the usage of the port assets etc. As per Section 54 of the Act of 2021 the Central Government shall, by notification, constitute, with effect from such date as may be specified therein, a Board to be known as the Adjudicatory Board to exercise the jurisdiction, powers and authority conferred on such Adjudicatory Board by or under this Act, provided that until the constitution of the Adjudicatory Board, the Tariff Authority for Major Ports constituted under section 47A of the Major Port Trusts Act, 1963 shall discharge the functions of the Adjudicatory Board under this Act and shall cease to exist immediately after the constitution of the Adjudicatory Board under this Act: Provided further that on and from the date of constitution of the Adjudicatory Board— (a) all the assets and liabilities of the Tariff Authority for Major Ports shall stand transferred to, and vested in, the Adjudicatory Board. In view of the above, I have no hesitation in mind that the Schedule of Rent Charges of the Tariff Authority for Major Ports (TAMP) has statutory force of law at present. In my view, such claim of charges for damages by SMP, Kolkata is based on sound reasoning and should be acceptable by this Forum of Law.

O.P. has failed to substantiate as to how its occupation could be termed as "authorised" in view of Sec. 2(g) of the

26

07.02.2022.

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, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceeding No. 1690 A/690/D of 2019 Order Sheet No. 39

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

*m/s. Calcutta Porta <sup>VS</sup> Sramik Sanghshba*

26  
07-02-2022

P.P Act, after expiry of the period as mentioned in the SMP, Kolkata's notice dated 29.03.2000, demanding possession from O.P. I have no hesitation to observe that O.P's act in continuing occupation after expiry and determination of the lease is unauthorized and O.P. is liable to pay damages for unauthorized use and occupation of the Port property in question upto the date of delivering vacant, unencumbered and peaceful possession to SMP, Kolkata. The Issues VIII and IX are thus decided in favour of SMP, Kolkata.

NOW THEREFORE, I consider it is a fit case for allowing SMP, Kolkata's prayer for eviction against O.P. u/s 5 of the Act for the following grounds/reasons:

1. That this Forum of Law is well within its jurisdiction to adjudicate upon the matters relating to eviction and recovery of arrear dues/damages etc. as prayed for on behalf of SMP, Kolkata.
2. That the plea taken by O.P. as regards the change of name from Board of Trustees' for Port of Kolkata to the said Syama Prasad Mookerjee Port, Kolkata without issuance of any prior notice by the appropriate government has got no merit on evaluation of the factual aspect involved in this matter.
3. That the plea taken by O.P. on the ground of 'Tenant holding over' has also got no merit in the present fact and circumstances of the instant matter.
4. That O.P has parted with possession of the subject public premises without having any authority of law.
5. That O.P. cannot take the shield of Limitation Act to defend SMP, Kolkata's claim for compensation charges for use and enjoyment of the Public Premises in question.

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* 07-02-2022  
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. 1690 & 1690/D Of 2019 Order Sheet No. 40

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

**VS**  
*M/s. Calcutta Parva Sramik Sanghata*

26  
07-02-2022

6. That the O.P or any other person/occupant has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation".
7. That the notice/s to quit dated 29.03.2000 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P.'s occupation and that of any other occupant of the premises has become unauthorised in view of Sec.2 (g) of the P.P. Act.
8. That O.P. is liable to pay damages for wrongful use and occupation of the public premises up to the date of handing over the clear, vacant and unencumbered possession to the port authority.

ACCORDINGLY, I sign the formal order of eviction u/s 5 of the Act as per Rule made there under, 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 enjoyment of the property against O.P. in accordance with Law up to the date of recovery of possession of the same. SMP, Kolkata is directed to submit a comprehensive status report of the Public Premises in question on inspection of the property after expiry of the 15 days as aforesaid so that necessary action could be taken for execution of the order of eviction u/s. 5 of the Act as per Rule made under the Act.

It is my considered view that a sum of Rs.45,91,741.63 (Forty five Lakh ninety one thousand seven hundred forty one and paise sixty three) for the respective Plate in question for the period 01.04.2000 to 31.03.2019 (both day inclusive) is due and recoverable from O.P. by the Port authority on account of damages/compensation for unauthorized occupation and O.P. must have to pay such dues to SMP,

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, 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. 1690/D of 2019 Order Sheet No. 41

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

**VS**  
*m/s. Calcutta Port Granik Sanghastha*

26  
07.02.2022

By Order of:  
**THE ESTATE OFFICER**  
**SYAMA PRASAD MOOKERJEE PORT**  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
**SYAMA PRASAD MOOKERJEE PORT**  
*22.02.2022*  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
**SYAMA PRASAD MOOKERJEE PORT**

Kolkata on or before 22.02.2022. It is clarified that such dues will 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 incurrance 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 of the Act.

I make it clear that SMP, Kolkata is entitled to claim further damages against O.P. for unauthorized use and occupation of the public premises right upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law, and as such the liability of O.P. to pay damages extends beyond 31.03.2019 as well, till such time the possession of the premises continues to be under the unauthorised occupation with the O.P. SMP, Kolkata is directed to submit a statement comprising details of its calculation of damages after 31.03.2019, indicating there-in, the details of the rate of such charges, and the period of the damages (i.e. till the date of taking over of possession) together with the basis on which such charges are claimed against O.P., for my consideration for the purpose of assessment of such damages as per Rule made under the Act.

I make it clear that in the event of failure on the part of O.P. to comply with this Order, Port Authority is entitled to proceed further for execution of this order 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 \*\*\*