



O.P.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, Fairlie Place (1st Floor)
KOLKATA - 700 001

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

REASONED ORDER NO. 18 DT 02/02/2022
PROCEEDINGS NO. 1820 of 2020

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-

**Shri Pankaj Chakraborty, Shri Pradip Chakraborty Sons of
Parimalananda Chakraborty (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 **Shri Pankaj Chakraborty, Shri Pradip Chakraborty Sons of Parimalananda Chakraborty, 23A, Bejoy Bose Road, Kolkata-700025 And Chetla Station Yard, Kolkata-700027** are in unauthorized occupation of the Public Premises specified in the Schedule below:

R E A S O N S

- 1) That O.P or any other person interested in the property has failed to file any reply to the Show Cause Notice/s U/S 4 & 7 of the Act in spite of sufficient chances being provided to them.
- 2) That O.P has obstructed the representative of SMP, Kolkata to make inspection of the subject premises without having any authority under law.
- 3) That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 4) That O.P has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 13.05.1992.
- 5) That O.P's occupation has become unauthorised in view of Sec 2(g) of the Act and O.P is liable to pay damages for wrongful use and enjoyment of the Port property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

PLEASE SEE ON REVERSE

(2)

A copy of the reasoned order No.18 dated 02/02/2022 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 **Shri Pankaj Chakraborty, Shri Pradip Chakraborty Sons of Parimalananda Chakraborty, 23A, Bejoy Bose Road, Kolkata-700025 And Chetla Station Yard, Kolkata-700027** 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 **Shri Pankaj Chakraborty, Shri Pradip Chakraborty Sons of Parimalananda Chakraborty, 23A, Bejoy Bose Road, Kolkata-700025 And Chetla Station Yard, Kolkata-700027** 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.D-459/2

The said piece or parcel of land measuring 133.780 sq.metres or thereabouts is situate at Chetla Station Yard, P.S. New Alipore, Dist.24 Parganas. It is bounded on the north by the Trustees' strip of open land reserved as margin of safety alongside their Railway Siding on the east by the Trustees' land used as passage, on the south by the Trustees' land used as passage on the west by the Trustees' land leased to M/s. Naren & Co.

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

Date-03-02-22



Syama Prasad Mookerjee
Signature & Seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, SMP, 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 1st Floor
Of Kolkata Port Trust's
Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.1820/D OF 2020
ORDER NO. 18 DATED : 02/02/2022

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
**Shri Pankaj Chakraborty,
Shri Pradip Chakraborty Sons of
Parimalananda Chakraborty
23A, Bejoy Bose Road,
Kolkata-700025
And
Chetla Station Yard,
Kolkata-700027**

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 13.09.2021 you are called upon to show cause on or before 28.09.2021 why an order requiring you to pay damages of Rs.7,56,414.24(Rupees Seven Lakh fifty six thousand four hundred fourteen and Paise twenty four only) for Plate No.D-459/2 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.7,56,414.24(Rupees Seven Lakh fifty six thousand four hundred fourteen and Paise twenty four only) for Plate No.D-459/2 assessed by me as damages on account of your unauthorised occupation of the said premises for the period from 01.07.1992 to 30.04.2021 (both days inclusive) to SMP, Kolkata by 01.03.2022.

PLEASE SEE ON REVERSE

LA

: 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.D-459/2

The said piece or parcel of land measuring 133.780 sq.metres or thereabouts is situate at Chetla Station Yard, P.S. New Alipore, Dist.24 Parganas. It is bounded on the north by the Trustees' strip of open land reserved as margin of safety alongside their Railway Siding on the east by the Trustees' land used as passage, on the south by the Trustees' land used as passage on the west by the Trustees' land leased to M/s. Naren & Co.

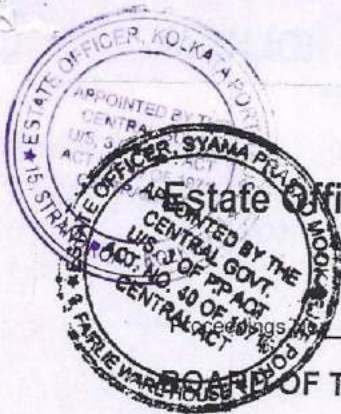
Trustees' means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata).

Date 03-02-77




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

1820, 1820/D of 2020 Order Sheet No. 17

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
Pankaj Chakraborty.

18

02.02.2022

FINAL ORDER

The instant proceedings No. 1820, 1820/D of 2020 arose out of an application being No. Lnd. 3184/135/II dated 31.05.1993 filed by Syama Prasad Mookerjee Port Kolkata (erstwhile Kolkata Port Trust) hereinafter referred to as SMP, Kolkata, Applicant herein, praying for an order of eviction and recovery of arrear rent, taxes, compensation along with interest etc. against **Shri Pankaj Chakraborty, Shri Pradip Chakraborty, Sons of Parimalananda Chakraborty**, the O.P. herein, under relevant provisions of the Public Premises (Eviction of Unauthorised Occupant) Act 1971. The facts of the case is summarised here under.

O.P. came into occupation of the port property being Land measuring 133.780 sq.mtrs or thereabout situated at Chetla Station Yard (under Plate No. **D-459/2**) Thana- New Alipore, Calcutta, District-24 Parganas, Registration District: Alipore, as monthly lessee with effect from 01.02.1974 on payment of monthly rent on certain terms and conditions as embodied in SMP, Kolkata's offer/letter for allotment dated 04.12.1973. SMP, Kolkata has submitted that while in possession of the Port property as lessee, OP violated the condition for such lease by way of not making the payment of rental dues to SMP, Kolkata for use and enjoyment of the Port property in question the details of which has been given in 'Schedule-B' of the SMP, Kolkata's application dated 31.05.1993.

It is the case of SMP, Kolkata that O.P has obstructed the representative of SMP, Kolkata to make inspection of the subject premises in gross violation of the terms of said tenancy.

It is also the case of SMP, Kolkata that in view of the aforesaid breaches committed by O.P., SMP, Kolkata had

By Order of
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
Head Assistant
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

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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

1820,1820/Dof 2020 Order Sheet No. 18



18
02.02.2022

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
Pankaj Chakraborty

issued notice to quit dated 13.05.1992 asking the O.P. to hand over clear, vacant, peaceful and unencumbered possession of the said property to Port Authority on the expiry of the month of June, 1992. SMP, Kolkata further submits that O.P. has no authority under law to occupy the public premises after determination of the lease in question and is required to hand over the possession of the subject premises to-SMP, Kolkata on 01.07.1992 as required under the notice to quit and O.P. is liable to pay compensation charges/mesne profits for unauthorized use and occupation of the Port Property in question.

Considering the submission advanced by SMP, Kolkata and the documents on record, Notice/s to Show Cause under section 4 (for eviction) and 7 (for recovery of damages/compensation) of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 all dated 13.09.2021 (vide Order No.15 dated 10.09.2021) were issued by this forum to O.P. The Notice/s were issued in terms of the said provisions of the Act calling upon the O.P. to appear before this forum in person or through authorized representative capable of answering all material questions in connection with the matter along with the evidence which the opposite party intends to produce in support of their case.

The said notice/s were served through Speed Post as well as by hand delivery to the recorded addresses of O.P. at **23-A, Bejoy Bose Road, Kolkata- 700 025** and also at **Chetla Station Yard, Kolkata-700027**. It appears from record that said Notice/s sent through Speed Post to O.P.'s 1st mentioned address was not returned back. However, the Notice/s sent to O.P.'s 2nd mentioned address returned undelivered to the Forum with an endorsement "insufficient Address". Further the report of the Process Server dated

By Order of
THE ESTATE OFFICER
KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

For Head of the Office
ESTATE OFFICER
KOLKATA PORT TRUST

18



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

1827, 1820) Of 2020 Order Sheet No. 19

MEMBERS OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
Pankaj Chakraborty

18

02.02.2022

By Order of
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
[Signature]
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

14.09.2021 also depicts that due affixation was made on the subject premises on 14.09.2021 as per the mandate of the P.P Act. Thereafter, on the scheduled dated of appearance and filing of reply to the Show Cause, no one appeared on behalf of O.P or any other person interested in the property to give reply to the Show Cause and accordingly, a decision was taken by the Forum to publish a notice in a widely circulated newspaper for a notice to all concerned about the pendency of the instant proceeding in order to give further chance to the O.P. to appear before this Forum and to represent their case. Such notice was published in "The Times of India (Kolkata edition)" on 27.10.2021 fixing the last date for the O.P's appearance on 09.11.2021 but, all the efforts went into vain as the O.P. failed to appear before the Forum despite publication of such notice in the newspaper.

Now, in view of the spirit laid down in the Public Premises Act, 1971 for speedy and summary disposal of cases and further considering the non-appearance of the O.P. inspite of confirmed service and publication of such Show Cause notice/s in an esteemed daily, this Forum finds no need to keep the matter pending and the final Order was reserved in the matter on 23.11.2021. Now this Forum has decided to adjudicate the matter ex-parte.

As no one from O.P's side appears and no reply to the Show Cause Notice u/s 4 & 7 of the Act has been filed as yet, I have no bar to accept the claim of SMP, Kolkata on account of unauthorised occupation of O.P into the Public Premises in question. I think that it is a fit case for issuing Order of eviction u/s 5 of the Act on the following grounds:-

- 1) That O.P or any other person interested in the property has failed to file any reply to the Show Cause Notice/s U/S 4 & 7 of the Act in spite of sufficient chances being provided to them.

LS

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

1820, 1820/D Of 2020 Order Sheet No. 20

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
Pankaj Chakraborty

18

02.02.2022

- 2) That O.P has obstructed the representative of SMP, Kolkata to make inspection of the subject premises without having any authority under law.
- 3) That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 4) That O.P has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 13.05.1992.
- 5) That O.P's occupation has become unauthorised in view of Sec 2(g) of the Act and O.P is liable to pay damages for wrongful use and enjoyment of the Port property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

ACCORDINGLY, Department is directed to draw up formal order of eviction u/s. 5 of the Act as per Rule made there under, giving 15 days time to O.Ps' 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.Ps' in accordance with Law up to the date of recovery of possession of the same.

It is my considered view that a sum of Rs. 7,56,414.24 (Rupees Seven Lakh Fifty six thousand four hundred fourteen and paise twenty four only) for the Plate No.D-459/2 for the period 01.07.1992 to 30.04.2021(both days inclusive) is due and recoverable from O.P. by the Port authority on account of damages/compensation/ mesne profit and O.P. must have to pay such dues to SMP, Kolkata on or before 01.03.2022. Such dues attracts

By Order of
THE ESTATE OFFICER
KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

[Signature]
Head Assistant
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

[Handwritten mark]



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

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OFFICE OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
Pankaj Chakraborty

18
02.02.2022

By Order of
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
[Signature]
Head of Office
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

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

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

GIVEN UNDER MY HAND AND SEAL

[Signature]
(Nirmalya Biswas)
ESTATE OFFICER.

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