

**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. 331, 331/R of 1999 Order Sheet No. 50

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

**M/S. EXPRESSO GOODS SERVICE VS**

67

21.03.2022

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 21/03/2022  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

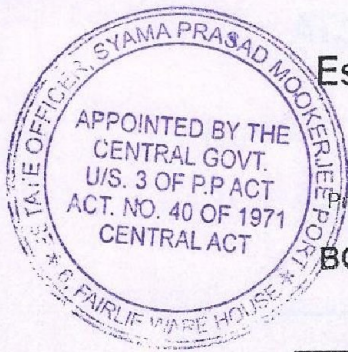
**ORDER**

The instant proceedings No. 331, 331/R of 1999 arose out of an application being No. Lnd.14/9 dated 22.09.1997 filed by Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust], hereinafter referred to as KoPT, Applicant herein, praying for an order of eviction and payment of arrear rent, taxes, and other charges along with interest etc. against **M/S Expresso Goods Services (P) Ltd**, 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 two rooms(underground) measuring 24.06 sq.mtrs or thereabout situated at Armenian Ghat Road (under Plate No.CG-156/2/2) Thana- North Port Police Station, District-Calcutta, as monthly term lessee with effect from 01.02.1972 on payment of monthly rent on certain terms and conditions as embodied in KoPT's offer/letter for allotment bearing No. L.M.1191/1/II dated 08.02.1972. KoPT has submitted that while in possession of the port property as monthly lessee, O.P violated the condition for such lease by way of not making the payment of rent, taxes and other charges of KoPT for use and enjoyment of the said property in question the details of which has been given in 'Schedule-B' of the KoPT's application dated 22.09.1997.

It is the case of KoPT that in view of the aforesaid breaches committed by the O.P., KoPT had issued notice to quit dated 11.02.1992 asking O.P. to hand over clear, vacant, peaceful and unencumbered possession of the property to KoPT on 01.04.1992. But O.P has failed and neglected to vacate/ hand over the possession of such premises to KoPT after service of the said Notice to Quit.





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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S. EXPRESSO GOOD VS SERVICE

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Considering the submission advanced by KoPT and the documents on record, Notice/s to Show Cause under section 4 and 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 all dated 17.03.2004 (vide Order No.6 dated 17.03.2004) 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 sent through Speed Post to the correct recorded address of O.P. at 16, Kelkar Street, Kolkata-700007. It appears from record that the Notice/s sent through speed post returned undelivered to the forum. However, the report of the Process Server dated 09.07.2004 confirms that said notice/s were served upon O.P personally and affixation was also done on the same day at about 2P.M over the subject premises as per the mandate of the P.P Act.

On the schedule date of appearance & filing of reply to the Show Cause, except M/s. Laxmi Road Way Agency, the Sitting Occupant, no one appeared on behalf of O.P to contest the matter. The Sitting Occupant during the course of hearing claimed themselves as the only existing occupant of the subject premises in question and prayed substitution of their name in place of O.P. It was further submitted by the Sitting Occupant that a prayer had already been made to KoPT in this regard to effect such change and KoPT in turn accepted a sum of Rs.50,785/- from them(Sitting Occupant) without issuing any receipt. However, KoPT denied the averments of O.P's contention



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APPOINTED BY THE  
CENTRAL GOVT.  
U/S. 3 OF P.P. ACT  
ACT. NO. 40 OF 1971  
CENTRAL GOVT.

Proceedings No. 331, 331/R of 1999 Order Sheet No. 52

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

**VS**  
**M/S. EXPRESSO GOOD SERVICE**

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21.03.2022

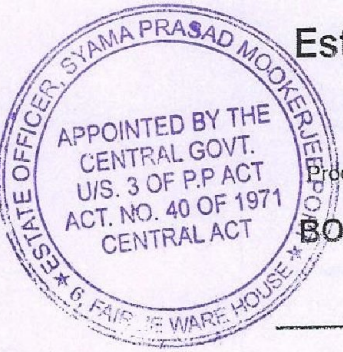
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and asked them to produce document indicating such change. Thereafter on 28.07.2004, on examination of papers and documents of O.P., KoPT submitted that the Sitting Occupant was permitted to occupy as a subtenant of O.P. and no tenancy had ever been transferred in their name and the amount which claimed to have been deposited by the Sitting Occupant had been accounted against the original recorded tenant, the O.P. of this instant Proceeding. Hearing the submission of the parties, the Forum thereafter observed that the letter of KoPT on which the Sitting Occupant had relied upon was merely a permission letter to O.P. to create sub tenancy in favour of such Sitting Occupant and there was no indication of transfer/mutation of such tenancy right on Sitting occupant's name. However, in the same hearing, the Forum thereafter gave a direction to KoPT for preparation of a Statement showing details of amount as payable by O.P. and also gave a direction to O.P for payment of Rs.1,50,000/- to KoPT by 10<sup>th</sup> August 2004 on account of provisional occupational charges for use and occupation of the Port Property pending final decision on merit. On 08.09.2004 O.P. further failed to turned up before the forum to comply such Order passed by the Forum thereafter on 23.09.2004 O.P. finally appeared through it's Ld' Advocate and prayed time to communicate the gist of the earlier order dated 08.09.2004 regarding difficulties in acceptance of pay order as submitted by the Sitting Occupant to his client and assured the forum for withdrawal of the letter issued by Such Sitting Occupant. Hearing the submission of both the parties, the Form gave a further direction to O.P. for immediate payment of Rs.1 Lakh along with a payment of Rs.50,000/- more in terms of the earlier order and also directed KoPT for acceptance of such



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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S. EXPRESSO VS  
GOOD SERVICE

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21.03.2022

By Order of:  
THE ESTATE OFFICER  
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*[Signature]*  
Head Assistant 21/03/2022  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

Payment. On 15.12.2004 The Ld' Advocate of O.P further assured the Forum that the amount of Rs. 1 Lakh as submitted under cover of a letter dated 09.08.2004 by the Sitting Occupant( M/s Laxmi Road Way Agency) should be arrange for payment on account of O.P. Hearing the submission of O.P, forum gave a further direction to O.P for payment of Rs.67,628 by 31.01.2005 and also gave a direction to KoPT for acceptance of such payment. Thereafter dated 02.02.2005 Ld' Advocate of O.P submitted that mistakenly the pay order bearing No.164479 to 164481 of amounting to Rs.1,00,000/- (Rs.1 Lakh) had been sent under cover of a letter of M/S Laxmi Road Way Agency however, same should be accepted against the outstanding dues/charges of O.P. for their occupation. On 02.02.2005 it was further agreed by the O.P. that all the present dues/charges on their account would be liquidated by 31.03.2005 along with accrued interest. Accordingly the Forum gave a direction thereafter that all three pay orders amounting to Rs.1,00,000/-be sent to the Land Manager, KoPT immediately for acceptance against O.P. for their outstanding dues and O.P to pay Rs.60,000/- by the end of February 2005 without any excuse. Giving a direction to O.P for payment of the entire dues, thereafter the Forum disposed of the present application. However, the record was again put up on 24.08.2005 when KoPT by filing an application dated 18.08.2005 read with an application dated 07.04.2005 sought order of eviction on the ground of non payment of balance dues but it appeared that although such balance dues of Rs.57,624/- had been forwarded from O.P's end but the same was not accepted by KoPT. Thereafter, without finding any reason for such non acceptance, this Forum gave a direction to KoPT for acceptance of the same. On

*[Signature]*



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CENTRAL GOVT.  
U/S. 3 OF PRACT.  
ACT. NO. 40 OF 1971  
CENTRAL ACT

Proceedings No. 331, 331/R of 1999 Order Sheet No. 54

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

**VS**  
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26.10.2005 it was submitted on behalf of O.P that all payments had been made in compliance of the Order of the Forum and KoPT had admitted such fact of payment however, representative of KoPT submitted that Rs. 22,500/- had still not been paid by O.P for occupation into the Port Property in question. Thereafter the Forum gave direction to O.P for payment of such amount by 31.10.2005 as they had already admitted such claim on account of provisional occupational charges of KoPT. On 26.10.2005 by allowing liberty to the parties, it was further ordered by the Forum that on payment of such amount proceeding against the O.P should be withdrawn/dropped and rent charges should be restored from the month of November 2005.

Such Order of the Estate Officer dated 26.10.2005 is reproduced below:

".....on payment of the aforesaid sum of Rs.22,500/-, the proceeding against O.P shall stand withdrawn/dropped and KoPT shall restore the rent charges against O.P from the month of November 2005".

After 26.10.2005 almost six years later the matter was again place before my predecessor Estate Officer on 14.07.2011 when O.P submitted three pay orders amounting to Rs.29,915/-. The proceeding was continued before my predecessor Estate Officer for a prolong period and thereafter the matter was assigned to me on 27.12.2018. Subsequently on 08.01.2019, Ld' Advocate of O.P. referred an earlier order as passed by this Forum on 26.10.2005 and submitted further that in compliance of such Order vide pay order being No.002753/2005 of Corporation bank, Howrah dated 28.10.2005 O.P. had already deposited the said amount.

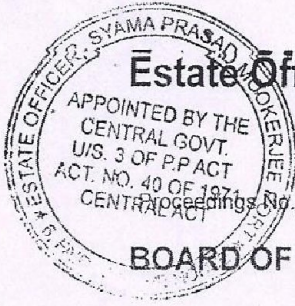




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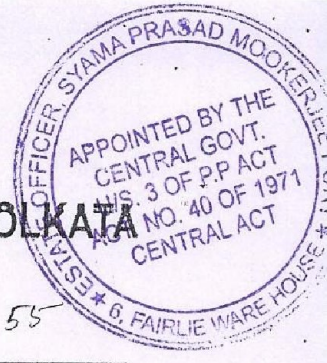
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BYAMA PRASAD MOOKERJEE





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Proceedings No. 331, 331/R of 1999 Order Sheet No. 55

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

**M/S. EXPRESSO GOODS <sup>VS</sup> SERVICE**

67  
21.03.2022

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Hearing the submission of O.P. the forum thereafter gave a direction to KoPT for intimating the status of such pay order and KoPT vide their application being No. Lnd.14/9/19/3847 dated 26.03.2019 confirmed such payment thereafter.

Now, after carefully considering all the documents on record and the submissions of both the parties, I find that as KoPT admits by way of an application dated 26.03.2019 that O.P has made payment in compliance with the Order dated 26.10.2005, KoPT's allegation loses its ground & no cause of actions sustain to continue this proceeding. Therefore, this instant proceeding against **M/S Espresso Goods Service (P) Ltd** is dropped and the instant proceeding No.331, 331/R of 1999 is disposed of today, with liberty to KoPT to initiate fresh proceedings against M/S Espresso Goods Service (P) Ltd, if so desired, in accordance with law.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

  
(A.K Das)  
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  
BYAM PRASAD MOKSHEE POKT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
BYAM PRASAD MOKSHEE POKT  
11/11/2011  
CENTRAL BANK OF THE UNITED STATES  
WASHINGTON, D.C.