

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. 673 of 2005 Order Sheet No. 38

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s Unimech Lifting^{VS} Equipment (P) Ltd.

ORDER

The matter is taken up for consideration today. In a nut shell, the instant Proceedings being No.673 of 2005 had been initiated on the strength of SMPK's application dated 23.07.2003 praying for order of eviction, recovery of dues, taxes and interest etc. from **M/s Unimech Lifting Equipments (P) Ltd**, the **O.P.** herein, under the provisions of Public Premises(Eviction of Unauthorised Occupants)Act, 1971. It is the allegation of SMPK that the O.P. was offered a monthly licence in respect of the public premises in question, measuring about 86.028 Sq.m. and 13.192 sq.m situated at Import Warehouse(N) on the west side of Strand Road in the presidency town of Kolkata(under occupation No.JS-17/1/C) vide Offer Letter being No. Lnd/6/60/II dated 07.02.2002 and O.P. without complying with their undertaken responsibilities as per their application dated 19.09.2001 as filed before the Estate Officer, defaulted in making payment of SMPK dues and other charges and also failed to accept the terms and condition for grant of such licence in terms of the Letter dated 07.02.2002 and even after the extended period as per letter dated 02.07.2003 issued to O.P. It is further the submission of SMPK that since O.P. did not accept such offer, O.P.'s occupation is unauthorised and O.P. is liable to pay the dues to SMPK as per the Offer Letter dated 07.02.2002.

It appears from record that a Show Cause Notice was issued to O.P. u/s 4 of the P.P Act-1971 dated 21.03.2005(vide Order No.4 dated 16.03.2005).It further appears that as per the Order of this Ld. Forum dated 25.05.2005,O.P was directed to pay Rs.50,000/- per month in addition to their occupational charges of Rs. 10,000/- per month to the satisfaction of entire claim of SMPK within 10 months from June 2005 and upon receipt of such payment, rent charges against the O.P. should be restored forthwith otherwise SMPK should proceed for eviction of O.P.The relevant portion of such order is reproduced below:

“

.....O.P. is hereby directed to go on paying Rs.10,000/- per month on account of provisional occupational charges and/or compensation for use and occupation of the Port Property. O.P. must have to pay at

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least Rs.50,000/- per month positively to KoPT in addition to the aforesaid Rs.10,000/- per month, so that the entire claim of Kolkata Port Trust against O.P. for occupation into the public premises is liquidated to the satisfaction of KoPT within 10 months from June 2005. All the payments as aforesaid must have to be accepted by Kolkata Port Trust on account of provisional occupational charges and/or compensation for use and occupation of the Port Property without prejudice to the rights and contentions of both the parties. On receipt of all the dues/charges against the O.P's end as per claim of KoPT, the rent charges against the O.P shall be restored forthwith. In the event of failure on the part of O.P to pay up the dues/charges as above for two months, KoPT shall be at liberty to proceed for eviction etc. against O.P. in accordance of law. With this Order the application of KoPT bearing No.Lnd.6/60/II dated 07.02.2002 is disposed of."

Although, O.P. has failed to liquidate such dues within such specified time however, it is seen that O.P. had made payments to the tune of Rs.5,00,000/- (in instalments of Rs.50,000/- per month or its multiple) within September 2006 in addition to the Rs.10,000/- per month as directed by the order dated 25.05.2005. This indicates their honest gesture towards liquidation of dues/charges as claimed by SMPK in terms of the aforesaid order passed by this Forum of Law on 25.05.2005 and also in terms of reconciliation of account with SMPK. However the fact that the payment as directed by this Forum of Law on 25.05.2005 was done by the O.P. within September, 2006, was not informed to the forum either by the O.P. or by Port Authorities. Had the Forum been intimated about the payments, then an order could have been passed in 2006 itself and there may not have been any necessity to drag the case to the present day as payments in terms of the order dated 25.05.2005 seem to have been made by the O.P. within September, 2006.

It has also received my attention that O.P vide their application dated 12.04.2022 and in compliance of the order of this Forum dated 15.03.2022 duly intimated the forum that they have tendered Rs. 4,65,390/- towards the full and final settlement of their dues to SMPK through an A/C payee Cheque being No.989514 as per SMPK's claim @ 1*SoR after adjustment of TDS amount of Rs.51,710/-.

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NOW THEREFORE, what emerges from the records that non-payment of dues/charges was the only cause of action on the part of SMPK against O.P. and such dues/charges have already been paid up by O.P. Having regard to the conduct of O.P. regarding payment of dues/charges as payable to SMPK, I cannot turn a blind eye to this fact because it is very much pivotal to decide the instant matter in question. Since this Forum considers that the order dated 25.05.2005 which state "...On receipt of all the dues/charges against the O.P's end as per claim of KoPT, the rent charges against the O.P shall be restored forthwith...." was complied by the O.P. in spirit and also that they have tendered Rs. 4,65,390/- towards the full and final settlement of their dues to SMPK, there is no further case of SMPK.

Therefore, in my view, it is a fit case for referring the matter to the Estate Division, SMPK for dealing with the matter administratively as per their existing procedure as applicable to such matters. The request of the O.P. in regard to regularisation of their tenancy in the name of **M/s Unimech Lifting Equipments(P) Ltd** as per their application dated 12.04.2022 may also be considered administratively by SMPK as per their existing procedure. Let a certified copy of the order be served upon Syama Prasad Mookerjee Port, Kolkata (erstwhile Kolkata Port Trust) through the Estate Manager, SMPK for action. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL



(Sayan Sinha)
ESTATE OFFICER

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