



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.21 DT 09.05.2022  
PROCEEDINGS NO. 1723 OF 2019

**Syama Prasad Mookerjee Port, Kolkata  
(Erstwhile Board of Trustees for the Port of Kolkata)**

-Vs

**M/s. Jiban Krishna Samanta, Basudeb Srimani & Co. (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**

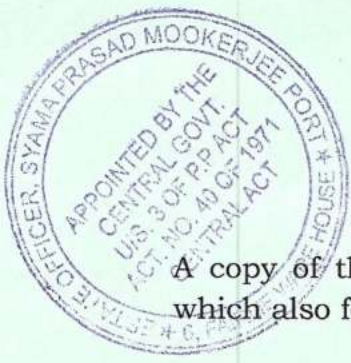
WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **M/s. Jiban Krishna Samanta, Basudeb Srimani & Co of 136/1, Strand Bank Road(Jagannath Ghat) Kolkata-700 070** is in unauthorized occupation of the Public Premises specified in the Schedule below:

**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 lease as granted to O.P. by SMP, Kolkata had doubtlessly determined by efflux of time, in the facts and circumstances of the case.
3. That O.P.'s allegation of incompetency of the Estate Manager (I/C) of SMP, Kolkata for issuing ejection notice for legal proceeding on behalf of SMPK against the O.P. has no basis in law.
4. That O.P. cannot claim renewal of lease from the Port Authority as a matter of right and cannot dictate the terms and conditions of any renewal of lease that may be offered by the Port Authority in terms of their Estate Management Policy.
5. That O.P. has erected unauthorised constructions and parted with possession of the public premises without having any authority of law.
6. That there is no foundation or basis to the contentions of O.P. as "Tenant Holding Over" in terms of Sec.116 of the T.P. Act.
7. That O.P. has violated the condition of long term lease as granted by the Port Authority by way of not making payment of rental dues and taxes to SMP, Kolkata, for a prolonged period of time.
8. That O.P. has failed to make out any ground with regard to the application of the law of Limitation to the present proceedings.
9. 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".
10. That no case has been made out on behalf of O.P. as to how its occupation in the Public Premises could be termed as "authorised occupation" after issuance of notice dated 13.01.2015, demanding possession by the Port Authority and O.P.'s occupation has become unauthorized in view of Sec.2(g) of the P.P. Act, 1971.
11. That right from the date of expiry of the lease, O.P. has lost its authority to occupy the Public Premises and O.P. is liable to pay dues/compensation charges with interest for wrongful use and enjoyment of the Public Property 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. 21 dated 09.05.2022 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. Jiban Krishna Samanta, Basudeb Srimani & Co of 136/1, Strand Bank Road(Jagannath Ghat) Kolkata-700 070** 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. Jiban Krishna Samanta, Basudeb Srimani & Co of 136/1, Strand Bank Road(Jagannath Ghat)Kolkata-700 070** 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-51/A,) and Way leave Plates Nos.SB-51/2, SB-52, SB-52/2.**

A Plot of land Msg. about 289.86 Sq.m on the West side of Strand Bank Road at Jagannath Ghat, in the Presidency town of Kolkata under Plate No.SB-51/A. It is bounded on the North partly by the Trustees' land used as passage, On the East partly by the Trustees' land occupied J.B Roy and partly by Trustees' land occupied by Tulsi Bali Hazra & Bros., On the South by the strip of open land alongside Trustees' land occupied by K.M.C and on the West by the Trustees' land occupied by Rajeswar Prosad.

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

Dated: 10.05.2022

  
Signature & Seal of  
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, SYAMA PRASAD MOOKERJEE PORT, KOLKATA FOR INFORMATION.





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**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  
6, Fairlie Place Warehouse  
Kolkata-700001.

**Form " E "**

PROCEEDINGS NO.1723/R OF 2019  
ORDER NO. 21 DATED: 09.05.2022

Form of order under Sub-section (1) and (2A) of Section 7 of the Public  
Premises (Eviction of Unauthorised Occupants) Act,1971.

To

**M/s. Jiban Krishna Samanta, BasudebSrimani & Co.  
136/1, Strand Bank Road(Jagannath Ghat)  
Kolkata-700 070.**

WHEREAS you are in occupation of the public premises described in the  
Schedule below. (Please see on reverse).

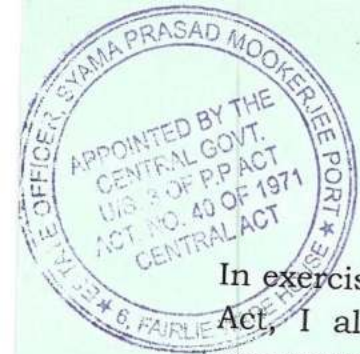
AND WHEREAS, by written notice dated 21.09.2020 you are called upon to  
show cause on or before 12.10.2020 why an order requiring you to pay a sum  
of Rs 38,185/- (Rupees Thirty eight thousand One hundred eighty five and only)  
for Plate No.SB-51/A, Rs.13/- (Rupees Thirteen only) for Plate No.SB-51/2,  
Rs.13/- (Thirteen only) for Plate No.SB-52 and Rs.13/- (Thirteen only) for Plate  
No.SB-52/2 ) being the rent payable together with compound interest in respect  
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 by sub-section (1) of  
Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act  
1971, I hereby require you to pay the sum of Rs 38,185/- (Rupees Thirty eight  
thousand One hundred eighty five and only) for Plate No.SB-51/A, Rs.13/-  
(Rupees Thirteen only) for Plate No.SB-51/2, Rs.13/- (Thirteen only) for Plate  
No.SB-52 and Rs.13/- (Thirteen only) for Plate No.SB-52/2) all for the period  
01.02.2005 to 31.05.2009 (both days inclusive) to SMP, Kolkata by 27.05.2022

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 @ 6.30 % per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

### SCHEDULE

**(Plate No. SB-51/A,) and Way leave Plates Nos. SB-51/2, SB-52, SB-52/2.**

A Plot of land Msg. about 289.86 Sq.m on the West side of Strand Bank Road at Jagannath Ghat, in the Presidency town of Kolkata under Plate No. SB-51/A. It is bounded on the North partly by the Trustees' land used as passage, On the East partly by the Trustees' land occupied J.B Roy and partly by Trustees' land occupied by Tulsi Bali Hazra & Bros., On the South by the strip of open land alongside Trustees' land occupied by K.M.C and on the West by the Trustees' land occupied by Rajeswar Prosad.

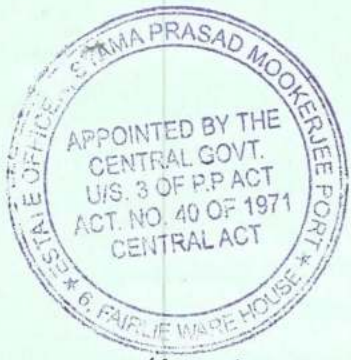
Trustees' means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

Dated: 10.05.2022

Signature and seal of the  
Estate Officer

**COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA FOR INFORMATION.**





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**ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT, KOLKATA  
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(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)  
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OFFICE OF THE ESTATE OFFICER  
6, Fairlie Place (1st FLOOR) KOLKATA-700001  
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Court Room At the 1<sup>st</sup> Floor  
of Kolkata Port Trust's  
Fairlie Warehouse  
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.1723/D OF 2019  
ORDER NO.21 DATED: 09.05.2022

**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. Jiban Krishna Samanta, Basudeb Srimani & Co.  
136/1, Strand Bank Road(Jagannath Ghat)  
Kolkata-700 070.**

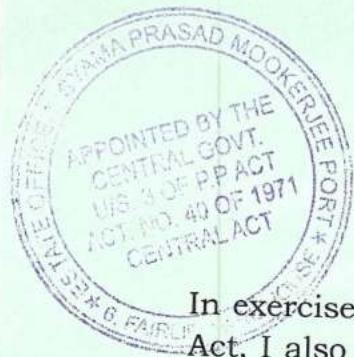
WHEREAS I, the undersigned, am satisfied that you are in unauthorised occupation of the public premises mentioned in the Schedule below:  
AND WHEREAS by written notice dated 21.09.2020 you are called upon to show cause on or before 12.10.2020 why an order requiring you to pay damages of Rs.66,61,419(Rupees Sixty six lakh sixty one thousand four hundred nineteen only) for Plate No.SB-51/A, Rs.555.84/-(Rupees five hundred fifty five and paise eighty four only) for Plate No.SB-51/2, Rs.636.76(Rupees Six hundred thirty six and paise seventy six only) for Plate No.SB-52 & Rs.632.76(Rupees Six hundred thirty two and paise seventy six only) for Plate No.SB-52/2 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.66,61,419(Rupees Sixty six lakh sixty one thousand four hundred nineteen only) for Plate No.SB-51/A, Rs.555.84/-(Rupees five hundred fifty five and paise eighty four only) for Plate No.SB-51/2, Rs.636.76(Rupees Six hundred thirty six and paise seventy six only) for Plate No.SB-52 & Rs.632.76(Rupees Six hundred thirty two and paise seventy six only) for Plate No.SB-52/2 assessed by meas damages on account of your unauthorised occupation of the premises for the period from 01.06.2009 to 31.03.2019 (both days inclusive) to SMP, Kolkata by 27.05.2022

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 @ 6.30 % 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-51/A,) and Way leave Plates Nos.SB-51/2, SB-52, SB-52/2.**

A Plot of land Msg. about 289.86 Sq.m on the West side of Strand Bank Road at Jagannath Ghat, in the Presidency town of Kolkata under Plate No.SB-51/A. It is bounded on the North partly by the Trustees' land used as passage, On the East partly by the Trustees' land occupied J.B Roy and partly by Trustees' land occupied by Tulsi Bali Hazra & Bros., On the South by the strip of open land alongside Trustees' land occupied by K.M.C and on the West by the Trustees' land occupied by Rajeswar Prosad.

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

Date 10.05.2022

  
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. 1723, 1723/R, 1723/D of 2019 Order Sheet No. 23

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

**VS**  
M/s. JIBAN KRISHNA SAMANTA, BASUDEB SRIMANI & CO

21

09.05.2022

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

**FINAL ORDER**

The instant proceedings No. 1723, 1723/R & 1723/D of 2019 arose out of an application being No. Lnd.8/7/II/16/1215 dated 30.06.2016 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 dues/damages and other charges along with accrued interest etc. against **M/s Jiban Krishna Samanta, Basudeb Srimani & Co(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.

SMP, Kolkata had granted a long term lease of Land measuring 289.86sq.m under Plate No. SB-51/A and also under way leave Plate Nos. SB-51/2, SB-52 & SB-52/2 situated on the West side of Strand Bank Road, Jagannath Ghat in the presidency town of Kolkata for a period of 20 years w.e.f.01.06.1989 by a deed of lease executed by and between the parties on 8.04.1992. The said lease expired on 31.05.2009 due to efflux of time. SMP, Kolkata submits that even after the expiry of the lease, O.P. continues to occupy the Port premises unauthorisedly and is in default of making payment of rent/compensation despite SMP, Kolkata's demand.

SMP, Kolkata further submits that O.P. has made unauthorised construction and parted with possession of the subject premises in clear violation to the terms and conditions of such lease.

It is also the case of SMP, Kolkata that notice to quit dated 13.01.2015 was issued to the O.P. asking him to hand over clear, vacant, peaceful and unencumbered possession of the property to SMP, Kolkata on 28.02.2015. By the said notice dated 13.01.2015 SMP, Kolkata also notified the O.P. that all their relationship with SMP, Kolkata stood determined on the expiry of lease w.e.f. 31.05.2009. SMP, Kolkata submits that O.P. has no authority under law to occupy the public premises after issuance of notice to quit dated 13.01.2015 and was

*[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. 1723, 1723/R, 1723/D of 2019 Order Sheet No. 24

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

VS

M/S. JIBAN KRISHNA SAMANTA, BASUDEB SRIMANI & CO

21

09.05.2022

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 ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
10/05/2022

required to hand over the possession of the property in question to SMP, Kolkata on 28.02.2015 as required under the notice to quit. It is the case of SMP, Kolkata that O.P. is in wrongful occupation in the public premises on and from 01.06.2009 and accordingly, SMP, Kolkata is entitled to have the O.P. evicted from the port premises. Further, O.P. is liable to pay compensation charges/mesne profits for unauthorized use and occupation of the Port Property in question.

Notice/s u/s 4 & 7 of the Act, dated 21.09.2020 (vide Order No.07 dated 09.09.2020) were issued by this Forum to O.P. to show cause as to why an order of eviction & recovery of rent/damages should not be made against the O.P. on the various grounds mentioned in the said Notice/s. By the said notice/s, O.P. was also called upon to appear before this Forum in person or through the duly authorised representative capable of answering all material questions connected with the matter along with the evidence which the O.P. intends to produce in support of the cause for personal hearing.

On the day fixed for appearance and filing of reply to the Show Cause by O.P., one Subhas Agarwal and another one Tapas Pal claiming themselves as the representatives of O.P. appeared before the Forum and made a verbal prayer for consideration of dues as claimed by SMP, Kolkata. Thereafter on 24.12.2020 O.P. filed an application in connection with the present proceeding for supplying them certain paper/documents as mentioned therein to contest the claim of SMP, Kolkata. I have enquired into the matter of supplying papers/documents as indicated in O.P's application filed on 24.12.2020 and find that almost all the papers as required by O.P. are handed over to them. On 04.01.2021 amongst the three representatives of O.P only Dilip Kumar Srimani claiming to be a legal heir of Basudev Srimani filed his self attested Proof of Identity. Reply to the Show Cause Notice/s was filed by O.P. on 04.01.2021 along with their Written Notes of Arguments followed by application dated 15.02.2021. SMP, Kolkata also filed their rejoinder to such reply/written objection on





# 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. 1723, 1723/R, 1723/D of 2019 Order Sheet No. 25

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

**VS**

M/S. JIBAN KRISHNA SAMANTA, BASU & SRIMANICKO

21

09.05.2022

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 U.D. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

23.08.2021 along with some documents/annexure and also an updated comprehensive Statement of accounts as generated on 16.08.2021 to clarify the present dues of O.P. as on date. Both the parties were heard extensively & thereafter on 20.09.2021 the matter was reserved for final order.

Heard the rival arguments from both the sides and considered all the documents placed before me including SMP, Kolkata's quit notice dated 13.01.2015, petition dated 30.06.2016, SMP, Kolkata's Statement of Accounts dated 18.08.2021 & 22.07.2019, O.P.'s reply to the show cause notice/sfiled on 04.01.2021, SMP, Kolkata's rejoinder dated 23.08.2021 and Written Notes of Arguments dated 04.01.2021.

After careful consideration of all relevant papers/documents as brought before me in course of hearing and after due consideration of all the submissions/arguments made on behalf of the parties, I find that following issues have come up for my adjudication :-

- I) Whether the instant proceeding against O.P. is maintainable or not;
- II) Whether the proceedings at the instance of SMP, Kolkata against O.P. is barred by law of estoppels waiver and acquiescence or not;
- III) Whether O.P.'s allegation as regards the incompetency of the Estate Manager I/C in issuing Ejectment notice against the O.P. has got any merit in the eye of law or not;
- IV) Whether O.P. can claim for "renewal of lease" in respect of the Public Premises in question as a matter of right or not;
- V) Whether O.P. has failed to pay rental dues to SMP, Kolkata or not;
- VI) Whether the rental dues/charges as payable by O.P. is barred by limitation or not;
- VII) Whether O.P.'s prayer for waiver of excess rate of interest is sustainable or not;
- VIII) Whether O.P. has unauthorisedly erected any construction on the demised land or not;
- IX) Whether O.P. has unauthorisedly parted with possession of the subject premises to third



# 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. 1723, 1723/R, 1723/D of 2019 Order Sheet No. 26

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

VS

M/S. JIBAN KRISHNA SAMANTA, BASUDEB SRIMANI & CO



21  
09.05.2022

By Order of:  
THE ESTATE OFFICER  
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SYAMA PRASAD MOOKERJEE PORT  
Head Assistant  
OFFICE OF THE I.D. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

- parties without prior approval of SMP, Kolkata or not;
- X) Whether the claim of O.P. as "Tenant Holding Over" in terms of Sec.116 of The Transfer of Property Act has got any merit or not;
  - XI) Whether the notice demanding possession from O.P. issued by the Port Authority dated 13.01.2015 is valid and lawful or not;
  - XII) Whether after alleged expiry of such long term lease O.P. or any other'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 its unauthorised occupation or not;

**Issues No. I & II** are taken up together for convenient discussion, 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 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 in to 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



# 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. 1723, 1723/R, 1723/D of 2019 Order Sheet No. 27

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

**VS**

M/S. JIBAN KRISHNA SAMANTA, BASUDEB SRIMANJARCO

21

09.05.2022

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

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 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"*



# 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. 1723, 1723/R, 1723/D of 2019 Order Sheet No. 28

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

M/S. JIBAN KRISHNA SAMANTA, BASUDEB SRINANI & CO  
VS

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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.

Now, according to law the question of estoppel arise when one person has by his declaration, act or omission, **intentionally** caused or **permitted** another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed in any suit or proceedings between himself and such person or his representative, to deny the truth of that thing. In other words to constitute an estoppels there must be an intention or permission to believe certain thing. There is nomaterial to prove any intention or permission on the part of SMP, Kolkata to consider/accept O.P's status into the Public Premises as "lessee" in respect of Proceedings No. 1723 of 2019 and to withdraw/ cancel the notice dated 13.01.2015. Mere claim of O.P. that all rent amount was paid upto 31.05.2009 cannot be treated as waiver of their (SMP, Kolkata's) right. It is my considered view that the question of 'estopple' 'waiver' and 'acquiescence' as raised on behalf of O.P. does not arise at all in view of the facts and circumstances of the case. Thus the issue No. II is also decided against O.P.

As regards the **issue No.III** i.e on the validity of Quit Notice issued by the Estate Manager (I/C) I must say that the Estate Manager(I/C) of Syama Prasad Mookerjee Port, Kolkata(Erstwhile Kolkata Port Trust) is very much competent to serve ejection notice, acting on behalf of the Board of Trustees' of the Port of Kolkata, particularly when specific approval of the Chairman, SMP, Kolkata is obtained before serving such notice. The Estate Manager, SMP, Kolkata is merely communicating the decision of the Chairman, SMP, Kolkata and such ministerial act on the part of the Estate Manager cannot be said to be out of jurisdiction. I am also of the view that the Estate Manager(I/C), SMP, Kolkata has acted as an agent of Board of Trustees' of the Port of Kolkata and such act cannot be questioned by O.Ps. On the plea of "incompetency". To take this view, I have borrowed my support form 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.

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# Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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Proceedings No. 1723, 1723/R, 1723/D of 2019 Order Sheet No. 29

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

**VS**

M/S. JIBAN KRISHNA SAMANTA, BASUDEB SRIMANI & Co



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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 Estate Manager, SMP, Kolkata was the subject matter of challenge before the Hon'ble High Court, Calcutta and the Division Bench of Calcutta High Court confirmed that Estate 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 Estate Manager/Officer of Kolkata Port Trust in serving ejection 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. The Chairman, SMP, Kolkata having duly authorized the Estate Manager with regard to service of notice, it cannot be said that ejection notice issued by the Estate Manager, SMP, Kolkata is without jurisdiction.

As regards the **issue No. IV** there is no scope to extend the matter by elaborate discussion. The lease in question was expired on and from 31.05.2009 and there was no provision in the expired lease for exercising any option for renewal of the same. In absence of any "renewal clause" that is to say any provision for exercising option for renewal by O.P., I do not find any scope to consider any matter of "renewal of lease" in favour of O.P. In fact O.P. cannot claim "renewal of lease" in question as a matter of right. Hence the issue is decided against O.P.



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VS

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**Issues No.V & VI** are required to be discussed analogously as the issues are related with each other. On the issue of nonpayment of rent and taxes, answering Opposite Party vide their reply to the Show Cause as well as Written Notes of Arguments dated 04.01.2021 denied the claim of SMP, Kolkata. It is the categorical submission of O.P. that they have paid monthly rent diligently for the said land in consonance with the Offer Letter for allotment of such land being No.Lnd.8/7/II dated 16.03.1991. O.P. further pointed out that in the notice dated 13.01.2015 there was no whisper of any outstanding rental amount. However, I am not at all inspired by such submission of O.P. as SMP, Kolkata vide their rejoinder dated 23.08.2021 gave an explanation for non inclusion of such rental dues in the alleged notice to Quit. Therefore, I am convinced by the submission of SMP, Kolkata. Further before this Forum, SMP, Kolkata has also filed an application dated 19.08.2019 which clearly indicates the huge dues on the part of the O.P. There is no reason to disbelief such submission of the statutory authority like SMP, Kolkata. Therefore, it is my considered view that the Port Authority has a definite legitimate claim to get its revenue involved into the Port Property in question as per the SMP, Kolkata's Schedule of Rent Charges for the relevant period and O.P. cannot deny such payment of requisite charges as mentioned in the Schedule of Rent Charges.

Further it is a settled law that during the course of hearing if anything is received by SMP, Kolkata from O.P. that should be treated as occupational charges not as rent. Thus this Forum holds that the charge of default in payment of rent and taxes is definitely established.

On the question of time barred claim of SMP, Kolkata on the issue of "limitation" and applicability of Limitation Act-1963, I have carefully considered all the submissions/ arguments made on behalf of O.P. before the Forum. It is the case of O.P. that SMP, Kolkata's claim against O.P. is hopelessly barred by applying the Law of Limitation, 1963. However, as per settled law 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 P.P. Act puts a complete bar in entertaining any matter before



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**VS**

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the Civil Court in respect of Public Premises. 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 judgment 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. It is my considered view that the contention with regard to "limitation" on behalf of O.P. is applicable in case of Civil suit before the Civil Court to be governed by CPC not before this Forum of Law, which is a quasi-judicial authority under P.P. Act which provides a complete code. More specifically, Limitation Act has its application for suits to be governed under CPC. Hence, the issue is decided in favour of SMP, Kolkata. I am firm in holding that this Forum of Law is very much competent under law to adjudicate the claim of SMP, Kolkata against O.P. and Limitation Act has no application to the proceedings before the Estate Officer which is a quasi-judicial authority under P.P. Act and neither a Civil Court to be governed by the Civil Procedure Code nor a "court" within the scheme of the Indian Limitation Act. Hence, the issues are decided against O.P.

As regards the **issue No.VII**, I must say that waiver of SMP, Kolkata's claim on account of interest is required to be adjudicated seriously as the issue involves mixed question of fact and law as well. It is my considered view that payment of interest is a natural fall out and one must have to pay interest in case of default in making payment of the principal amount due to be payable. Needless to mention that one of the basic conditions of lease that the lessee/ O.P. is liable to pay rents in timely manner to the lessor SMP, Kolkata and any breach in such terms shall invariably attract the penal charges by way of interest. All canons of law permits charging of interest if payments are being made in delayed fashion. For occupation and enjoyment of Port property, the charges leviable upon the



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tenants/occupiers are based on the Schedule of Rent Charges as applicable for a tenant/occupier in respect of respective zone as indicated in such Schedule of Rent Charges. O.P cannot deny such liability of payment of interest as he has failed to pay the principal amount due to be payable by him more so this forum has no power in the matter of waiver of excess interest for which O.P has to pray before proper Authority of SMP, Kolkata. As such, I have no hesitation to decide the issue in favour of SMP, Kolkata and I have no bar to accept the claim of SMP, Kolkata on account of Interest accrued for delayed payment.

**Issues No. VIII & IX** i.e issues of unauthorised construction and unauthorised parting are taken up together for convenient discussion. O.P. vide their reply as well as Written Notes of Arguments dated 04.01.2021 denies such unauthorised construction. It is the categorical submission of O.P. that the sketch map produced by SMP, Kolkata in support of their allegation of unauthorised construction is nothing but a scrap of paper because nothing can be ascertained from it. The construction was there from the very inception. However, such allegation of O.P. is not at all acceptable to me because it appears from adocument of SMP, Kolkata dated 23.08.2021 that such unauthorised construction over the subject premises was very much in existence which wassufficiently detected on 11.06.2012 during a site inspection. Moreover, I have tallied the photo copy of SMP, Kolkata's drawing/sketch Maps being No. 8842-K dated 06.07.2012 with the original where such unauthorised constructions were highlighted in red hatch therefore,

O.P.'s allegation regarding sketch map also lacks it credit. Further it can be added that as per the P.P Act 1971, once the Notice U/S-4 is issued, burden is on the O.P to Show Cause and/or produce evidence but in this case O.P has hopelessly failed to do so. In my view, the O.P. has sufficiently admitted about the existence of unauthorised construction in the premises, and since it is a settled law that admitted facts need not be proved, I have no bar in accepting that the breach of unauthorised construction was existing when the notice to quit dated 13.01.2015 came to be issued by the Port Authority.

Q



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As regards the issue of unauthorized parting with possession, O.P. vide their written notes of arguments dated 04.01.2021 submits that subject premises is still under the exclusive legal possession and complete control of O.P. However, I am not inspired by such submission of O.P. because the Comments/rejoinder filed by the Port Authorities on 23.08.2021 depicts that during inspections on 11.06.2012 and 22.07.2014 number of entities were found functioning on the subject occupation of O.P. such as Lal Chand Satya Narayan, M/s Bisweswar Samanta & Co, Basanta Transport, Jogmaya Hardware, Tarama Enterprises, Sree Ganesh Salt Trading Co, Shree Radhey Sales Agency etc. This Letter/application filed by a Statutory Authority like SMP, Kolkata cannot be disbelieved. Further SMP, Kolkata has also produced some photographs which are sufficiently evidencing the proof of parting with possession in favour of third parties. Therefore, mere denial of unauthorized parting on behalf of the O.P is in my view not sufficient. O.P could have produce document to defend his position. However, in this instant case nothing has been produced by O.P. 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 of unauthorized parting with possession is also decided in favour of SMP, Kolkata.

As regards the **issue No. X**, O.P vide their reply and Written Notes of Arguments submitted that SMP, Kolkata assents to the O.P's continuing in possession by accepting rent and the O.P. becomes a tenant holding over. However, in my view such submission of O.P. is not tenable in the eye of law. The applicability and the effect of "holding over", was the issue in Santi Prasad Devi's case (2005) 5 SCC 543 and Sarup Singh Gupta's case reported in (2006) 4 SCC 205, where the Hon'ble Supreme Court of India while interpreting Sec.116 of T.P. Act with regards to its applicability and the effect of "holding over", held that it is necessary to obtain ascent of the Landlord for continuation of lease after expiry of lease period and mere acceptance of rent by the lessor, in absence of agreement to the contrary, for subsequent months where lessee continues to occupy lease premises

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cannot be said to be conduct signifying assent on its part. Moreover, I have duly taken note of the provision of the expired lease deed in question which contained the responsibility of O.P./lessee regarding yielding up of the demised land at the expiry or determination of the term as per clause 10 under "lessees covenant" which reads as follows:

"AND will at the expiration or sooner determination of the said term quietly and peacefully yield up vacant possession of the demised land as a whole unto the Trustees with all buildings erections, and other structures, if any, erected thereon that shall not have been previously removed by the Lessees"

This clause of handing over possession after expiry of the lease period is a clear manifestation of SMP, Kolkata's intention to get back possession after expiry of the lease period which was "an agreement to the contrary" within the meaning of Sec.116 of the T.P. Act. Further, in the case in hand there is no option for exercising renewal of the lease in question.

In view of the discussion above, I have no hesitation to hold that the plea taken by O.P. as "tenant holding over" has got no merit in the facts and circumstances on the case and O.P.'s occupation has become unauthorised in view of Sec. 2(g) of the P.P. Act. Hence the issue is decided accordingly.

**Issues No. XI & XII** are taken up together as they are related with each other, I must say that a lessee like O.P. cannot claim any legal right to hold the property after expiry of the period of lease. O.P. has failed to satisfy this Forum about any consent on the part of SMP, Kolkata in occupying the public premises. I am consciously of the view that SMP, Kolkata never recognized O.P. as a lawful user/tenant in respect of the property in question after expiry of the period of such long term lease. As per Section 2 (g) of the P.P. Act the "unauthorized occupation", in relation to any Public Premises, means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by any person in 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. Further, as per





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**VS**

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the Transfer of Property Act, a lease of immovable property determines either by efflux of time limited thereby or by implied surrender or on expiration of notice to determine the lease or to quit or of intention to quit, the property leased, duly given by one party to another. It is also a settled question of law that O.P, occupier cannot claim any legal right to hold the property after expiry of the lease, without any valid grant or allotment from SMP, Kolkata's side. Moreover, as per the Transfer of Property Act, 1882, a lessee is under legal obligation to hand over possession of the property to its landlord/lessor in its original condition after expiration of tenancy under lease. The tenancy of the O.P. automatically stands terminated upon expiry of the lease-hold period and no additional Notice is required in the eye of law on the part of the landlord to ask the O.P. to vacate the premises. In other words, in case of a long term lease having a specific date of expiration, there is no legal compulsion upon the landlord to issue any Notice to Quit. The landlord is, however, free to issue such a Notice as a reminder or as an act of gratuity. In the instant case, the landlord i.e. SMP, Kolkata adopted such a course and claims to have issued a Notice to O.P. dated 13.01.2015 asking for vacation of the said premises on 28.02.2015. Whether such Notice has been received by O.P. or not is quite immaterial inasmuch as O.P. was duty bound to hand over possession to SMP, Kolkata after expiry of such lease which it had failed to do so. Therefore, O.P's occupation is unauthorized.

"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 expiry of the lease, O.P. has lost its authority to occupy the public premises and O.P. is 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*



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*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 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(Now Major Port Authorities Act-2021). 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. As per law, when a contract has been expired by efflux of time and party continues their occupation unauthorisedly, the another party who suffers by such violation is entitled to receive, from the party who has violated the terms of the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such violation of the terms, or which the parties knew, when they made the contract to be likely to result from the such violation. O.P. failed to substantiate as to how its occupation could be termed as "authorised" in view of Sec. 2(g) of the P.P



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Act, after expiry of the period as mentioned in the SMP, Kolkata's notice dated 13.01.2015, 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.

NOW THEREFORE, the logical conclusion which could be arrived at that O.P.'s occupation and the occupation of anybody asserting any right through O.P. have become unauthorized and they are liable to be evicted u/s.5 of the Act on 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 lease as granted to O.P. by SMP, Kolkata had doubtlessly determined by efflux of time, in the facts and circumstances of the case.
3. That O.P.'s allegation of incompetency of the Estate Manager (I/C) of SMP, Kolkata for issuing ejection notice for legal proceeding on behalf of SMPK against the O.P. has no basis in law.
4. That O.P. cannot claim renewal of lease from the Port Authority as a matter of right and cannot dictate the terms and conditions of any renewal of lease that may be offered by the Port Authority in terms of their Estate Management Policy.
5. That O.P. has erected unauthorised constructions and parted with possession of the public premises without having any authority of law.
6. That there is no foundation or basis to the contentions of O.P. as "Tenant Holding Over" in terms of Sec.116 of the T.P. Act.
7. That O.P. has violated the condition of long term lease as granted by the Port Authority by way of



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- not making payment of rental dues and taxes to SMP, Kolkata, for a prolonged period of time.
8. That O.P. has failed to make out any ground with regard to the application of the law of Limitation to the present proceedings.
  9. 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".
  10. That no case has been made out on behalf of O.P. as to how its occupation in the Public Premises could be termed as "authorised occupation" after issuance of notice dated 13.01.2015, demanding possession by the Port Authority and O.P's occupation has become unauthorized in view of Sec.2(g) of the P.P. Act, 1971.
  11. That right from the date of expiry of the lease, O.P. has lost its authority to occupy the Public Premises and O.P. is liable to pay dues/compensation charges with interest for wrongful use and enjoyment of the Public Property upto the date of handing over of 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.38,185/- for Plate No.SB-51/A, Rs.13/- for Plate No.SB-51/2,





# 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. 172B, 172B/R, 172B/D of 2019

Order Sheet No. 39

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

VS  
MRS. JIBAN KRISHNA SAMANTA, BASUDEB SRIMANI & CO

21  
09.05.2022

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 Assis  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

Rs.13/- for Plate No.SB-52 & Rs.13/- for Plate No.SB-52/2 all for the period from 01.02.2005 to 31.05.2009 (both days inclusive) are due and recoverable from O.P. by the Port authority on account of rental dues and O.P. must have to pay the rental dues to SMP, Kolkata on or before 27.05.2022. Such dues attract compound interest @ 6.30 % 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.

Likewise, I find that SMP, Kolkata has made out an arguable claim against O.P., founded with sound reasoning, regarding the damages/compensation to be paid for unauthorised occupation. As such, I must say that Rs.66,61,419(Rupees Sixty six lakh sixty one thousand four hundred nineteen only) for Plate No.SB-51/A, Rs.555.84/-(Rupees five hundred fifty five and paise eighty four only) for Plate No.SB-51/2, Rs.636.76(Rupees Six hundred thirty six and paise seventy six only) for Plate No.SB-52 & Rs.632.76(Rupees Six hundred thirty two and paise seventy six only) for Plate No.SB-52/2 as claimed by the Port Authority as damages in relation to the subject premises in question, is correctly payable by O.P. all for the period 01.06.2009 to 31.03.2019 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to SMP, Kolkata by 27.05.2022. The said damages shall attract compound interest @ 6.30% 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. I sign the formal orders u/s 7 of the Act.

I make it clear that SMP, Kolkata is entitled to claim damages against O.P. for unauthorized use and occupation of the public premises right upto the date of recovery of clear, vacant and unencumbered





**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. 1723, 1723/R, 1723/D of 2019 Order Sheet No. 40

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

**VS**  
**M/S JIBAN KRISHNA SAMANTA, BASUDEB SRIMANTRI CO**

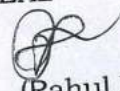
21  
09.05.2022

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**

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

  
(Rahul Mukherjee)  
ESTATE OFFICER

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