



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 1st Floor
of Kolkata Port Trust's
Fairley Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 25 DT 17.5.2022
PROCEEDINGS NO. 1752 of 2019

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-

M/s. A. R. SHIPPING AGENCY

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. A. R. Shipping Agency, 33/1, Netaji Subhash Road, R.N. 534 & 535, Marshall House, 5th Floor, Kolkata- 700 001 AND also of 130, Lokhandwala Building, 4th Floor, Modi Street, Fort, Mumbai-400001** is in unauthorized occupation of the Public Premises specified in the Schedule below:

By Order of:

THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

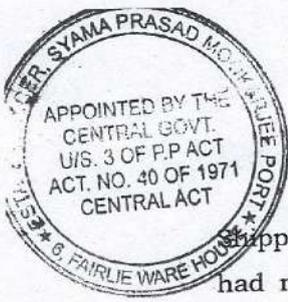
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

18.5.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

REASONS

1. That M/s A. R. Shipping Agency/O.P. has no authority to occupy the Public Premises in question upon expiry of the License period on 16.09.2011 and after the requisition made by SMP, Kolkata, vide their letter dated 13.07.2016.
2. That M/s A. R. Shipping Agency/ O.P. was under legal obligation to hand over vacant, peaceful and unencumbered possession to SMP, Kolkata after expiry of the License period in question on 16.09.2011.
3. That M/s A. R. Shipping Agency/O.P. has palpably failed to discharge its liability to hand over possession of the public premises, as a Licensee, in terms of the Indian Easements Act, 1882.
4. That M/s A. R. Shipping Agency/O.P. has, in the ordinary course of business, also expressed their no-objection, in case SMP, Kolkata restores the possession of the public premises.
5. That M/s A. R. Shipping Agency/O.P. cannot shift its onus/responsibility of payment of occupational charges for use and enjoyment of the public premises in question to M/s Essar Power (Jharkhand) Limited as M/s A. R.

Please see on reverse



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Shipping Agency/O.P. had been granted the License and as SMP, Kolkata has had no privity of estate or relationship with M/s Essar Power (Jharkhand) Limited at the relevant or any subsequent stretch of time.

6. That M/s A. R. Shipping Agency/O.P. has failed to bear any witness or adduce any evidence in support of their contention regarding "authorized occupation".
7. That notice demanding possession from M/s A. R. Shipping Agency/O.P. dated 13.07.2016 as issued by the Port Authority is valid, lawful and binding upon the parties.
8. That occupation of M/s A. R. Shipping Agency/O.P. has become unauthorized in view of Sec 2 (g) of the Public Premises Act and M/s A. R. Shipping Agency/O.P. is liable to pay damages for unauthorized use and enjoyment of the Port property to SMP, Kolkata upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

By Order of:

THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

A copy of the reasoned order No. 25 dated 17.5.2022 is attached hereto which also forms a part of the reasons.

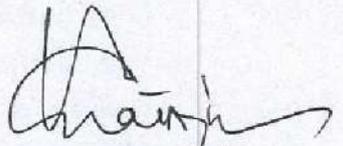
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said M/s. A. R. Shipping Agency, 33/1, Netaji Subhash Road, R.N. 534 & 535, Marshall House, 5th Floor, Kolkata- 700 001 AND also of 130, Lokhandwala Building, 4th Floor, Modi Street, Fort, Mumbai-400001 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. A. R. Shipping Agency, 33/1, Netaji Subhash Road, R.N. 534 & 535, Marshall House, 5th Floor, Kolkata- 700 001 AND also of 130, Lokhandwala Building, 4th Floor, Modi Street, Fort, Mumbai-400001 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

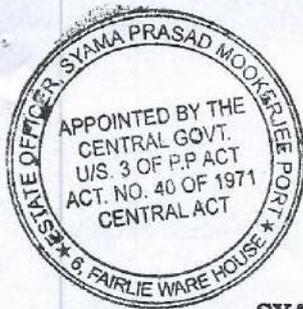
Yard space msg. 12,425 Sq. mtrs. at G.R. Jetty within Kolkata Dock System under Syama Prasad Mookerjee Port, Kolkata, (Erstwhile Board of Trustees' for the Port of Kolkata) in the presidency town of Kolkata.

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

Dated: 18.5.2022


Signature & Seal of the
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
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REASONED ORDER NO. 25 DT 17.5.2022
PROCEEDINGS NO. 1752/D OF 2019

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. A. R. Shipping Agency,
33/1, Netaji Subhash Road,
R.N. 534 & 535, Marshall House,
5th Floor, Kolkata- 700 001.
AND
130, Lokhandwala Building, 4th Floor,
Modi Street, Fort,
Mumbai-400001.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
17.5.2022
Deputy Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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

And whereas by written notice dated 14.09.2020 you were called upon to show-cause on/or before 28.09.2020 why an order requiring you to pay a sum of Rs 99,09,78,573.52 (Rupees Ninety Nine Crore Nine Lakhs Seventy Eight Thousand Five Hundred Seventy Three and Paise Fifty Two Only) being damages payable 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 99,09,78,573.52 (Rupees Ninety Nine Crore Nine Lakhs Seventy Eight Thousand Five Hundred Seventy Three and Paise Fifty Two Only) for the period from 16.09.2011 to 31.01.2020 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust, by 31.5.2022.

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, 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) on the above sum with effect from the date of incurrence of liability, till its final payment in accordance with Notification Published in Official Gazette/s.

Please see on reverse



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copy of the reasoned order no. 25 dated 17.5.2022 is attached hereto.

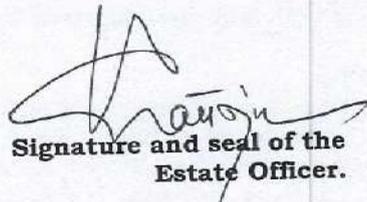
In the event of your refusal or failure to pay the damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue.

SCHEDULE

Yard space msg. 12,425 Sq. mtrs. at G.R. Jetty within Kolkata Dock System under Syama Prasad Mookerjee Port, Kolkata, (erstwhile Board of Trustees' for the Port of Kolkata) in the presidency town of Kolkata.

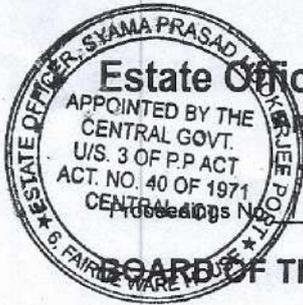
Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

Dated: 18.5.2022


Signature and seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, KOLKATA PORT TRUST FOR INFORMATION.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
18.5.2022
Asst. Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

1752, 1752/D of 2019 Order Sheet No. 24

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s. A.R. Shipping Agency ^{VS}

FINAL ORDER

Relevant facts leading to this proceeding are required to be put forward in order to link up the chain of events. It is the case of **Syama Prasad Mookerjee Port, Kolkata** [erstwhile Kolkata Port Trust/ KoPT], hereinafter referred to as '**SMP, Kolkata**', the applicant herein, that **M/s. A.R. Shipping Agency**, hereinafter referred to as the 'opposite party'/ '**O.P.**' herein, came into occupation of the Port Property, being land measuring 12,425 Sq.m. at G.R. Jetty within Kolkata Dock System, as a Licensee for a period of 30 days with effect from 17.08.2011, on certain terms and conditions, as outlined in the offer letter No Lnd 5194/2158/GR Jetty Yard/ 13541/11/521 dated 05.09.2011. It is the case of SMP, Kolkata that the tenure of License was expired on 16.09.2011 and consequently, O.P's occupation has become unauthorised on and from 16.09.2011, making them liable for payment of damages for wrongful use and unauthorized enjoyment of the Port Property.

It is the case of SMP, Kolkata that they made a request to the O.P. to quit, vacate and deliver up the peaceful possession of the subject premises on 31.08.2016 in terms of the notice bearing no Lnd 5194/2158/23 dated 13.07.2016. As the O.P. did not vacate the premises even after issuance of the notice, the instant proceeding bearing no 1752, 1752/D of 2019 was initiated before the Forum for the eviction of the alleged unauthorized occupant, seeking other reliefs. It is the case of SMP, Kolkata that as the O.P. has failed to deliver back possession after expiry of the License period on 16.09.2011, even after the issuance of notice demanding possession dated 13.07.2016, O.P's occupation has become unauthorised on and from 16.09.2011 and O.P. is liable to pay damages for wrongful use and enjoyment of the Port Property in question. It is strongly argued during the course of hearing, that a sum of Rs. 99 Crores (approximately) is due and recoverable from

25
17.5.2022

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



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1752, 1752/D of 2019 Order Sheet No. 25

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

m/s A.R. Shipping ^{VS} Agency.

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17.5.2022

O.P. and ^{their} continued unauthorized enjoyment of the premises without paying the requisite charges for occupation militates against the well laid provisions of the Public Policy and as such is highly objectionable.

This Forum of Law formed its opinion to proceed against O.P. under the relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and issued show Cause Notices u/s 4 of the Act (for adjudication of the prayer for order of eviction) and u/s 7 of the Act (for adjudication of the prayer for realisation of damages) as per rule made under the Act, both dated 14.09.2020.

The O.P. appeared before this Forum through their Ld. Advocate and contested the case and filed several applications/ objections. It reveals from record that O.P. filed their reply to the Show Cause Notice on 14.01.2021. The O.P. also filed application under Order 1, Rule 9 and 10 of the Code of Civil Procedure on 25.01.2021, the reply dated 15.03.2021 against the written objection filed by SMP, Kolkata and an additional reply dated 11.04.2021 to the Show Cause Notice dated 14.09.2020. SMP Kolkata, on the other hand, filed several applications dated 09.09.2018, 19.09.2019, 25.02.2020, 27.07.2020 and the written objection dated 25.02.2021 and a rejoinder dated 23.04.2021.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of the parties.

It has been the contention of M/s A. R. Shipping Agency/O.P. that one M/s Essar Shipping, Ports & Logistics entered into an agreement with one M/s Core Shipping & Logistics Pvt. Ltd. for clearing and forwarding for one M/s Essar Power Plant Projects Cargo at Madhya Pradesh with certain terms and conditions. M/s Core Shipping & Logistics Pvt. Ltd. entrusted the said job to M/s A. R. Shipping Agency/ O.P. vide

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PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
17.5.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

52,1752/D of 2019 Order Sheet No. 26

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

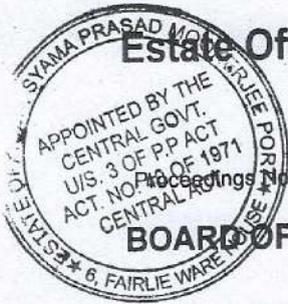
M/s A.R. Shipping Agency VS

25
17.5.2022

Memorandum of Understanding dated 30.04.2009. It has been submitted that M/s A. R. Shipping Agency/ O.P. has been acting as a mere "Custom House Agent" of the other company and has no liability towards payment of occupational charges/ damages/ compensation to SMP, Kolkata for the subject occupation. In support of such contention, M/s A. R. Shipping Agency/ O.P. has produced a copy of letter dated 15.07.2014 written by said M/s Essar Power (Jharkhand) Limited to the Traffic Manager of SMP, Kolkata intimating that all the legitimate dues for said licensed plot shall be paid by M/s Essar Power (Jharkhand) Limited and not by M/s A. R. Shipping Agency/ O.P., as they have been acting as mere custom house agent. It has further been submitted that M/s A. R. Shipping Agency/ O.P. has no objection even if SMP, Kolkata takes over possession of the subject premises. Referring to the above contentions, the M/s A. R. Shipping Agency/ O.P. has prayed for dismissal of the instant proceedings in limini.

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18.5.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

On the other hand, SMP, Kolkata submitted that M/s A. R. Shipping Agency/ O.P. had been granted a License at GR jetty for a period of 30 days w.e.f. 17.08.2011 for the purpose of storage of Project Cargo in terms of their request vide letter dated 16.08.2011. M/s A. R. Shipping Agency/ O.P. failed to hand over possession of the premises after expiry of the license period and continued to use, enjoy the port property unauthorisedly, without having any authority under the law. It has been submitted by SMP, Kolkata that M/s A. R. Shipping Agency/ O.P. failed to liquidate the dues of SMP, Kolkata for the use and enjoyment of the Port Property in question. SMP, Kolkata submitted that SMP, Kolkata is not a party to the agreement/s, which M/s A. R. Shipping Agency/ O.P. might have either with M/s Core Shipping & Logistics Pvt. Ltd. or with M/s Essar Power (Jharkhand) Limited and therefore, the terms of such agreement, if any, are extraneous to and not binding upon SMP, Kolkata. Strong arguments have been



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. 1752, 1752/D of 2019 Order Sheet No. 27

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s A.R. Shipping Agency ^{VS}

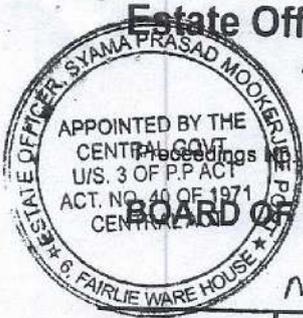
advanced that as M/s A. R. Shipping Agency/ O.P. is the entity who had been granted with the license, it has been the duty of M/s A. R. Shipping Agency/ O.P. to pay the legitimate dues of SMP, Kolkata for the continuous use and enjoyment of the premises till the date of delivery of the vacant possession to SMP, Kolkata. It has been submitted that M/s A. R. Shipping Agency/ O.P. is also liable to pay the accrued interest upto the date of liquidation of the dues in full.

During the continuance of the proceedings M/s A. R. Shipping Agency/ O.P. has prayed for addition of M/s Essar Power (Jharkhand) Ltd. as a party to the present proceeding as per the provision laid down in Order 1 Rule 9 & 10 of the Civil Procedure Code, 1908. SMP, Kolkata has raised objections to the said contention of O.P. stating that there is no privity of contract between SMP, Kolkata and M/s Essar Power (Jharkhand) Ltd. and therefore, there is no need to hear M/s Essar Power (Jharkhand) Ltd. on the issue regarding payments. Upon considering the submissions advanced by the parties, this Forum was of the view that no harm would be caused if M/s Essar Power (Jharkhand) Ltd. is given a chance to represent their case, if any, in response to the contentions raised by O.P. regarding liquidation of SMP, Kolkata's outstanding dues. Hence, Department was directed to serve a copy of the order upon M/s Essar Power (Jharkhand) Ltd. to the address as submitted by the O.P. Accordingly, a notice has been sent through 'Speed Post' to the address of M/s Essar Power (Jharkhand) Limited at Equinox Business Park, 5th Floor, Tower-II, Office- Bandra Kurla Complex, LBS, Marg, Kurla (W), Mumbai- 400 070. However, the notice was returned undelivered by the Postal Department with the remark "left". Then a further attempt was made to deliver the notice to the alternative address of M/s Essar Power (Jharkhand) Limited at Prakash Deep Building, 10th Floor, 7 Tolstoy Marg, New Delhi, 110001. Unfortunately, the notice was also returned undelivered by the Postal Department with the

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SYAMA PRASAD MOOKERJEE PORT
18.5.2022
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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



1752, 1752/D of 2019 Order Sheet No. 28

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s A.R. Shipping Agency VS Agency

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similar remarks "left". In spite of such efforts being made, the appearance/ comments of M/s Essar Power (Jharkhand) Limited could not be ensured/ elicited and the efforts remained futile.

At this juncture of the proceedings, M/s A. R. Shipping Agency/ O.P. expressed their no-objection if SMP, Kolkata takes over the possession of the subject premises, as allegedly M/s A. R. Shipping Agency/ O.P. did not enjoy any form of entitlement from the premises. In the backdrop of the above scenario, the Final Order in the matter was reserved by the Forum on 05.05.2021.

Now, after careful consideration of all relevant papers/documents as produced before me in course of hearing by SMP, Kolkata and M/s A. R. Shipping Agency/ O.P. and after due consideration of the submissions/arguments made on behalf of the parties, I find that following issues have come up for my adjudication:

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
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SYAMA PRASAD MOOKERJEE PORT
17.5.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

1. Whether the proceedings is maintainable against M/s A. R. Shipping Agency/ O.P. or not;
2. Whether M/s A. R. Shipping Agency/ O.P. has the authority to occupy the Public Premises in question upon expiry of the License period on 16.09.2011 and after the requisition made by SMP, Kolkata vide letter dated 13.07.2016 or not;
3. Whether it has been the obligation of M/s A. R. Shipping Agency/ O.P. under law to hand over vacant, peaceful and unencumbered possession to SMP, Kolkata after expiry of the License period in question on 16.09.2011 or not.
4. Whether the plea taken by M/s A. R. Shipping Agency/ O.P. in connection with the liability of M/s Essar Power



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

1752, 1752/D of 2019 Order Sheet No. 29

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

m/s A.R. Shipping Agency ^{VS}

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17.5.2022

(Jharkhand) Limited towards payment of rental dues/charges has got any merit in the eyes of Law or not;

5. Whether the plea taken by M/s A. R. Shipping Agency/ O.P. for non-payment of SMP, Kolkata's charges for utilization of the land for M/s Essar Power (Jharkhand) Limited project has got any merit in the eyes of Law or not;

6. Whether the plea taken by M/s A. R. Shipping Agency/ O.P. for recovery of the occupational charges from M/s Essar Power (Jharkhand) Limited has got any merit or not;

7. Whether the notice demanding possession from O.P. dated 13.07.2016 is valid and lawful or not;

8. Whether M/s A. R. Shipping Agency/ O.P. is liable to pay damages for wrongful occupation to SMP, Kolkata or not;

With regard to **Issue No. 1**, I must say that the properties owned and controlled by the Port Authority have 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 an unauthorized occupant into the public premises with the prayer for order of eviction, recovery of rental dues and mesne profit/ damages against the O.P., on the plea of expiry of license or termination of authority to occupy the premises as 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, the adjudication process by serving

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19.5.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

U/S Proceedings No. 1752, 1752/D of 2019 Order Sheet No. 30

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s A.R. Shipping Agency. VS

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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. To take this view, I am fortified by an unreported judgment of the Hon'ble High Court, Calcutta delivered by Hon'ble Mr. Justice Jyotirmay Bhattacharya on 11.03.2010 in Civil Revisional Jurisdiction (Appellate Side) being C.O. No. 3690 of 2009 (M/s Reform Flour Mills Pvt. Ltd. -Vs- Board of Trustees' of the Port of Calcutta) wherein it has been observed specifically that the Estate Officer shall have jurisdiction to proceed with the matter on merit even there is an interim order of *status quo* 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

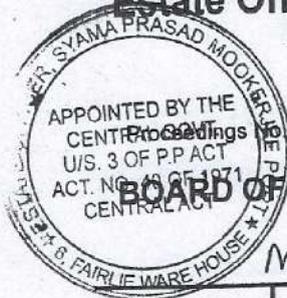
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Appointed by the Central Govt. Under Section 3 of the Public Premises
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public premises being found as an unauthorized occupant would be subject to the Estate Officer's jurisdiction for the purpose 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"

The judgment and order passed by the Division Bench of Calcutta High Court, particularly to the paragraphs 28 and 29 regarding the duty cast upon the Estate Officer under P.P. Act, in dealing with the scope for adjudication process is very instrumental in deciding the point at issue. The relevant portion of the judgment is reproduced below :-

Para -28 "After the Ashoka Marketing case the question that is posed here should scarcely have arisen. Any further doubt is now settled by the Nusli Neville Wadia judgment. Though an Estate Officer under the said Act is not required to be versed in law, he has sufficient powers to decide the question as to whether a noticee u/s 4 of the said Act is an unauthorised occupant and it is adjudication of such score against the noticee that will permit him to proceed to evict the occupant adjudged to be unauthorised. Just as in the case of any Land Lord governed by the Transfer of Property Act such land lord would have to justify his decision to determine the lease or terminate the authority of the occupier to remain in possession in a Civil suit instituted either by the Land Lord for eviction or by the Lessee or occupier to challenge the notice, so is it with a statutory authority land lord under the said Act of 1971. The said Act merely removes the authority of the Civil Court to adjudicate such issue and places it before an Estate Officer under the said

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Act to decide the matter in summary proceedings. The estate officer has to look into all materials before him and, in fit cases, receive oral evidence before he can arrive at a conclusion as to whether the noticee u/s 4 of the said Act is in unauthorised occupation of the Public Premises. If he holds that the noticee is, indeed, an unauthorised occupant he proceeds to remove the noticee and his belongings from the Public Premises; if he finds that the noticee is entitled to continue in possession, the matter is over. It is only the entire scope of adjudication on such issues that it removed from a Civil Court and is placed before the estate officer; the substantive law under the Transfer of the Property Act may still be cited before the estate officer and taken into account by him for the purpose of his adjudication. The usual process under the Civil Procedure Code is merely substituted by a summary procedure before the estate officer. The only difference is that the lessee or occupier of any Public Premises may not bring a matter before the estate officer of his own accord, such lessee or occupier only defend his position as respondent if the estate officer is moved by the statutory authority landlord"

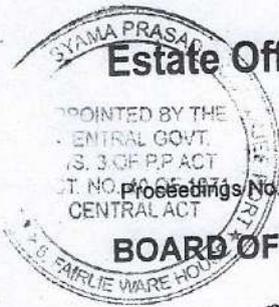
Para-29 "

..... As in a Civil suit that a landlord would be required to institute if the lessee or occupier did not pay heed to a notice to quit, so would a statutory authority landlord be liable to justify, before the estate officer, its decision to determine the lease or revoke the occupier's authority to remain possession of the Public Premises. It is not an Anamallai Club situation where a notice to quit is issued the previous moment and bulldozers immediately follow".

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.

The issues No. 2 and 3 are most vital for deciding the question of M/s A. R. Shipping Agency/O.P.'s authority to occupy the

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T. NO. 1752, 1752/D
CENTRAL ACT

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premises and as such a conjoint dealing with these issues is found convenient. The possession of the subject premises was granted to M/s A. R. Shipping Agency/O.P. on License basis. It appears from records that M/s A. R. Shipping Agency/O.P. vide their letter dated 16.08.2011 applied for grant of license for 30 days for yard space measuring about 5000 sqm at G.R. Jetty. Such application was recommended by the Traffic manager, SMP, Kolkata under recommendation no TFC/GZZY355/ GRJ/2158 dated 17.08.2011. Accordingly, M/s A. R. Shipping Agency/O.P. have initially been granted license of yard space measuring 5000 sqm at the said G.R. Jetty with effect from 17.08.2011. Thereafter, on physical measurement the area under occupation was found to be 12,425 sqmt and therefore, the license bill was issued for the area 12,425 sqmt, which, as per records, was agreed to by M/s A. R. Shipping Agency/O.P. who tendered some payments, accordingly, for the said 12425 sqmt of area. I find copies of 2 (two) letters, both dated 24.10.2011 of M/s A. R. Shipping Agency/O.P. tendering payments to SMP, Kolkata for 12,425 sqmt of area. It is clear that the Public Premises in question was allotted by SMP, Kolkata to M/s A. R. Shipping Agency/O.P. on License basis. The nature of allotment/ grant of the Public Premises on License basis was never under challenge in the present adjudication. Now, as per law, a license is a mere conferment of a right to do something in or upon the immovable property of the grantor (here, in this case, SMP, Kolkata), something, which would, in the absence of such right, be construed as unlawful. A licensee is bound to comply with all the terms and conditions for grant of license and failure on the part of licensee to comply with the fundamental conditions for grant of such license, that is to say, non-surrender of the premises after expiry of the license period, can definitely entitle the grantor to exercise their concomitant right to take the appropriate recourse of law. As per the laid down laws, a licensee, in this case, the O.P. is holding on to a an inferior quality of right to occupy the premises, not comparable to a

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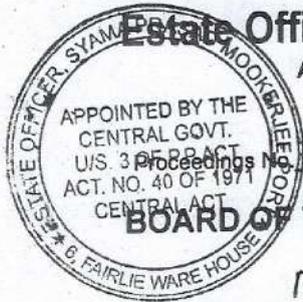
BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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lessee. It is a settled question of law that the offer for grant of license together with the governing terms and conditions, it enjoins upon the licensee to discharge, always flows from the side of the licensor and never originates from the licensee. A licensee is very much bound not only to accept the offer but also faithfully obey all the terms and conditions entailing upon it so long as it enjoys the said right. It is the case of SMP, Kolkata that the license of M/s A. R. Shipping Agency/O.P. was expired on 16.09.2011 and thereafter a requisition was made by SMP, Kolkata in terms of their letter dated 13.07.2016, requesting M/s A. R. Shipping Agency/O.P. to quit, vacate and deliver up the peaceful possession of the premises to SMP, Kolkata on 31.08.2016. The receipt of the said notice was also never under challenge by M/s A. R. Shipping Agency/O.P. in the proceeding. As per Section 62 of the Indian Easements Act, 1882 a license is deemed to revoke when it has been granted for a limited period, and the period expires. As per Section 52 of the Act where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the immovable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license. Further, as per Section 63 of the said Act, where a license is revoked, the licensee is entitled to a reasonable time to leave the property affected thereby and to remove any goods which he has been allowed to place on such property. In this regard, it may require mention here that a requisition was made by SMP, Kolkata in the year 2016, which is much after the expiry on the license in 2011. Thus, in my understanding, the "authority" of M/s A. R. Shipping Agency/O.P. came to an end with the expiry/ revocation of license on 16.09.2011 and the Port Authority was free to take actions against M/s A. R. Shipping Agency/O.P. by taking appropriate recourse to law to get back the possession of the premises. During the course of hearing, a forceful argument / submission has been made

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from the end of the Port Authority to get back the possession of the premises after such expiry of the license agreement. It is pleaded that Port Authority is lawfully entitled to protect their legal right as the landlord, so that nobody can take the plea of 'consented occupation'. I find no element of consent on the part of the SMP, Kolkata Authority in the form of expression of its assent for continuance in such occupation by M/s A. R. Shipping Agency/O.P., after expiry of the license period.

In view of the above, I am firm in holding that M/s A. R. Shipping Agency/O.P. has no authority to continue to occupy the Public Premises in question, upon expiry of the License period on 16.09.2011 and after the requisition made by SMP, Kolkata's vide letter dated 13.07.2016; and, in the ordinary sequence of events, as mandated in terms of the grant of the license by SMP, Kolkata, M/s A. R. Shipping Agency/ O.P. was under legal obligation to hand over vacant, peaceful and unencumbered possession of the premises to SMP, Kolkata after expiry of the License period in question on 16.09.2011 and mere demand for possession from SMP, Kolkata's end, conveyed through the legal instrument of the quit notice, is sufficient to initiate action against M/s A. R. Shipping Agency/O.P. for recovery of possession.

Hence, the issues are decided in favour of SMP, Kolkata.

The issues No. 4, 5 and 6 are required to be dealt with together as the issues are related to each other and each casts an impact over the other. These issues are required to be decided, purely upon consideration of the mixed question of fact and law as well, dealing with the rights and liabilities of the parties in dispute.

No case has been made out on behalf of M/s A. R. Shipping Agency/O.P. as to how its occupation has become authorized after expiry of the period of license in respect of the property in question. It appears that M/s A. R. Shipping Agency/O.P. not

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only neglected to exercise its right for renewal of license for a further period but also expressed its intent to surrender possession to SMP, Kolkata during the course of hearing of the instant matter. There is no scope for interpreting it otherwise as the liability of a Licensee is clearly enunciated in the statute as per the provisions of the Indian Easements Act, 1882. I have gone through SMP, Kolkata's notice demanding possession from M/s A. R. Shipping Agency/O.P. dated 13.07.2016 and O.P's application dated 11.04.2021, in that SMP, Kolkata is free to restore the possession of the premises. It was stated by M/s A. R. Shipping Agency/O.P. vide their application dated 11.04.2021 that they are not in possession of the premises and the subject premises was taken for the benefit of the consignee. It was also agitated by M/s A. R. Shipping Agency/O.P. that M/s Essar Power (Jharkhand) Limited is required to be pursued for liquidation of SMP, Kolkata dues/ charges for the premises in question. Reliance was placed on a copy of letter dated 15.07.2014 written by M/s Essar Power (Jharkhand) Limited to the then Traffic Manager of SMP, Kolkata intimating that all the legitimate dues for said licensed plot shall be paid by M/s Essar Power (Jharkhand) Limited and not by M/s A. R. Shipping Agency/O.P., as they have been acting as a mere custom house agent. SMP, Kolkata, on the other hand, made strong arguments against the contentions raised by M/s A. R. Shipping Agency/O.P. stating that the license had been granted to M/s A. R. Shipping Agency/O.P. and not to M/s Essar Power (Jharkhand) Limited and further there is no privity of contract between SMP, Kolkata and M/s Essar Power (Jharkhand) Ltd., and therefore, all the dues of SMP, Kolkata are required to be liquidated by M/s A. R. Shipping Agency/O.P., as per its statutory obligation, and not by M/s Essar Power (Jharkhand) Limited. It is also evident from records that way back in the year 2011, M/s A. R. Shipping Agency/O.P. tendered some amount on account of occupational charges to SMP, Kolkata, which is in keeping with OP's obligations conferred upon by

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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s A.R. Shipping Agency ^{VS} Agency.

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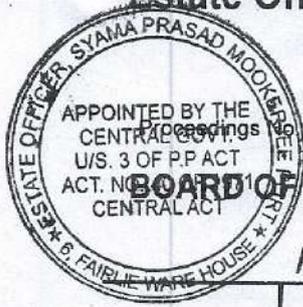
the said license, by its grantor, SMP, Kolkata. Now the question arises whether M/s A. R. Shipping Agency/O.P. can adopt a totally contrary stance as to deny the liability afterwards, for payment of SMP, Kolkata's legitimate charges, on the plea of non-utilisation of land for their own purpose or its acting as 'custom house agent' on behalf of the other company. The terms & conditions of the License specifically provides that M/s A. R. Shipping Agency/O.P. was supposed to surrender possession to SMP, Kolkata in vacant and unencumbered condition, upon expiry of the period of license. It is needless to mention that the rights and liabilities of M/s A. R. Shipping Agency/O.P. cannot go beyond the scope of the License agreement, executed by and between SMP, Kolkata and M/s A. R. Shipping Agency/O.P, defining the jural relationship between the two. SMP, Kolkata cannot risk its revenue for any act done or promise made by M/s Essar Power (Jharkhand) Limited as SMP, Kolkata has had no privity of estate with M/s Essar Power (Jharkhand) Limited with regard to the public premises in question or, for that matter, in the factual circumstances of the matter, SMP, Kolkata has never been a party to the said assignment of role of 'custom house agency', as reported by M/s A. R. Shipping Agency/O.P. In this context, the contractual provisions of the License with M/s A. R. Shipping Agency/O.P. must have cardinal and overriding effect and prevail upon over the agreement/arrangements, if any, executed between M/s A. R. Shipping Agency/O.P. and M/s Essar Power (Jharkhand) Limited, in respect of the Public Premises in question. The claims of M/s A. R. Shipping Agency/O.P. for payment of occupational charges of SMP, Kolkata property are against M/s Essar Power (Jharkhand) Limited and not against SMP, Kolkata.

All these discussions must lead to the conclusion that M/s A. R. Shipping Agency/O.P. cannot shift its responsibility for payment of occupational charges to M/s Essar Power (Jharkhand) Limited, by taking the shield of its performing the role of a mere 'custom house agency' or of non-utilization of

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land for its own purpose, even after being accorded the right of license by SMP, Kolkata for the purported usage of said land within the scheduled period of license and having accepted all the terms and conditions, including making payments for the said usage of the land that the said license entailed upon it. In my view, statement of M/s Essar Power (Jharkhand) Limited, as appears from the letter dated 15.07.2014, that they would pay all the legitimate dues of SMP, Kolkata for said licensed plot does not create any obligation on the part of SMP, Kolkata to deal with M/s Essar Power (Jharkhand) Ltd. as per law, in the current facts and circumstances of the case. The grievances, if any, on the part of M/s A. R. Shipping Agency/O.P., may be against M/s Essar Power (Jharkhand) Limited for non-payment of SMP, Kolkata's dues but that cannot create any right in favour of M/s A. R. Shipping Agency/O.P. to hold on to the property against the will of the Landlord/Port Authority or shift the onus of the payment to another agency over which SMP, Kolkata, the grantor of the instant license, does not have any privity of contract.

In view of the discussions above, all the issues are decided accordingly, in favour of SMP, Kolkata.

Issues under 7 and 8 are required to be dealt with *pari passu* as they are interrelated through assignation of reasons. The discussions made against the foregoing issues are bound to dominate the foregoing disquisition. I have gone deeply into the submissions/ arguments made on behalf of the parties in course of hearing. The properties of the SMP, Kolkata are coming under the purview of "public premises" as defined under the Act. Now the question arises how a person becomes an unauthorized occupant into such public premises. As per Section 2 (g) of the Act, the "unauthorized occupation", in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by

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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. As discussed above, that as per the Indian Easements Act, 1882, a license is deemed to be revoked upon the expiration of the period for which it was granted. The Port Authority, by service of a notice dated 13.07.2016, had demanded possession from M/s A. R. Shipping Agency/O.P. SMP, Kolkata intended to determine the tenancy of M/s A. R. Shipping Agency/O.P. and did not recognize M/s A. R. Shipping Agency/O.P. as tenant by way of not issuing rent demand. As such, I have no bar to accept SMP, Kolkata's contentions regarding revocation of the License as discussed/decided against the aforesaid paragraphs, on evaluation of the facts and circumstances of the case.

Now, the "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 license period, as mentioned in license agreement, M/s A. R. Shipping Agency/O.P. has lost its authority to occupy the public premises; and evaluation of factual aspects involved in this matter, as already discussed in the aforesaid, is a clear pointer to M/s A. R. Shipping Agency/O.P.'s liability to pay damages/mesne profits as compensation to SMPK, for its continued unauthorized use and occupation of the said piece of land.

As per Clause 2 (xii) of the license agreement, after expiry of the 60 days of the license or in case of termination or determination or forfeiture of license, if the licensee continues to occupy the area unauthorisedly, the licensee is liable to pay compensation for wrongful use and occupation at the following rates, till vacant possession of the same is obtained by SMP, Kolkata:

<u>Period</u>	<u>Chargeable rate</u>
For first 30 days.....	@ 3 times the rate as of

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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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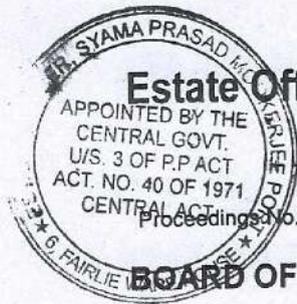
prevailing Schedule Of Rent
(SoR)

For next 30 days..... @ 5 times the rate as of
prevailing SoR

For continued unauthorised @ 10 times the rate as of
occupation beyond 60 days prevailing SOR
from the date of expiry or
termination of the
license.....

The Port Authority has a definite and 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 M/s A. R. Shipping Agency/O.P. cannot claim continuance of its occupation, without making payment of the requisite charges as mentioned in the Schedule of Rent Charges. To take this view, I am fortified by the Apex Court judgment report 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 the 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, as an indemnity or reparation for the loss, suffered on account of the breach committed by the licensee after termination/revocation of the due period of license. As per law, when a contract has been broken, the party who suffers by such breach is entitled to receive, from the party who has broken the contract, an amount of compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract, to likely to result from the breach of it. Moreover, as per the law, M/s A. R. Shipping Agency/O.P. is bound to deliver up vacant and peaceful

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possession of the public premises to SMP, Kolkata after expiry of the period of license in question. I have no hesitation to observe that O.P's act in continuing occupation is unauthorized and M/s A. R. Shipping Agency/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. With this observation, I must reiterate that the notice dated 13.07.2016, demanding possession from M/s A. R. Shipping Agency/O.P. is valid, lawful and binding upon the parties.

In view of the discussions above, the issues are decided in favour of SMP, Kolkata.

Now, therefore, the logical conclusion which could be arrived at in view of the foregoing discussions, is that it is a fit case for allowing SMP, Kolkata's prayer for eviction, as prayed for by their application dated 15.11.2016 for the following grounds/ reasons:

1. That M/s A. R. Shipping Agency/O.P. has no authority to occupy the Public Premises in question upon expiry of the License period on 16.09.2011 and after the requisition made by SMP, Kolkata, vide their letter dated 13.07.2016.
2. That M/s A. R. Shipping Agency/ O.P. was under legal obligation to hand over vacant, peaceful and unencumbered possession to SMP, Kolkata after expiry of the License period in question on 16.09.2011.
3. That M/s A. R. Shipping Agency/O.P. has palpably failed to discharge its liability to hand over possession of the public premises, as a Licensee, in terms of the Indian Easements Act, 1882.
4. That M/s A. R. Shipping Agency/O.P. has, in the ordinary course of business, also expressed their no-objection, in case SMP, Kolkata restores the possession of the public premises.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT.
18.5.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

1752, 1752/D Of 2019 Order Sheet No. 42

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

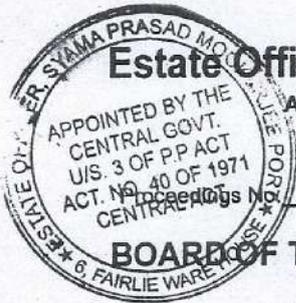
M/s A.R. Shipping Agency ^{VS}

25
17.5.2022

5. That M/s A. R. Shipping Agency/O.P. cannot shift its onus/responsibility of payment of occupational charges for use and enjoyment of the public premises in question to M/s Essar Power (Jharkhand) Limited as M/s A. R. Shipping Agency/O.P. had been granted the License and as SMP, Kolkata has had no privity of estate or relationship with M/s Essar Power (Jharkhand) Limited at the relevant or any subsequent stretch of time.
6. That O.P. has failed to bear any witness or adduce any evidence in support of their contention regarding "authorized occupation".
7. That notice demanding possession from M/s A. R. Shipping Agency/O.P. dated 13.07.2016 as issued by the Port Authority is valid, lawful and binding upon the parties.
8. That occupation of M/s A. R. Shipping Agency/O.P. has become unauthorized in view of Sec 2 (g) of the Public Premises Act and M/s A. R. Shipping Agency/O.P. is liable to pay damages for unauthorized use and enjoyment of the Port property to SMP, Kolkata upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

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17.5.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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 M/s A. R. Shipping Agency/O.P. and/or 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 is liable to be evicted by this order and the SMP, Kolkata /Port Authority is entitled to claim damages for unauthorized use and enjoyment of the property against O.P., in accordance with the Law, upto the date of recovery of possession of the same.



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

1752, 1752/D of 2019 Order Sheet No. 43

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s A.R. Shipping ^{VS} Agency

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17.5.2022

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.

In view of the discussions made above, it is my considered view that a sum of Rs 99,09,78,573.52 (Rupees Ninety Nine Crore Nine Lakhs Seventy Eight Thousand Five Hundred Seventy Three and Paise Fifty Two Only) for the period from 16.09.2011 to 31.01.2020 is due and recoverable from M/s A. R. Shipping Agency/O.P. by the Port authority on account of compensation/ mesne profit/ damage charges.

M/s A. R. Shipping Agency/O.P. must have to pay such dues to SMP, Kolkata on or before 31.5.2022. Such dues attracts-Compound Interest @ 6.30 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered 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.

I make it clear that SMP, Kolkata is entitled to claim damages against M/s A. R. Shipping Agency/O.P. for unauthorized use and occupation of the public premises right upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law, and as such the liability of M/s A. R. Shipping Agency/O.P. to pay damages extends beyond 31.01.2020 as well, till such time the possession of the premise continues to be under the unauthorized occupation with the M/s A. R. Shipping Agency/O.P. SMP, Kolkata is directed to submit a statement comprising details of its calculation of damages after 31.01.2020, indicating therein, 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

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CERTIFIED COPY OF THE ORDER
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SYAMA PRASAD MOOKERJEE PORT
17.5.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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



Order No. 752, 1752/0 of 2019 Order Sheet No. 44

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s. A.R. Shipping Agency ^{VS}

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with the basis on which such charges are claimed against M/s A. R. Shipping Agency/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 M/s A. R. Shipping Agency/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)
(Kaushik Chatterjee)
ESTATE OFFICER

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
18.5.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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