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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.27 DT 26.7.2022 -
PROCEEDINGS NO 991/D OF 2008

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
Mahendra Kumar jain,
Proprietor M/s. Mahendra Kumar Jain ,
221/2, Strand Bank Road,
Kolkarta - 700 001.

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 02.05.2022 (vide Order No. 23 dated
19.04.2022) you were called upon to show- cause on/or before 17.05.2022 why
an order requiring you to pay a sum of Rs 6,60,804.66 (Rupees Six Lakhs Sixty
Thousand Eight Hundred Four and paise Sixty Six 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 6,60,804.66 (Rupees Six Lakhs Sixty
Thousand Eight Hundred Four and paise Sixty Six only) for the period from
01.08.2003 to 21.05.2018 assessed by me as damages on account of your
unauthorised occupation of the premises to Kolkata Port Trust, by 10.08.2022.

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

:2:

A copy of the reasoned order no. 27 dated 26.7.2022 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

PLATE No. : CG 202/1

Room Nos. 3 & 4 Msg. 8.08 Sq.m and 12.45 Sq.m on the top floor of the Trustees' building being the premises No. 221/2, Strand Bank Road situated on the west side of Strand Bank Road in the Presidency town of kolkata. It is bounded on the north by a common verandah, on the south by the open space below which lies a passage, on the east by the open roof space and on the west by a short common passage.

Trustees' means the Board to Trustees' Syama Prasad Mookerjee Port, Kolkata, (Erstwhile Board of Trustees' for the Port of Kolkata)

Dated: 27.7.2022


Signature and seal of the
Estate Officer.

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





Officer, **SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

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

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Order Sheet No. - 29 -

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
Mahendra Kumar Jain

27
26.7.2022

FINAL ORDER

The instant proceedings No. 371/D of 1999 arises out of 2 (two) no of applications filed by the **Syama Prasad Mookerjee Port, Kolkata** [erstwhile Kolkata Port Trust, hereinafter referred to as '**SMPK**'], the applicant herein, bearing No. Lnd.5/63/1/III/21/565 and Lnd.5/63/1/III/22/829 dated 12.02.2021 and 22.03.2022 respectively, praying for an order of recovery of dues on account of Compensation/ Damage charges, along with accrued interest thereon, in respect of the public premises, against **Mahendra Kumar Jain**, (hereinafter referred to as **O.P.**), under the relevant provisions of **Public Premises (Eviction of Unauthorized Occupants) Act, 1971** (hereinafter referred to as '**the Act**').

The fact of the case in a nutshell is that the O.P. came into occupation of the port property of Room No 3 & 4 measuring 8.08 sqm and 12.45 sqm on the top floor of the Trustees' building being premises no. 221/2, Strand Bank Road situated on the west side of Strand Bank Road, on a monthly term lease. As the O.P. failed to pay the rental dues, SMPK served notice of ejection to O.P. dated 04.07.2003. The O.P. was asked to hand over clear, vacant and unencumbered possession of the premises on 01.08.2003 in terms of the notice to quit dated 04.07.2003. As the O.P. did not vacate the premises, SMPK initiated a proceeding for eviction, which culminated into an Order of eviction dated 30.11.2010 passed by this Forum of Law. Finally, the possession of the premises was taken over on 22.05.2018 by the Authorised Officer, who handed it over to SMPK. Thereafter, SMPK in terms of said applications dated 12.02.2021 and 22.03.2022 has submitted its claim on account of compensation/ damage charges, which reportedly was due and recoverable from the O.P. for its use and enjoyment of the port property in question. After considering the claim of SMPK, this Forum formed its opinion to proceed against the O.P. and issued Show Cause Notice dated 02.05.2022 (vide Order no. 23 dated



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19.04.2022) u/s 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971. The Notice was issued calling upon the O.P. to show cause as to why an order requiring payment of arrear compensation/ damage charges together with interest would not be made against the O.P. The Notice was sent through 'Speed Post' to the recorded addresses of O.P. However, the notice was returned undelivered by the Postal Department with the remarks viz. "ACNL (FIE)" and "ACNL (RTS)". It appears that the notice could not be served upon the O.P. as the address of O.P., as provided by SMPK, is that of the premises of SMPK that has been taken over in execution of the Order of Eviction. Then the possibility of O.P. having an alternative/ additional address was explored by this Forum and SMPK was directed to provide the alternative address, if any, of O.P. in terms of Order dated 10.05.2022. In response, it has been submitted that no alternative address of O.P. is available with SMPK. Be that as it may, the 'Process Server' attached with this Forum, for service of Notice/ Order etc., has submitted the Report dated 04.05.2022 stating that the Notice has been affixed on a conspicuous part of the premises as per the mandate of the Act. In view of the circumstances, a decision was taken in terms of Order dated 31.05.2022 to publish a notice in a widely circulated English Daily, as well as, in the official website of SMPK for a notice to all concerned about the pendency of the instant proceeding in order to give a chance to the O.P. to appear before this Forum and to represent his case. Such notice was published in 'The Times of India (Kolkata edition)' on 11.06.2022 fixing the date for the O.P.'s appearance, filing reply to Show Cause on 28.06.2022. It appears that on 28.06.2022 neither the O.P. nor anyone interested in the property approached the Forum or made a contact in the meantime in connection with the Show Cause Notice issued by this Forum. Considering the situation that the attendance of O.P. could not be procured by this Forum at any point of time inspite of every possible efforts being made, even after the publication of a Notice in the English daily newspaper

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and even thereafter, I am inclined to proceed ex-parte against the O.P.

I find that SMPK has produced detailed statement of accounts dated 22.03.2022 in respect of the public premises in question. It appears from the said statements of accounts that no payment, whatsoever, was made by O.P. in respect of the premises for decade altogether. It also appears from the accounts that in 2018 only, the O.P. has made some paltry payments which have been adjusted against the dues. In my view, such statements maintained by a statutory authority/ SMPK in its usual course of business has definite evidentiary value, unless challenged with fortified documents/evidences etc, ready to bear the test of legal scrutiny. Non-payment of dues by O.P. for years together is very much prominent and established, as discussed above. Hence, I have no bar to accept the claim of SMPK on account of damages/compensation charges. I have nothing to disbelief in respect of SMPK's claim against O.P. as per statement of accounts maintained regularly in SMPK's office in regular course of business.

Thus, it is my considered view that a sum of Rs 6,60,804.66 (Rupees Six Lakhs Sixty Thousand Eight Hundred Four and paise Sixty Six only) for plate CG- 202/1 is due and recoverable from the O.P. for the period from 01.08.2003 to 21.05.2018 by the Port authority on account of compensation/ damage charges.

The O.P. must have to pay such dues to SMPK on or before 10.08.2022.

I must say that the Interest is the natural fallout for delayed payments of Rent/ Compensation and as such, the O.P. is liable to pay interest for the same. 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



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official website of the State Bank of India) from the date of incurrance 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 SMPK's books of accounts.

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

I make it clear that in the event of failure on the part of O.P. to pay the dues/charges as aforesaid; SMPK 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

(Sayan Sinha)
ESTATE OFFICER.

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