



**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. 47 DT 21.9.2022
PROCEEDINGS NO 365/D of 1999

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 Angus & Co. Ltd.
3, Clive Row,
Kolkata- 700 001
AND ALSO AT
9, India Exchange Place, 3rd Floor,
Kolkata- 700 001

13351

13352

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 14.06.2017 you were called upon to show- cause on/or before 07.07.2017 why an order requiring you to pay a sum of Rs 13,33,894.22 (Rupees Thirteen Lakhs Thirty Three Thousand Eight Hundred Ninety Four and Paise Twenty 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 13,33,894.22 (Rupees Thirteen Lakhs Thirty Three Thousand Eight Hundred Ninety Four and Paise Twenty Two Only) for the period from 01.12.1983 to 22.03.2007 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust, by 11.10.2022.

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 @ 6.45% 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 incurrance 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. 47 dated 21.9.2022. 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 - SW 30

Northern half Compartment no. 3, measuring 104.051 sqm or thereabouts in the ground floor of the Trustees' godown known as Clive Ware House is situate on the West side of Strand Road within the Presidency Town of Kolkata. It is bounded on the North by Compartment No. 2 of the said godown occupied by M/s Susilia Steam Navigation Co. Ltd., on the East by the Trustees' open space, on the South by the Southern half of Compartment No. 3 occupied by India Steam Ship Co. Ltd. and on the West by the Platform (Verandah) of the said Warehouse.

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

Dated: 21.9.2022.

**Signature and seal of the
Estate Officer.**

COPY FORWARDED TO THE ESTATE MANAGER, SYAMA PRASAD MOOKERJEE PORT, 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. 365/D Of 1999 Order Sheet No. -47-

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s Angus & Co. Ltd. ^{VS}

47
21.9.2022

FINAL ORDER

The instant proceedings No. 365/D of 1999 arises out of the claim filed by the **Syama Prasad Mookerjee Port, Kolkata** [erstwhile Kolkata Port Trust, hereinafter referred to as '**SMPK**'], the applicant herein, 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 **M/s Angus & Co.**, (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 in question on a monthly term Lease in respect of northern half of Compartment No. 3 msg. 104.051 Sq.m on the ground floor of SMPK's godown, known as Clive Warehouse, Strand Road, Kolkata under certain terms and conditions. The Order of eviction was passed against the O.P. on 19.07.2006 and the Authorised Officer was appointed in terms of the Order no. 24 dated 09.02.2007. SMPK preferred the application bearing no. Lnd 14/32/13/1795 dated 27.08.2013 intimating that vacant, peaceful **possession of the premises was taken over on 22.03.2007**. SMPK in terms of applications dated 27.08.2013, 06.08.2015, 26.07.2016, 17.02.2017 and 03.05.2017 has submitted its claim on account of compensation/ damage charges, which reportedly is due and recoverable from O.P., for its use and enjoyment of the port properties 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 14.06.2017 (vide Order no. 27 dated 24.05.2017), u/s 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 for the arrear compensation/ damage charges of O.P. as reportedly due to SMPK. The Notice was issued calling upon the O.P. to show cause as to why an order

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
21.9.2022
Field Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

A



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. 365/A Of 1999 Order Sheet No. -48-

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

m/s Angus & Co. Ltd. VS

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21.9.2022.

requiring payment of arrear compensation/ damage charges together with interest would not be made against it. The Notice was sent through 'Speed Post' to both the recorded addresses of O.P. However, the notice was returned undelivered by the Postal Department from one of the addresses of O.P. at the '3, Clive Row, Kolkata- 700 001'. The Notice sent to O.P. at the other address at '9, India Exchange Place, 3rd Floor, Kolkata- 700 001' did not return undelivered by the Postal Department, raising a good presumption of its service upon the O.P. Thereafter, on 07.02.2018, the Ld. Advocate stated to be representing the O.P. filed Vakalatnama. It has been submitted by the Ld. Advocate that back in sometime two companies namely 'Angus Jute Ltd.' and 'Angus & Co. Ltd' went into BIFR, consequently, Special Officer was appointed by the Hon'ble High Court and at the time the Special Officer went to the premises another entity viz. 'Inland Courier' was found operating in the premises. It has been submitted that O.P. has no knowledge of the development of the proceeding since 2006. Prayer for inspection of records was prayed for, which was allowed by this Forum. The O.P. was directed to file the reply to the Show Cause Notice/s issued by this Forum without any further delay. However, the Ld. Advocate sought for adjournment/s on certain occasions thereafter. In the meantime, the present matter went out of list due to superannuation from service of my predecessor Estate Officer and upon being assigned with the matter, the undersigned proceeded with the hearing of the matter on and from 31.08.2021. Thereafter, the representative of SMPK submitted that subsequent to taking over possession of the premises, it has been allotted to one 'Inland World Logistics' and SMPK has no information about pendency of any case before BIFR, as was reported by the Ld. Advocate on earlier occasion. Department is directed to serve the O.P. by 'Speed Post'. However, the Speed Post returned undelivered by the Postal Department with the remark "left". Then the Department was directed to serve through 'Speed Post' upon the Ld. Advocate/s stated to be representing the O.P. Nonetheless such effort also remained

By Order of
 THE ESTATE OFFICER
 SYAMA PRASAD MOOKERJEE PORT
 CERTIFIED COPY OF THE ORDER
 PASSED BY THE ESTATE OFFICER
 SYAMA PRASAD MOOKERJEE PORT
 21.9.2022
 OFFICE OF THE 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. 365/D

Of 1999

Order Sheet No. -49-

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

m/s Angus & Co. Ltd. ^{VS}

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21.9.2022.

futile as the Order could not be served upon the Ld. Advocate/s by the Postal Department. After that the Process Server attached with the Forum was directed to attempt hand delivery of the Order to the chamber address of said Ld. Advocate/s. Such hand delivery was effected as the Order dated 29.09.2021 and 16.11.2021 directing the O.P. to file reply to show cause has been received by the Advocate's Law Firm under official acknowledgement on 23.11.2021. In spite of such efforts being made, the attendance of O.P. could not be procured and the efforts remained futile. Then the possibility of O.P. having an alternative address was explored by this Forum and SMPK was directed vide Order dated 05.04.2022 to provide the alternative address of O.P., if any. In response, the representative of SMPK submitted on 19.04.2022, that they have no alternative address of O.P. In such scenario, a decision was taken vide Order dated 19.04.2022 to publish a notice in a widely circulated English newspaper 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 their case. Such notice was published in 'The Times of India (Kolkata edition)' on 24.05.2022 fixing the date for the O.P's appearance, filing reply to Show Cause on 24.05.2022. However, when the matter was taken up for hearing on 24.05.2022, neither O.P. nor anyone interested in the property appeared before the Forum. It was informed by the Department that nobody, except SMPK, made a contact or approached the Forum in connection with the Show Cause Notice in the meantime. Thus, this Forum finding no good reason to drag on the matter any further concluded the hearing of the matter. No Reply to Show Cause came to be filed by the O.P., in spite of every possible efforts being made and as such, I am constrained to proceed ex-parte against the O.P.

I find that SMPK has produced detailed statement of accounts dated 03.05.2017 filed under the cover of SMPK's application dated 03.05.2017 in respect of the public premises in question. It appears from the said statement of accounts that no payment

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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

L *21.9.2022*
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

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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s Angus & co. Ltd

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21.9.2022.

has been made by O.P. for decade altogether. 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. During the course of hearing, I am given to understand by SMPK that the compensation/ damages charged from time to time is based on the rates notified by the Tariff Authority for Major Ports (TAMP) in the Official Gazette, which is binding on all users of the port property. Non-payment of dues by O.P. for decades 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. Be it also mentioned here that the submission of the Ld. Advocate for O.P. regarding the BIFR proceeding does not inspire my confidence as no piece of paper regarding the said BIFR proceeding came to be filed before this Forum by either of the parties and especially, in view of the submission of SMPK during the course of hearing held on 16.11.2021 that there is no pending BIFR proceeding in the matter.

Thus, it is my considered view that a sum of Rs 13,33,894.22 (Rupees Thirteen Lakhs Thirty Three Thousand Eight Hundred Ninety Four and Paise Twenty Two Only) for the period from 01.12.1983 to 22.03.2007 is due and recoverable from O.P. by the Port authority on account of compensation/ damage charges.

The O.P. must have to pay such dues to SMPK on or before 11.10.2022.

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 @ 6.45 % 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

By Order of :
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
21.9.2022
Assistant
OFFICE OF THE 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

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m/s. Angur & Co. Ltd. ^{VS}

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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 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.

By Order of :
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
21.9.2022
Assistant
OFFICE OF THE 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***