

Webster



**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. 10 DT 31.10.2022
PROCEEDINGS NO 632/D of 2004

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. Ghosh & Brothers,
Room No. 2,P-223, Strand Bank Road,
Kolkata - 700 001.**

By Order of :
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
[Signature]
31.11.2022
Office of the E.D. 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 18.11.2021 (vide Order No 06 dated 16.11.2021) you were called upon to show- cause on/or before 09.12.2021 why an order requiring you to pay a sum of Rs. 92,015.00 (Rupees Ninety Two Thousand Fifteen 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. 92,015.00 (Rupees Ninety Two Thousand Fifteen Only) for the period from 01.09.1993 to 13.02.2010 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust, by 15.11.2022.

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.

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Please see on reverse

:2:

A copy of the reasoned order no. 10 dated 31.10.2022, 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.

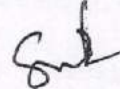
SCHEDULE

Plate no - SW 103

Room No. 2, measuring 5.016 Sq.mtrs. or thereabouts on the northern side of the Trustees' godown known as Strand Warehouse is situate on the west side of Strand road, Thana NPPS in the Presidency town of Kolkata. It is bounded on the north by the Trustees' open land used as passage on the east by the Trustees' Room No. 1 leased to East India Watch Company on the South by the Trustees' Strand Warehouse and on the West by the Trustees' Room No. 3 leased to M/s. Kalicharan Mukherjee and Company.

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

Dated: 31.10.2022.



Signature and seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, SYAMA PRASAD MOOKERJEE PORT, KOLKATA 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
31.11.2022
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

632/D of 2004 Order Sheet No. 11

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s Ghosh & Brothers ^{VS}

FINAL ORDER

The matter is taken up today for final disposal. It is the case of **Syama Prasad Mookerjee Port, Kolkata** [erstwhile Kolkata Port Trust/ KoPT], hereinafter referred to as '**SMPK**', the applicant herein, that **M/s Ghosh & Brothers**, hereinafter referred to as '**O.P.**', came into occupation of the public premises in question being Room No 2, measuring 5.016 sqm or thereabouts on the north side of the Trustees' godown known as erstwhile Strand Warehouse, under plate no SW-103, on a monthly lease basis on certain terms and conditions. It is the case of SMPK that the O.P. had violated such conditions by way of unauthorisedly parting with the possession of the premises by inducting one Shri Jayanta Kumar Paul, who used the premises for office purpose. It is further the case of SMPK that a notice to quit was issued upon O.P. by SMPK dated 16.07.1993, asking the O.P. to hand over the clear, vacant and unencumbered possession of the premises on the expiry of the month of August, 1993. It is the claim of SMPK that O.P. is liable to pay compensation/damages to SMPK for unauthorized use and occupation of the premises on and from 01.09.1993. It is also submitted by SMPK that the entire premises was gutted down by fire on 14.02.2010 and finally, the premises came to be demolished.

After considering the claim of SMPK, this Forum formed its opinion to proceed against the O.P. and issued Show Cause Notice dated 17.11.2021 (vide Order No 06 dated 16.11.2021), in Proceeding No. 632/D of 2004, u/s 7 of the **Public Premises (Eviction of Unauthorized Occupation) Act, 1971**, hereinafter referred to as 'the Act'. 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.

By Order of:
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CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
11.11.2022
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Sud



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. 632/D of 2004 Order Sheet No. 12

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s Ghosh & Brothers ^{VS}

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31.10.2022.

It is seen from the records that no one appeared on behalf of O.P., during the course of hearing before this forum. It appears that the notice sent through registered post at the recorded address of O.P. was returned undelivered by Postal Department with the endorsement "Insufficient Address". The 'Process Server' attached with this Forum for service of such Notice/ Order etc. has submitted the Report dated 25.11.2021, stating that service of the Notice could not be made as the subject premises was found to be surrounded by Metro Railway Fencing. Even Affixation of the Notice could not be done due to such fencing of Metro Railway. 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 response, SMPK has submitted the alternative address of O.P. thought its application dated 23.12.2021, however, the address provided was apparently an incomplete one and it was clear that service on such address would be a futile exercise. It appears that inspite of such efforts being made, the appearance of O.P. could not be procured and such efforts remained futile. Accordingly, a decision was taken to publish a notice in a widely circulated English daily, 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 its case. Such notice was published in 'The Times of India (Kolkata edition)' on 11.01.2022 fixing the date for the O.P's appearance, filing reply to Show Cause on 03.02.2022, but such effort also went in vain as none appeared from O.P's side and as such, I am inclined to proceed ex-parte against the O.P.

I must say that I have carefully gone through the contentions made by SMPK against the O.P. and the supporting documents submitted in this respect. On perusal of submissions and materials available on the record, I have nothing to disbelieve the claim of SMPK. SMPK has submitted letters dated 31.03.1977, 01.04.1977 and a copy of lease agreement establishing the contractual relationship between

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01.11.2022
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Sudh



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. 632/D of 2004 Order Sheet No. 13

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

m/s Ghosh & Brothers ^{VS}

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31.10.2022

them. SMPK has placed on record statement of accounts dated 17.03.2010, 05.08.2014, 12.07.2017 maintained in official course of business, and I find the accounts reliable, in the facts and circumstances of the case. In my view, such statements maintained by a statutory authority/ SMPK in its usual course of business, has a definite evidentiary value, unless challenged by a contesting person/entity 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 rent as well as 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 the actual dues by O.P. is very much prominent and established, as per records submitted by SMPK, discussed above. Hence, I have no bar to accept the claim of SMPK on account of damages/compensation etc. I have nothing to disbelieve in respect of SMPK's claim against O.P. as per the statement of accounts maintained regularly in SMPK's office, in discharge of its regular course of business and office transactions as a statutory authority.

Thus, it is my considered view that a sum of Rs. 92,015.00 (Rupees Ninety Two Thousand Fifteen Only) for the period from 01.09.1993 up to 13.02.2010 is due and recoverable from O.P. by the Port authority on account of damages/ compensation.

The O.P. must have to pay the said amounts to SMPK on or before 15.11.2022.

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 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.

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01.11.2022
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Sud



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. 632/D of 2004 Order Sheet No. 14

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

m/s Ghosh & Brothers ^{VS}

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31.10.2022

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

(Sourav Mitra)
ESTATE OFFICER.

*** ALL EXHIBITS AND DOCUMENTS
ARE REQUIRED TO BE TAKEN BACK
WITHIN ONE MONTH FROM THE DATE
OF PASSING OF THIS 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
31.10.2022
Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT