



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. 1398, 1398/D Of 2013 Order Sheet No. 60

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Shri SHAM SUNDAR SADHUKHAN, ESTATE RAMCHANDRA SADHUKHAN VS

FINAL ORDER

The instant proceedings No. 1398 & 1398/D of 2013 based on the application bearing No. Lnd.8/9/20/1041 dated 13.03.2020 and the subsequent applications bearing no. Lnd.8/9/21/634, Lnd 8/9/21/2031 and Lnd. 8/9/21/3135 dated 22.02.2021, 05.05.2021 and 30.08.2021, respectively 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/ damages along with accrued interest thereon, in respect of the subject public premises, against **Shyam Sundar Sadhukhan & Estate Ram Chandra Sadhukhan**, (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, as revealed from records, is that the O.P., came into occupation of the port property of piece or parcel of land measuring 152.547 sqm or thereabouts situated on the West side of Strand Bank Road at Pathuriaghat, Kolkata, comprised under the occupation no. SB 280/A, as a long term lessee for 30 years with effect from 01.12.1972. The Lease was eventually expired on 30.11.2002. As the O.P. did not vacate the premises after expiry of the lease in question and on the ground of some other reported breaches made by the O.P. of the terms and conditions of the said Lease, SMPK initiated a proceeding for eviction of O.P. before this Forum of Law, which culminated into the Order of Eviction dated 30.06.2016. Thereafter, the possession of the premises was taken over on 31.05.2017 by the Authorised Officer appointed by this Forum, who handed it over to SMPK. Afterwards SMPK in terms of said applications dated

44
29.11.2022

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT as
[Signature] 29/11/22
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Handwritten mark]



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. 1398-1398/D Of 2013 Order Sheet No. 61

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SYAM SUNDAR SARDHARMA ESTATE RAM CHANDRA SARDHARMA

44
29.11.2022

13.03.2020, 22.02.2021, 05.05.2021 and 30.08.2021 intimated and clarified this Forum, the claim of SMPK on account compensation/ damage charges, which reportedly was due and recoverable from the O.P. for its use and enjoyment of the port property in question and the period for which it had fallen due.

After considering the claim of SMPK, this Forum formed its opinion to proceed against the O.P. and issued Show Cause Notice dated 15.03.2022 (vide Order no. 38 dated 14.03.2022) 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.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
29/11/22
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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 remark viz. "left". The 'Process Server' attached with the Forum for hand service of such Notice/ Order etc., has submitted the Report dated 16.03.2022 stating that the Notice could not be hand delivered to the O.P. as the O.P. "refused to take the Order". Be that as it may, the notice has been affixed on a conspicuous part of the premises, as per mandate of the Act on 16.03.2022 at about 4:10 p.m., as it transpires from the said Report of Process Server.

On the date fixed for answering/ filing reply to the said Show Cause Notice, none appeared on behalf of the O.P. or on behalf of any other person interested in the premises in question. Following the principles of Natural Justice that no one should be condemned unheard, Department was directed to make another attempt to serve the notice through hand

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. 1398/1398/D Of 2013 Order Sheet No. 62

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

Sri. CHAM SUNDAR SARDHUKHAN ESTATE RAMCHANDRA SARDHUKHAN

44
29.11.2022

delivery by Process Server, who thereafter filed another Report dated 02.05.2022, re-iterating of a futile outcome as the "party refused to take the Order" on 02.05.2022. The Process Server made a last endeavour for hand delivery of the notice on 17.05.2022, when the door of the premises was found in locked condition.

Inspite of such efforts being made, the appearance of O.P. could not be procured and the efforts remained ineffective. Then, considering the reported huge dues of O.P. to the public exchequer, a decision was taken in terms of Order dated 18.05.2022, to publish a notice in a widely circulated English Daily as well as in official website of SMPK for a notice to all concerned about the pendency of the instant proceeding in order to provide a further chance to O.P. to appear before this Forum and to represent his case. Such notice was published in 'The Times of India (Kolkata edition)' on 15.06.2022 fixing the date for the O.P's appearance, filing reply to Show Cause on 29.06.2022.

However, neither the O.P. nor anyone interested in the property approached the Forum on 29.06.2022 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, I am inclined to proceed ex-parte against the O.P.

I find that SMPK has produced detailed statement of accounts dated 23.06.2017 and the summary of account dated 12.03.2020 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

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

29/11/22

[Handwritten signature]



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1398, 1398/D Of 2013 Order Sheet No. 63

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SHRI SYAM SUNDAR SADHUKHAN, ESTATE RAM CHANDRA SADHUKHAN

44
29.11.2022

premises for decades together, particularly in between the period from 2008 to 2017. It also appears that in the year 2017, O.P. made certain payments, which have been adjusted by and large against the previous dues of O.P. 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 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 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 in SMPK's office in regular course of business.

By Order of :
THE ESTATE OFFICER SMPK
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
[Signature] 29/11/22
Head Ass'tant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Thus, it is my considered view that a sum of Rs 18,56,011.20 (Rupees Eighteen Lakhs Fifty Six Thousand Eleven and paise Twenty only) is due and recoverable from the O.P. for the period from 31.07.2008 to 31.05.2017 by the Port authority on account of compensation/ mesne profit/ damage charges.

O.P. must have to pay such dues to SMPK on or before 13.12.2022.

Interest is the natural fallout for delayed payments of Compensation/ Damage charges and as such, the O.P. is liable to pay interest for the same. Such dues attracts Compound Interest @ 6.90 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered from



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. 1398, 1398/D of 2013 Order Sheet No. 64

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SRI SYAM SUNDAR SADHUKHAN ESTATE RAM CHANDRA SADHUKHAN

44
29.11.2022

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 SMPK's books of accounts.

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

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

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

P. Ghosh Majumdar
(P. Ghosh Majumdar)
ESTATE OFFICER.

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



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. 44 DT 29.11.2022
PROCEEDINGS NO 1398/D OF 2013

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
Shyam Sundar Sadhukhan &
Estate Ram Chandra Sadhukhan
P-58/1/1, Strand Bank Road,
Kolkata- 700 006.

By Order of :
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Assistant
29/11/22
OFFICE OF THE LD. 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 15.03.2022 (vide Order No 38 dated 14.03.2022) you were called upon to show- cause on/or before 23.03.2022 why an order requiring you to pay a sum of Rs 18,56,011.20 (Rupees Eighteen Lakhs Fifty Six Thousand Eleven and paise Twenty 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 18,56,011.20 (Rupees Eighteen Lakhs Fifty Six Thousand Eleven and paise Twenty only) for the period from 31.07.2008 to 31.05.2017 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust, by 18.12.2022.

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 @ 6.90 % 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. 44 dated 29.11.2022 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.

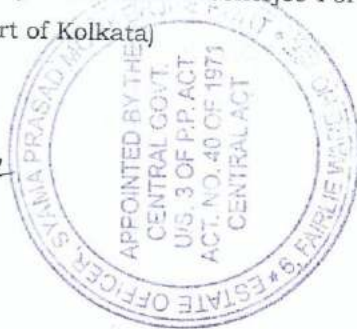
SCHEDULE

Plate no - SB 280/A

Piece or parcel of land msg. 152.547 sqm or thereabouts situated on the west side of Strand Bank Road at Pathuriaghat in the Presidency town of Kolkata. P.S. Jorabagan, Kolkata. It is bounded on the North by Trustees' land occupied by Saraswati Mahawar and others, on the East by Strand Bank Road, on the South by Trustees' land occupied by Surajbhan Murarilall and on the West by Trustees land occupied by M/s Sarda & Sons.

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

Dated: 29/11/2022



Parvita Anwar Begum
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
29/11/22
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT