



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 Unauthorised Occupants) Act 1971

OFFICE OF THE ESTATE OFFICER
6, Fairlie Place (1st FLOOR) KOLKATA-700001

Court Room at the 1st Floor
Of SMPK's
Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.1176/D OF 2011
ORDER NO.43 DATED: 03.02.2023

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. Magnolia Dairy Products(India)
Block-E, Hide Road, Khidderpore,
Kolkata-700043

And

3B, Raffi Ahmed Kidwai Road,
Kolkata-700013

And also at

4&6, Judges Court Road, Flat No.1B,
Kolkata-700027



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 23.09.2021 you are called upon to show cause on or before 01.10.2021 why an order requiring you to pay damages of Rs.26,36,655.83 (Rupees Twenty six Lakh thirty six thousand six hundred fifty five and paise eighty three Only) for Plate No. H-68/1), Rs.39.00(Rupees Thirty nine only) for Plate No.H-70, Rs.1,39,372.73(Rupees One Lakh thirty nine thousand three hundred seventy two and paise seventy three only) for Plate No.SF-44, Rs.1,39,372.73(Rupees One Lakh thirty nine thousand three hundred seventy two and paise seventy three only) for Plate No.SF-45/1 and Rs.1,39,372.73(Rupees One Lakh thirty nine thousand three hundred seventy two and paise seventy three only) for Plate No.SF-45 together with [compound interest] for unauthorised use and occupation of the said premises, should not be made;

AND WHEREAS, I have considered your objections and/or the evidence produced by you;

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.26,36,655.83 (Rupees Twenty six Lakh thirty six thousand six hundred fifty five and paise eighty three Only) for Plate No. H-68/1), Rs.39.00(Rupees Thirty nine only) for Plate No.H-70, Rs.1,39,372.73(Rupees One Lakh thirty nine thousand three hundred seventy two and paise seventy three only) for Plate No.SF-44, Rs.1,39,372.73(Rupees One Lakh thirty nine thousand three hundred seventy two and paise seventy three only) for Plate No.SF-45/1 and Rs.1,39,372.73(Rupees One Lakh thirty nine thousand three hundred seventy two and paise seventy three only) for Plate No.SF-45 all for the period from 01.06.2011 to 09.06.2014 (both days inclusive) assessed by me as damages on account of your unauthorised occupation of the premises to SMPK by 22.02.2023.

[Handwritten signature]

PLEASE SEE ON REVERSE.

: 2 :

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 @ 7.25 % per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

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 through the Collector.


SCHEDULE .

Plate No-H-68/1, H-70, SF-44, SF-45/1 & SF-45)

The said piece or parcel of land msg.2209.05 Sq.m.(land space) under 1st belt and land Msg.873 Sq.m.(land space)under 2nd belt, comprised under Plate No.H-68/1 or thereabouts situated at Block-E, Hide Road, Kidderpore, P.S. South Port Police Station. It is bounded on the North partly by Trustees' vacant land and partly by common passage, on the East by the Trustees' structure previously allotted to M/s. Warehousing & Cold Storage General Enterprises India Ltd., on the South by the Trustees' land previously allotted to M/s. Warehousing & Cold Storage General Enterprises India Ltd., and on the West Trustees' land then Hide Road.

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

Date 07.02.2023 .


Signature & 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. 1176/D of 2011 Order Sheet No. 91

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
M/S. MAGNOLIA DAIRY PRODUCTS (INDIA)

FINAL ORDER

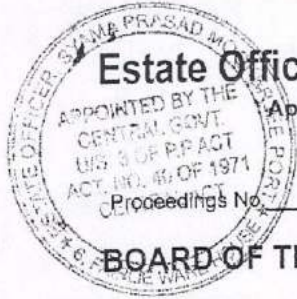
43

03.02.2023

The instant proceedings No.1176/D of 2011 based on the application bearing no. Lnd. 2707/4/V/ Loose- 3/17/3241 dated 04.01.2017 filed by the Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust/ KoPT, hereinafter referred to as 'SMPK'], the applicant herein, praying for an order of recovery of dues on account of Compensation/ damages/ mesne profit along with accrued interest thereon, in respect of the subject public premises, against **Magnolia Dairy Products (India)**, (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 3082.05 sqm (viz. 2209.05 sqm in 1st belt and land space measuring 873 sqm in 2nd belt) at Block -E, Hide Road, Kolkata as a long term lessee for 5 (five) years w.e.f. 01.11.1978, with 2 (two) options of renewal for 5 years each on the strength of Lease Deed executed by and between the parties on 09.09.1979 and O.P. failed to exercise option for renewal. The O.P. was asked to handover the vacant and unencumbered possession in terms of the notice demanding possession dated 11.06.1983. The tenure of the said lease was expired on 31.10.1983. A proceeding for eviction of O.P. was initiated before this Forum by SMPK, which culminated into an Order of eviction dated 19.03.2014 u/s 5 of P.P Act,1971 directing the O.P. to vacate the premises. Thereafter, the possession of the premises was taken over by the Authorised Officer on 10.06.2014 and handed it over to SMPK. In terms of SMPK's said application dated 04.01.2017, as well as the subsequent applications dated 08.05.2018 and 14.07.2021, it became known that SMPK has huge amount due and recoverable from the O.P. on account of compensation / damage charges, for O.P.'s use and enjoyment of the port property in question till 09.06.2014.

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

1176/D of 2011 Order Sheet No. 92

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
M/S. MAGNOLIA DAIRY PRODUCTS (INDIA)

43

03.02.2023

After considering the claim of SMPK, this Forum formed its opinion to proceed against the O.P. and issued Show Cause Notice dated 23.09.2021 (vide Order No 40 dated 22.09.2021) 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/ mesne profit/ damage together with interest would not be made against the O.P.

The said Notice was sent through 'Speed Post' to the recorded addresses of O.P., viz., at 'Block- E, Hide Road, Khidderpore, Kolkata- 700 043' and 3B, Rafi Ahmed Kidwai Road, Kolkata- 700 013' and '4&6, Judges Court Road, Flat No. 1B, Kolkata- 700 027'. In response, one Shri P.K. Sharma appeared before the Forum and introduced himself as the messenger of Smt. Lalita Sanganeria, reportedly the wife of Rajendra Prasad Sanganeria, the Proprietor of Magnolia Dairy Products (India)/ O.P. Said Shri Sharma filed an undated application signed by Smt. Lalita Sanganeria. In the said application, Smt. Lalita Sanganeria expressed herself as the widow from the second marriage of Rajendra Prasad Sanganeria, who reportedly expired on 07.11.2014. In support of such statement, a copy of death certificate of Rajendra Prasad Sanganeria (since deceased) was filed. It is also reported that there are two married daughters settled in USA and Mumbai of said Rajendra Prasad Sanganeria (since deceased) from the first marriage. It is further reported that Smt. Lalita Sanganeria is an old lady, who is living alone and Rajendra Prasad Sanganeria (since deceased) has left behind no asset/ property from which she could liquidate the dues of SMPK. It is further stated in the application that Smt. Lalita Sanganeria is not in a position to file reply to show cause. Raising, inter alia, the above contentions, a prayer has been made that the instant proceeding be dropped against her.

Thereafter, till the passing of the instant order, no correspondence from Smt. Lalita Sanganeria or any other interested person has been received by the office of the undersigned. As none appeared from O.P.'s side to oppose the case of SMPK and no Reply to Show

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 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

1176/D of 2011 Order Sheet No. 93

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S MAGNOLIA DAIRY^{VS} PRODUCTS (INDIA)

43

03.02.2023

Cause was filed, I am, perforce, left with no other alternative but to proceed ex-parte against the O.P.

I find that SMPK has produced the statement of accounts dated 14.07.2021 in respect of the said premises in question. It appears from the said statements of account that less payments compared to the actual amount due/ occupational charges per month was made by O.P. in respect of the premises in question. 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 mesne profit/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/ mesne profit 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. 26,36,655.83 (Rupees Twenty Six lakhs thirty six thousand six hundred fifty five and paise eighty three only.) for Plate No. H68/1, Rs. 39.00 (Rupees thirty nine only) for Plate No. H-70, Rs. 1,39,372.73 (Rupees One lakhs Thirty nine thousand three hundred seventy two and paise seventy three only) for plate No. SF-44, Rs. 1,39,372.73 (Rupees One lakhs Thirty nine thousand three hundred seventy two and paise seventy three only) for plate No. SF-45/1 and Rs. 1,39,372.73 (Rupees One lakhs Thirty nine thousand three hundred seventy two and paise seventy three only) for plate No. SF 45 for the period from 01.06.2011 to 09.06.2014 are due and recoverable from O.P. by the

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
FOR USE BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Have Assn. with
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

1176/D of 2011 Order Sheet No. 94

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
M/S MAGNOLIA DAIRY PRODUCTS (INDIA)

43

09.02.2023

Port authority on account of compensation/ mesne profit/ damage charges.

The O.P. must have to pay such dues to SMPK on or before 22.02.2023.

Such dues attracts Compound Interest @ 7.25 % 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 full and final 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

(Kausik Kumar Manna)
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
FORWARDED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Head Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT