

website



**REGISTERED POST
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
Fairlie Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 09 DT 09.02.2023,
PROCEEDINGS NO. 479/ L of 2004

**SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(Erstwhile Board of Trustees' for the Port of Kolkata)**

-Vs-

Shri Dasarath Show & D.N. Shaw

F O R M - "B"

**ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC
PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971**

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **Shri Dasarath Show & D.N. Shaw, Qtrs.15 Block No. 40 at Hide Road P.S. South Port Police Station. Kolkata- 700 043** is in unauthorized occupation of the Public Premises specified in the Schedule below :

REASONS

- 1) That no reply to the Show Cause notice is filed by O.P.s
- 2) That nothing has been shown in support of O.P.s' occupation into the public premises.
- 3) That no evidence has been laid to support the possession of O.P.s as "authorized possession/ occupation".
- 4) That mere occupation into the quarters for a certain period without any authority for such occupation cannot create any right over the property in question.
- 5) That O.P.s' occupation is unauthorized in all respect and O.P has failed to make out any case in support of his occupation.

PLEASE SEE ON REVERSE



(2)

A copy of the reasoned order No. 09 dated 09.02.2023 is attached hereto which also forms a part of the reasons.

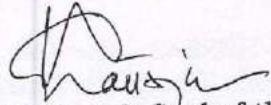
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **Shri Dasarath Show & D.N. Shaw, Qtrs.15 Block No. 40 at Hide Road P.S. South Port Police Station. Kolkata- 700 043** and all persons who may be in occupation of the said premises or any part thereof to vacate the said premises within 15 days of the date of publication of this order. In the event of refusal or failure to comply with this order within the period specified above the said **Shri Dasarath Show & D.N. Shaw, Qtrs.15 Block No. 40 at Hide Road P.S. South Port Police Station. Kolkata- 700 043** and all other persons concerned are liable to be evicted from the said premises, if need be, by the use of such force as may be necessary.

SCHEDULE

Qtrs.15 Block No. 40 at Hide Road P.S. South Port Police Station. Kolkata- 700 023 is butted and bounded in the manner as follows :

On the North by : Qrs. 40/4, Hide Road Mazdoor Line
On the South by : Qrs. 41/4, Hide Road Mazdoor Line
On the East by : Qrs. 40/16, Hide Road Mazdoor Line
On the West By : Qrs. 40/14, Hide Road Mazdoor Line

Date- 09.02.2023.


Signature & Seal of the
Estate Officer.

SERVICE TO THE SYAMA PRASAD MOOKERJEE PORT, KOLKATA,
(SMP.KOLKATA) (ERSTWHILE BOARD OF TRUSTEES' FOR THE PORT OF
KOLKATA) THROUGH ESTATE MANAGER, (SMP.KOLKATA) AT 6, FAIRLIE
PLACE WAREHOUSE, 2nd FLOOR, KOLKATA-700 001



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. 479/L of 2004 Order Sheet No. -08-

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Sri Dasarath Show ^{VS} *Others*

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FINAL ORDER

The matter is taken up today for final disposal. Relevant facts are required to be put forward in a nutshell in order to understand the chain of events leading to the proceedings. It is the case of Syama Prasad Mookerjee Port, Kolkata hereinafter referred to as SMP,K, (erstwhile Kolkata Port Trust) applicant, herein, that all along SMP,K is the owner of the of Quarter No 15 Block no.40 at Hide Road Mazdoor Road. The said quarter was under lock and key since 30.11.1998. On or about 08.07.2000, one Sri Dasarath Show, the Opposite Party No.1 hereinafter referred to as O.P.No.1 forcibly occupied the above quarters by breaking open the padlock and has since been living in the quarters unauthorisedly. An application was filed by SMPK on 04.08.2000, praying for eviction of O.P. A query was made by the Forum on 20.05.2022, asking SMPK about the present status of the subject property. Vide application dated 01.08.2022, it was submitted by SMPK that one Sri D.N. Shaw, rank outsider is still in possession of the subject quarters and prayed for eviction proceedings to be drawn up against him. Forum on the basis of the information issued a Notice to Show Cause under Section 4 of the Public Premises (Eviction of Unauthorised Occupant) Act, 1971 (hereinafter referred to as The Act) on 25.08.2022. The said Show Cause notice along with the order dated 25.08.2022 were sent through "Speed Post". The envelopes, were returned with the remark "Refused". The said order was also sent through Process Server. It is seen from the report of the Process Server dated 30.08.2022, that the order was received on behalf of O.P. Due affixation was also made in the conspicuous part of the premises for notice to all concerned. In spite of having knowledge of the pending proceedings neither of the O.P.s nor anyone interested in the said property appeared before the Forum to place their submissions. For the sake of natural justice, another chance was given to O.P. to represent their case before the Forum. Order dated 12.09.2022, was sent to O.P. through Process Server. It is seen from the report

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Order Sheet No. -09-

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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of the Process Server dated 29.09.2022, that order dated 12.09.2022 was duly served upon O.P. and due affixation of the order was also made on a conspicuous part of the premises. As none appeared on behalf of O.P., yet another chance was given to O.P. to represent his case before the Forum. Order dated 10.10.2022 was sent to O.P. by Speed Post. The envelope has been returned with the remark "No such ^{by show} in the address". The order was also sent through "Process Server". It is seen from the report of the Process Server dated 28.10.2022, O.P. refused to take service of the order. However, due affixation of the order was made on a conspicuous part of the premises for notice to all concerned. In spite of such repeated services, none appears for O.P. I am satisfied with the service of notice.

In spite of having knowledge of the pending proceedings neither of the O.P.s nor anyone interested in the said property appeared before the Forum to place their submissions. No Reply to the Show Cause Notice has been filed by O.P. or any other person interested on the property. In view of the above, I am left with no other alternative but to issue order of eviction as prayed for on behalf of the Port Authority. I have no reason to disbelieve on the statements made by SMP,K before the Forum. Accordingly the order of eviction is issued on the following grounds/ reasons;

- (a) That no Reply to the Show Cause has been filed by O.P.s or anyone else
- (b) That nothing has been shown in support of O.P.s' occupation into the premises;
- (c) That no evidence has been laid to support the possession of O.P.s as "authorised possession/occupation"
- (d) That mere occupation into the quarters for a certain period without any authority for such occupation cannot create any right over the property in question;

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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

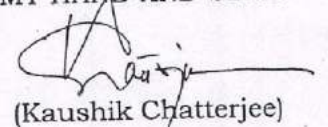
Shri Dasarath Ghosh ^{VS} & others

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(e) That O.P.s's occupation is unauthorised in all respects and O.P. has failed to make out any case in support of his occupation.

Accordingly, Department is directed to draw up a formal order of eviction u/s 5 of the Act and Rules made thereunder against O.P., giving 15 days time to all the occupants of the quarters in question or whoever may be in occupation are liable to be evicted by this Order and SMP,K is entitled to claim damages for unauthorised use and occupation of the public premises upto the date of recovery of possession in accordance with law. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL


(Kaushik Chatterjee)

Estate Officer

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