

o/c



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. 08 DT 16.3.2022
PROCEEDINGS NO. 1956 OF 2022

Syama Prasad Mookerjee Port, Kolkata
(Erstwhile BOARD OF TRUSTEES OF THE PORT OF KOLKATA)

-Vs-

M/s. Khemchand Rajkumar (O.P)

F O R M - "B"

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

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
21/3/23
OFFICE OF THE LD. ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT,

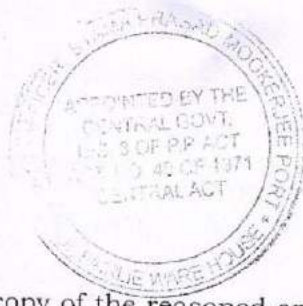
WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **M/s. Khemchand Rajkumar, Belvedere Court, 11 & 13 Alipore Road, Kolkata-700027 And 46C, Chowringhee Road, Everest House, 10th Floor, Kolkata-700016 And also at 33, Netaji Subhas Road, Kolkata-700001** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

1. That O.P or any other person interested in the property has failed to file any reply to the Show Cause Notice/s U/S 4 & 7 of the Act inspite of chance being provided to them.
2. That O.P has defaulted in making payment of rental dues to SMPK at the time of issuing Ejectment Notice dated 24.06.1985.
3. That O.P. has unauthorisedly parted with possession of the subject Public Premises to rank outsiders and failed to vacate the premises upon determination of the period as mentioned in the notice to quit dated 24.06.1985 as issued by the Port Authority.
4. That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
5. That O.P has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 24.06.1985.
6. That O.P's occupation has become unauthorised in view of Sec 2(g) of the Act and O.P is liable to pay damages as claimed by SMPK for wrongful use and enjoyment of the Port property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

PLEASE SEE ON REVERSE

2



(2)

A copy of the reasoned order No. 08 dated 16.3.2023 is attached hereto which also forms a part of the reasons.

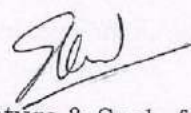
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **Khemchand Rajkumar, Belvedere Court, 11 & 13 Alipore Road, Kolkata-700027 And 46C, Chowringhee Road, Everest House, 10th Floor, Kolkata-700016 And also at 33, Netaji Subhas Road, Kolkata-700001** 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 **Khemchand Rajkumar, Belvedere Court, 11 & 13 Alipore Road, Kolkata-700027 And 46C, Chowringhee Road, Everest House, 10th Floor, Kolkata-700016 And also at 33, Netaji Subhas Road, Kolkata-700001** 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

Plate No: HL-194/1, SF-126/1, SF-127/1 & SF-194/2

The said piece and parcel of land measuring about 3004.855 Sq.m or thereabouts situated at Shibpur, Howrah, P.S: Shibpur, District and Registration District Howrah. It is bounded by on the North by the Commissioner low land, on the East by the Commissioners' strip of open land reserved as margin of safety alongside SMPK Railway Siding, on the South partly by the SMPK land leased to the Lessees and partly by the SMPK strip of open land reserved as margin of safety alongside SMPK railway Siding and on the West by the SMPK land earlier leased to the Burn and Co. Ltd.

Dated: 17.3.2023,

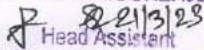

Signature & Seal of
Estate Officer.

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


Head Assistant

OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



**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 Kolkata Port Trust's
Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.1956/D OF 2022
ORDER NO.08 DATED: 16.3.2023

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. Khemchand Rajkumar,
Belvedere Court,
11 & 13 Alipore Road,
Kolkata-700027

And

46C, Chowringhee Road,
Everest House, 10th Floor,
Kolkata-700016

And also at

33, Netaji Subhas Road,
Kolkata-700001.

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 E.D. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

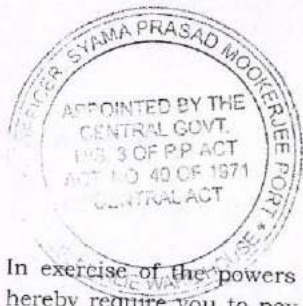
WHEREAS I, the undersigned, am satisfied that you are in unauthorised occupation of the public premises mentioned in the Schedule below:

AND WHEREAS by written notice dated 27.02.2023 you are called upon to show cause on or before 09.03.2023 why an order requiring you to pay damages of Rs.3,78,75,236.88 (Rupees Three Crore seventy eight Lakh seventy five thousand two hundred thirty six and paise eighty eight only) for Plate No.HL-194/1, Rs.6,85,980.25(Rupees Six Lakh eighty five thousand nine hundred eighty and paise twenty five only) for Plate No.SF-126/1, Rs.79,19,893.78(Rupees Seventy nine Lakh nineteen thousand eight hundred ninety three and paise seventy eight only) for Plate No.SF-127/1 and Rs.4,351/-(Rupees Four thousand three hundred fifty one only) for Plate No.194/2 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.3,78,75,236.88 (Rupees Three Crore seventy eight Lakh seventy five thousand two hundred thirty six and paise eighty eight only) for Plate No.HL-194/1 for the period from 02.09.1985 to 31.10.2022(both days inclusive), Rs.6,85,980.25(Rupees Six Lakh eighty five thousand nine hundred eighty and paise twenty five only) for Plate No.SF-126/1 for the period from 02.09.1985 to 30.06.2017(both days inclusive), Rs.79,19,893.78(Rupees Seventy nine Lakh nineteen thousand eight hundred ninety three and paise seventy eight only) for Plate No.SF-127/1 for the period from 02.09.1985 to 30.06.2017(both days inclusive) and Rs.4,351/-(Rupees Four thousand three hundred fifty one only) for Plate No.194/2 for the period from 02.09.1985 to 31.10.2022(both days inclusive) assessed by me as damages on account of your unauthorised occupation of the premises to SMPK by 03.4.2023

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 @ 7.50 % 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: HL-194/1, SF-126/1, SF-127/1 & SF-194/2

The said piece and parcel of land measuring about 3004.855 Sq.m or thereabouts situated at Shibpur, Howrah, P.S: Shibpur, District and Registration District Howrah. It is bounded by on the North by the Commissioner low land, on the East by the Commissioners' strip of open land reserved as margin of safety alongside SMPK Railway Siding, on the South partly by the SMPK land leased to the Lessees and partly by the SMPK strip of open land reserved as margin of safety alongside SMPK railway Siding and on the West by the SMPK land earlier leased to the Burn and Co. Ltd.

Date 17.3.2023.


Signature & Seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, SMP, 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
 21/3/23
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

Proceedings No. 1956, 1956/D Of 2022 Order Sheet No. -08-

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

m/s Khemchand Rajkumar vs.

08
16.3.2023

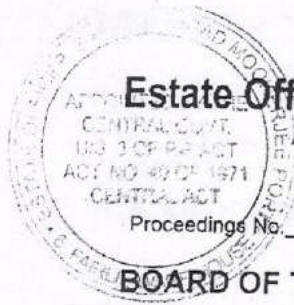
FINAL ORDER

The matter is taken up today for final disposal. It is the case of Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust], hereinafter referred to as SMPK, the Applicant herein, that a long term lease for the period of 30 years w.e.f 01.09.1970 without any option of renewal was granted to **M/S. Khemchand Rajkumar(O.P)** on certain terms and conditions in respect of land msg.3004.855 Sq.m situated at Shibpur, Howrah comprised under Plate Nos.HL-194/1, SF-126/1, SF-127/1 and also HL-194/2(Way leave) respectively. Such long term lease was about to expire on 31.08.2000 however, before the expiry of such lease, O.P violated the condition of such tenancy by defaulting in payment of rental dues to SMPK and also by parting with possession to rank outsiders without having any prior approval from SMPK.

It is the case of SMPK that in view of such aforementioned breaches committed by O.P. SMPK made a request to the O.P. to quit, vacate and deliver up the peaceful possession of the subject occupations w.e.f 02.09.1985 in terms of the notice to quit dated 24.06.1985 read with vacation notice bearing No. Lnd. 4078/1/IV/17/1352 dated 25.05.2017. As the O.P. did not vacate the premises even after issuance of the said Notices, the instant Proceeding bearing No.1956, 1956/D of 2022 was initiated before the Forum for eviction of the alleged unauthorised occupant, seeking other relief. It is also the case of SMPK that as the O.P. has failed to deliver back possession even after the issuance of notice demanding possession dated 24.06.1985, O.P's occupation is unauthorised and

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SYAMA PRASAD MOOKERJEE PORT
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

2



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. 1956,1956/D of 2022 Order Sheet No. -09-

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S Khumchand ^{VS} Rajkumar

08
16.3.2023

By Order of :
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
* 21/3/23
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

O.P. is liable to pay damages for wrongful use and enjoyment of the Port Property in question.

This Forum formed its opinion to proceed against O.P under the relevant provisions of the Act and issued Show Cause Notice U/S 4 of the Act (for adjudication of the prayer for order of eviction etc.) and Show Cause Notice U/S-7(for adjudication of the prayer for recovery of arrear damages etc.) both dated 27.02.2023(vide Order No. 06 dated 09.02.2023 as per rule made under the Act.

After issuance of the aforesaid notice, on 09.03.2023 O.P. or any other person interested in the property did not appear before the Forum for giving reply to the Shaw Cause. However, the record depicts that such Notice had been sent to O.P both by hand and Speed Post as per addresses available on record.

It reveals from the report of the Process Server dated 06.03.2023 that the O.P was not found in the addresses mentioned therein therefore, Show Cause Notice/s u/s 4 & 7 were affixed on the subject premises on 06.03.2023 at about 14:20 P.M. as a notice to all concerned as per the mandate of the P.P Act. However, the Postal Services to all three recorded addresses of O.P returned undelivered to the Forum with three different comments of Postal Department as "insufficient address", "left" and "no such person in this address (RTS)".

Now as per the Report of the Process Server dated 06.03.2023 as the Show Cause Notice/s are duly affixed on the subject premises in question, I am satisfied with service of notice to all concerned.

[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. 1956, 1956/A of 2022 Order Sheet No. -10-

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s Khumchand VS Rajkumar

08
16.3.2023

It is seen from the record that in the course of hearing no one on behalf of O.P. had appeared before the Forum and no reply to the Show Cause Notice/s had also been filed by the O.P or any person interested in the property as yet. Finally as the O.P had failed to appear on 09.03.2023 the final Order was reserved in the matter.

Now this Forum has decided to adjudicate the matter ex-parte. As no one from O.P's side appears and no reply to the Show Cause Notice u/s 4 & 7 of the Act has been filed as yet, I have no bar to accept the claim of SMPK on account of unauthorised occupation of O.P into the Public Premises in question. 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 nothing to disbelieve the statement made against O.P. by the Port Authority. Accordingly the order of eviction issued on the following grounds/reasons:

1. That O.P or any other person interested in the property has failed to file any reply to the Show Cause Notice/s U/S 4 & 7 of the Act inspite of chance being provided to them.
2. That O.P has defaulted in making payment of rental dues to SMPK at the time of issuing Ejectment Notice dated 24.06.1985.
3. That O.P. has unauthorisedly parted with possession of the subject Public Premises to rank outsiders and failed to vacate the premises upon determination of the period as mentioned in the notice to quit dated 24.06.1985 as issued by the Port Authority.

2

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
21/3/23

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

Proceedings No. 1956, 1956/0 of 2022 Order Sheet No. - 11 -

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s Khemchand^{VS} Rajkumar

08
16.3.2023

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

4. That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
5. That O.P has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 24.06.1985.
6. That O.P's occupation has become unauthorised in view of Sec 2(g) of the Act and O.P is liable to pay damages as claimed by SMPK for wrongful use and enjoyment of the Port property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

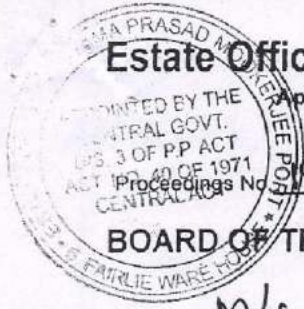
ACCORDINGLY, Department is directed to draw up formal order of eviction u/s.5 of the Act as per Rule made there under, giving 15 days time to O.Ps' and any person/s whoever may be in occupation to vacate the premises. I make it clear that all person/s whoever may be in occupation are liable to be evicted by this order and the Port Authority is entitled, to claim damages for unauthorized use and enjoyment of the property against O.Ps' in accordance with Law up to the date of recovery of possession of the same.

It is my considered view that a sum of Rs.3,78,75,236.88(Rupees Three Crore seventy eight lakh seventy five thousand two hundred thirty six and paise eighty eight only) for Plate No.HL-194/1 for the period from 02.09.1985 to 31.10.2022(both days inclusive), Rs.6,85,980.25 (Rupees Six lakh eighty five thousand nine hundred eighty and paise twenty five only) for Plate No. SF-126/1 for the period from 02.09.1985 to 30.06.2017 (both days inclusive),

2

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



BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/s Khemchand Rajkumar ^{VS}

Order Sheet No. -12-

08
16.3.2023.

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

Rs.79,19,893.78 (Rupees Seventy nine lakh nineteen thousand eight hundred ninety three and paise seventy eight only) for Plate No.SF-127/1 for the period from 02.09.1985 to 30.06.2017 (both days inclusive) and Rs.4,351/- (Rupees Four thousand three hundred fifty one only) for Plate No.SF-194/2 for the period from 02.09.1985 to 31.10.2022 (both days inclusive) are respectively due and recoverable from O.P. by the Port authority on account of damages and O.P. must have to pay such dues to SMPK on or before 03.4.2023. Such dues attract compound interest @ 7.50 % 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) 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.

I make it clear that SMPK is entitled to claim further damages against O.P. for unauthorized use and occupation of the public premises right upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law, and as such the liability of O.P. to pay damages extends beyond 31.10.2022, 30.06.2017 and 31.10.2022 as well, till such time the possession of the premises continues to be under the unauthorised occupation with the O.P. SMPK is directed to submit a statement comprising details of its calculation of damages after 31.10.2022, 30.06.2017 and 31.10.2022, indicating there-in, the details of the rate of such charges, and the period of the damages (i.e. till the date of taking over of possession) together with the basis on which such charges are claimed against O.P., for my consideration for the

Q

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. 1956, 1956/D of 2022 Order Sheet No. -13-

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

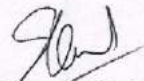
m/s Khemchand vs Raskumar

08
16.3.2023.

purpose of assessment of such damages as per Rule made under the Act.

I make it clear that in the event of failure on the part of O.P. to comply with this Order, Port Authority is entitled to proceed further for execution of this order in accordance with law. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL


(Satyabrata Sinha)
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
P. 21/3/23
Head Assistant
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