



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 SMPK's
Fairley Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO.16 DT 10.02.2023.
PROCEEDINGS NO. 1726 OF 2019

SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(ERSTWHILE BOARD OF TRUSTEES OF THE PORT OF KOLKATA)

-Vs-

M/s. Nagendra Nath Basu Pvt. Ltd (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

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that
M/s. Nagendra Nath Basu Pvt. Ltd, 5A, Anukul Mukherjee Road, Kolkata-
700006 AND ALSO At A-5, Jagannath Ghat, Kolkata-700007 is in
unauthorized occupation of the Public Premises specified in the Schedule
below:

REASONS

- 1) That the 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 in spite of sufficient chances being provided to them.
- 2) That O.P. has failed to pay the rental dues to SMP, Kolkata inspite of repeated request from SMP, Kolkata.
- 3) That the O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 4) 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 25.02.2014.
- 5) That O.P.'s occupation has become unauthorized in view of section 2 (g) of the Act and O.P. is liable to pay damages 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

Snd

By Order of:
ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
10.02.2023
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



(2)

A copy of the reasoned order No. 16 dated 10.02.2023, 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 **M/s. Nagendra Nath Basu Pvt. Ltd, 5A, Anukul Mukherjee Road, Kolkata-700006 AND ALSO At A-5, Jagannath Ghat, Kolkata-700007** 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 **M/s. Nagendra Nath Basu Pvt. Ltd, 5A, Anukul Mukherjee Road, Kolkata-700006 AND ALSO At A-5, Jagannath Ghat, Kolkata-700007** 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. CG-6

The said piece or parcel of godown space msg.142.142 sq.m or thereabouts at Compartment No.5, Block No. A of Kolkata Port Trust's Jagannath Ghat Godown is situated at Jagannath Ghat in the presidency town of Kolkata. It is bounded on the **North** partially by strip of open land and partially by the Trustees' Compartment No.6 at Jagannath Ghat godown, on the **East** partially by the Trustees' Compartment No.6 of Jagannath Ghat Godown and partially by strip of open land, on the **South** partially by strip of open land and partially by the Trustees' Compartment No.4 of Jagannath Ghat Godown and on the **West** partially by strip of open land and partially by the Trustees' Compartment No.4 of Jagannath Ghat Godown.

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

Dated: 10.02.2023,

Signature & Seal of
Estate Officer.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
10.02.2023
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

COPY FORWARDED TO THE ESTATE MANAGER, SYAMA PRASAD MOOKERJEE PORT, KOLKATA FOR INFORMATION.

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
6, Fairlie Place Warehouse
Kolkata-700001.

Form "E"

PROCEEDINGS NO.1726/R OF 2019
ORDER NO.16 DATED: 10.02.2023.

Form of order under Sub-section (1) and (2A) of Section 7 of the Public
Premises (Eviction of Unauthorised Occupants) Act, 1971.

To
M/s. Nagendra Nath Basu Pvt. Ltd,
5A, Anukul Mukherjee Road,
Kolkata-700006
AND ALSO AT
A-5, Jagannath Ghat,
Kolkata-700007.

Order of
ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
10.02.2023
HEAD ASSISTANT
OFFICE OF THE LD ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

WHEREAS you are in occupation of the public premises described in the
Schedule below. (Please see on reverse).

AND WHEREAS, by written notice dated 09.10.2019 you are called upon to
show cause on or before 28.10.2019 why an order requiring you to pay a sum
of Rs.17,47,077.13 (Rupees Seventeen Lakh forty seven thousand seventy
seven and paise thirteen only) being the rent payable together with compound
interest in respect 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 by sub-section (1) of
Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act
1971, I hereby require you to pay the sum of Rs.17,47,077.13 (Rupees
Seventeen Lakh forty seven thousand seventy seven and paise thirteen only) for
the period upto 31st March, 2014 to SMP, Kolkata by 27.02.2023.

Sd/-

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 case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

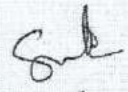
SCHEDULE

Plate No. CG-6

The said piece or parcel of godown space msg.142.142 sq.m or thereabouts at Compartment No.5, Block No. A of Kolkata Port Trust's Jagannath Ghat Godown is situated at Jagannath Ghat in the presidency town of Kolkata. It is bounded on the **North** partially by strip of open land and partially by the Trustees' Compartment No.6 at Jagannath Ghat godown, on the **East** partially by the Trustees' Compartment No.6 of Jagannath Ghat Godown and partially by strip of open land, on the **South** partially by strip of open land and partially by the Trustees' Compartment No.4 of Jagannath Ghat Godown and on the **West** partially by strip of open land and partially by the Trustees' Compartment No.4 of Jagannath Ghat Godown.

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

Dated: 10.02.2023,


Signature and seal of the
Estate Officer

By Order of
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
KOLKATA
10.02.2023
ESTATE OFFICER
MOOKERJEE PORT

COPY FORWARDED TO THE ESTATE MANAGER, SMP, 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

1726, 1726/R of 2019 Order Sheet No. 13

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/3 NAGENDRA NATH BASU PVT. LTD

FINAL ORDER

The instant proceedings No. 1726,1726/R,1726/D of 2019 arise out of the application bearing No. Lnd 11/12/II/15/856 dated 17.06.2015 filed by Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust/KoPT], hereinafter referred to as 'SMP, Kolkata', the applicant herein, under the provisions of the **Public Premises (Eviction of Unauthorised Occupants) Act, 1971** (hereinafter referred to as 'the Act') praying for an order of eviction and recovery of rental dues/mesne profit/damages/compensation along with accrued interest in respect of the public premises, being the Trustees' godown space msg. 142.142 sqm. or thereabouts at Compartment No. 5, Block No. A at SMP, Kolkata's Jagannath Ghat Godown under Plate No. CG 6, against **M/s Nagendra Nath Basu Pvt. Ltd** (hereinafter referred to as **O.P.**).

It is the case of SMP, Kolkata that the O.P. came into occupation of the port property, morefully described under the Schedule 'A' of the SMP, Kolkata's application dated 17.06.2015, as a monthly lessee. It is the case of SMP, Kolkata that the O.P. is in default of payment of monthly rent and taxes for use and enjoyment of the port property in question. It is further the case of SMP, Kolkata that O.P. violated the Hon'ble High Court's order dated 12.02.2007 passed in APO 367 of 2006 related to W.P.347 of 1988 and W.P. 209 of 1997 (The Port Tenants Welfare Association and Ors. Vs The Board of Trustees for the Port of Kolkata)

Considering the non-payment of the rental dues, taxes and the violation of the order of the Hon'ble High Court notice to quit was issued to O.P. on 25.02.2014 requiring the O.P. to quit, vacate and deliver up peaceful possession of the premises on 31.03.2014 in terms of the said notice. It is the case of SMP, Kolkata that the tenancy with the O.P. was determined w.e.f. 31.03.2014, in terms of the Notice to Quit dated 25.02.2014 and the O.P. failed and neglected to vacate/ hand over the possession of the premises after service of the said Notice to Quit. SMP, Kolkata has made out a case that O.P. has no right to occupy the premises after the determination of tenancy in question upon service of a quit notice dated 25.02.2014.

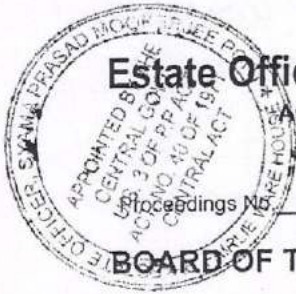
Thereafter, vide applications dated 29.07.2019 and 27.09.2019, SMP, KOLKATA filed updated dues. Based on the applications

16

10.02.2023

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
10.02.2023
Head Assistant
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.

1726, 1726/R Of 2019

Order Sheet No.

14

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S NAGENDRA NATH BASU PVT. LTD

16
10.02.2023

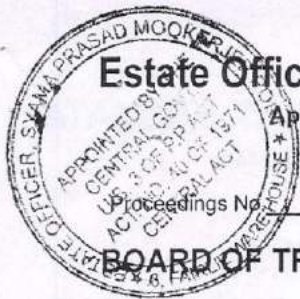
dated 17.06.2015, 29.07.2019 and 27.09.2019 this Forum of Law formed it's opinion to proceed against O.P. and issued 3 (three) nos. of Show Cause Notices upon the O.P., the first one was issued u/s 4 of the Act for adjudication of the prayer of eviction, the second and third one were issued u/s 7 of the Act for adjudication of the prayer of rental dues and compensation dues/ damages/ mesne profit, respectively, alongwith the accrued interest thereon, etc.), all dated 09.10.2019 (vide Order No. 10 dated 09.10.2019), as per the Rules made under the Act.

The said Notices were sent through 'Speed Post' to the recorded addresses of O.P. at '5A, Anukul Mukherjee Road, Kolkata- 700 006' & at 'A-5 Jagganath Ghat, Kolkata- 700 007'. However, the envelope that was sent to the address being 'A-5 Jagganath Ghat, Kolkata- 700 007' returned undelivered by the Postal Department with the remarks "D/L, I/S". The envelope sent to '5A, Anukul Mukherjee Road, Kolkata- 700 006' however was not returned showing good service of the order. The 'Process Server' attached with this Forum has submitted the report dated 14.10.2019 that the Notices could not be hand delivered as O.P. refused to take service. However, as per the said Report of the Process Server the Notices have been affixed in the conspicuous part of the property under schedule for a notice to all concerned, as per the mandate of the Act.

On the day fixed for Show Cause by the O.P., viz. 28.10.2019, the matter was not taken up for hearing. Thereafter, O.P. vide order dated 09.06.2022 was again directed to appear and file their Reply to the Show Cause Notice before the Forum on 07.07.2022. The said order was sent through Speed Post in the address of O.P. being '5A, Anukul Mukherjee Road, Kolkata- 700 006'. However, neither the O.P. nor any person interested in the property appeared before this Forum. It is seen from the Track Consignment Report of the India Post that the order was duly received by the O.P. Another chance was given to O.P. to appear before the Forum vide order dated 07.07.2022 and file their Reply to the Show Cause Notice on 04.08.2022. The said order was again sent through Speed Post in the address of O.P. being '5A, Anukul Mukherjee Road, Kolkata- 700 006'. It is seen from the Track Consignment of India Post that the order dated 07.07.2022 was duly served upon O.P. The said order dated 07.07.2022 was also sent through the Process Servers attached to the Forum in both the recorded address of O.P. It is seen from the report of the Process Server dated 16.08.2022 that the party

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
10-02-2023
ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Sub



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.

1726, 1726/R of 2019 Order Sheet No. 15

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S NAGENDRA NATH BASU PVT. LTD.

refused to take the order. However, due affixation of the order was made in the conspicuous part of the property under schedule for a notice to all concerned, as per the mandate of the Act.

As no one appeared on 04.08.2022, following the principles of Natural Justice that no one should be condemned unheard, the matter was adjourned, this Forum passed an order on 23.08.2022, following the principles of natural justice of Audi alterem partem that no person should be judged without fair hearing, directing paper publication of the order in a widely circulated English Daily intimating the pendency of the proceedings to all concerned. Such notice was published in "The Times of India" on August 25, 2022 thereby directing the O.P. to file their Reply to the Show Cause Notice within 08.09.2022. But such effort of the Forum also was also in vain as no one appeared for O.P. to represent their case before the Forum, and as such, I am, perforce, left with no other alternative, but to proceed ex parte against O.P.

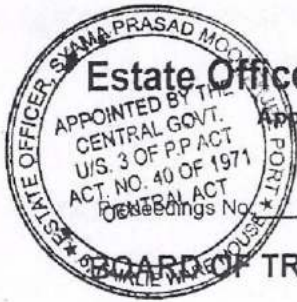
It appears that all efforts remained infructuous as none appeared on behalf of O.P. or any other person interested in the property and no reply to show cause notice was filed even after affixation of Notice in the conspicuous part of the property, for notice to all concerned, as per the mandate of the Act. Considering the situation above stated, I find no reason to prolong the matter any further and the hearing was concluded on 08.09.2022.

Now while passing the final order, I have carefully considered the documents on records and submissions of SMP, Kolkata. The question now arises is how far the service of Show Cause/s deserves merit is the facts and circumstances of the case. After thorough perusal of all the records in the case, I am left with no other alternative but accept that the said notice/s have duly been served upon O.P. by way of affixation as well as by Speed Post. In my view, the importance of a notice served in the official course of business through India Post cannot be ignored by mere non appearance of the O.P.

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 SMP, Kolkata on account of unauthorised occupation of O.P. into the public premises in

Sub

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
10.02.2023
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

1726, 1726/R of 2019 Order Sheet No. 16

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/s NAGENDRA NATH BASU PVT. LTD

16
10.02.2023

question. I think that it is a fit case for issuing order of eviction u/s 5 of the Act on the following grounds:-

- 1) That the 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 in spite of sufficient chances being provided to them.
- 2) That O.P. has failed to pay the rental dues to SMP, Kolkata inspite of repeated request from SMP, Kolkata.
- 3) That the O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 4) 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 25.02.2014.
- 5) That O.P.'s occupation has become unauthorized in view of section 2 (g) of the Act and O.P. is liable to pay damages 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 eviction u/s 5 of the Act as per Rule made there under, giving 15 days time to O.P. and any other person/s whoever may be on 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 unauthorised use and enjoyment of the property against O.P.'s occupation in accordance with Law up to the date of recovery of possession of the same.

SMP, Kolkata is directed to submit a comprehensive status report of the Public Premises in question on inspection of the property after expiry of the 15 days as aforesaid, so that necessary action can be taken for execution of the order of eviction u/s 5 of the Act, as per Rule made under the Act.

It is my considered view that a sum of Rs. 17,47,077.13 (Rupees Seventeen lakhs forty seven thousand seventy seven and thirteen paise only) for the period upto 31st March, 2014 is due and recoverable from O.P./ estate of O.P. by Port Authority on account of rental dues and O.P./ estate of O.P. must have to pay the rental dues to SMP, Kolkata on or before 27.02.2023. Such rental dues shall attract 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

By Order of:
THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT
10.02.2023
OFFICE OF THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT

Sd/



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

1726, 1726/R of 2019 Order Sheet No. 17

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S NAGENDRA NATH BASU PVT. LTD.

16
10.02.2023

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 SMP, Kolkata's books of accounts. I sign the formal orders u/s 7 of the Act.

I find that SMP, Kolkata has made out an arguable claim against O.P., founded with sound reasoning, regarding the damages/compensation to be paid for the unauthorised occupation. I make it clear that SMP, Kolkata is entitled to claim 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 as the possession of the premises is still lying unauthorisedly with the O.P. SMP, Kolkata is directed to submit a statement comprising details of its calculation of damages, indicating therein, 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 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.

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
10.02.2023
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT