



**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 10.02.2023
PROCEEDINGS NO. 500/L of 2004

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

-Vs-

Md. Nizam & Md. Rafique

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
**Md. Nizam & Md. Rafique, Quarters No. 9, Block No. 36, Hide Road Mazdoor
Line, P.S. S.P.P.S., Kolkata- 700 023**, 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 the 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.s' have 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 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 **Md. Nizam & Md. Rafique, Quarters No. 9, Block No. 36, Hide Road Mazdoor Line, P.S. S.P.P.S., Kolkata- 700 023** 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 **Md. Nizam & Md. Rafique, Quarters No. 9, Block No. 36, Hide Road Mazdoor Line, P.S. S.P.P.S., Kolkata- 700 023** 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

Quarters No. 9, Block No. 36, Hide Road Mazdoor Line, P.S. S.P.P.S., Kolkata- 700 023 is butted and bounded in the manner as follows :

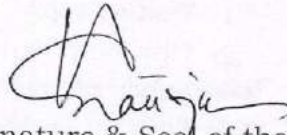
On the North by : 35/10 at Hide Road Mazdoor Line

On the South by : 36/10 at Hide Road Mazdoor Line

On the East by : 36/8 at Hide Road Mazdoor Line

On the West by : Hide Road Main Road

DATED: 10.02.2023.


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

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Md. Nizam ^{VS} *and others*

09
10.02.2023

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. 9 Bl. No. 36 at Hide Road Mazdoor Line. The said quarter was under lock and key since 05.03.2001. On or about 02.04.2001, Md. Nizam, the Opposite Party No. 1, hereinafter referred to as O.P.No.1 forcibly occupied the above quarters by breaking open the padlock. Since then O.P. No.1 had been unauthorisedly occupying the said quarters without any authority.

SMPK filed application dated 18.01.2002, praying for an order of eviction against O.P.No.1. Upon direction being passed by the Forum on 20.05.2022, SMP,K vide application dated 01.08.2022 submitted that on a recent inspection it was found that the subject quarter is presently being unauthorisedly occupied by rank outsider namely Md. Rafique, Opposite Party no. 2, hereinafter referred to as O.P. No. 2 and prayed for an eviction proceedings being initiated against the said O.P. No. 2. This Forum on having the information of such unauthorised occupation 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 01.08.2022 upon O.P. no.1 & 2. The said Show Cause notice along with the order dated 01.08.2022 were sent through "Speed Post". The envelope, however has not been returned showing good service of the order. The order were also sent through Process Server attached to the Forum. It is seen from the report of the Process Server dated 25.08.2022, that O.P. refused to take service of the order. However, due affixation was made on a conspicuous part of the public premises for notice to all concerned. As none appeared on behalf of O.P. No. 1 and O.P. No.2, for the sake of natural justice, another opportunity was given to the O.P.s to represent their case before the Forum. Order dated

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Proceedings No. 500/L of 2004 Order Sheet No. 509-

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VS
Md. Nuzam and others

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19.09.2022, was sent through the Process Server. It is seen from the report of the Process Server dated 29.09.2022, that O.P. refused to take service of the order. Due affixation was made on a conspicuous part of the premises for notice to all concerned, inspite of which none appeared. I am satisfied with the service of notice.

In course of hearing inspite of having knowledge of the pending proceedings neither 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.s 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 SMPK 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;
- (e) That O.P.s' occupation is unauthorised in all respect and O.P.s' 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/s5 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

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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 ***