

SCAN



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.23 DT 26.05.2023
PROCEEDINGS NO. 1063 OF 2010

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

Estate Nandalal Vyas (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 **Estate Nandalal Vyas, Birla Building, 8th Floor, 9/1, R.N Mukherjee Road, Kolkata-700001** is in unauthorized occupation of the Public Premises specified in the Schedule below:-

REASONS

- 1 That O.P. has failed to submit reply to the Show Cause Notice/s u/s.4 & 7 of the Act in spite of sufficient chances.
- 2 That nobody from O.P's end came to bear any witness or adduce any evidence in support of its occupation as "authorized occupation" in spite of sufficient chances.
- 3 That O.P. has violated the fundamental condition of tenancy as granted by the Port Authority on monthly lease basis.
- 4 That O.P. has failed to pay the rental dues to SMPK amounting to Rs.57,216.08 upto 25th April 2005 in gross violation of the conditions of tenancy as granted under lease by the Port Authority.
- 5 That O.P has parted with possession of the subject premises to third parties without having any permission from Port authority.
- 6 That O.P's tenancy under monthly lease has duly been determined by the Port Authority by due service of notice to Quit dated 24.03.2005.
- 7 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 24.03.2005.
- 8 That O.P's occupation has become unauthorized in view of Sec.2(g) of the P. P. Act
- 9 That O.P. is in wrongful occupation of the Port property (being the public premises in question) on and from 26.04.2005 and liable to pay damages for such wrongful use and occupation upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

By Order of:
**THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT**

PLEASE SEE ON REVERSE

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
31/05/23
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



(2)

A copy of the reasoned order No. 23 dated 26.05.2023 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 **Estate Nandalal Vyas, Birla Building, 8th Floor, 9/1, R.N Mukherjee 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 **Estate Nandalal Vyas, Birla Building, 8th Floor, 9/1, R.N Mukherjee 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. CG-176/1

Covered space measuring 5.946 sq.m. or thereabout on the top floor/3rd floor of the Kolkata Port Trust's building being premises No.P-221/1, Strand Bank Road, situated on the West side of Strand Road in the presidency town of Kolkata.

Dated:

31 MAY 2023

Syama Prasad Mookerjee
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
[Signature]
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 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.1063/R OF 2010
ORDER NO. 23 DATED: 26.05.2023

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

To
**Estate Nandalal Vyas,
Birla Building, 8th Floor,
9/1, R.N Mukherjee Road,
Kolkata-700001.**

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

AND WHEREAS, by written notice dated 02.08.2019 you are called upon to
show cause on or before 26.08.2019 why an order requiring you to pay a sum
of Rs.57,216.08(Rupees Fifty seven thousand two hundred sixteen and paisa
eight 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.57,216.08(Rupees Fifty seven
thousand two hundred sixteen and paisa eight only) for the period from
01.04.1988 to 25.04.2005 (both days inclusive) to SMPK by 14.06.2023

Handwritten signature

PLEASE SEE ON REVERSE

By Order of:
**THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT**

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
21/5/23
Head Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



: 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 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-176/1

Covered space measuring 5.946 sq.m. or thereabout on the top floor/3rd floor of the Kolkata Port Trust's building being premises No.P-221/1, Strand Bank Road, situated on the West side of Strand Road in the presidency town of Kolkata.

Dated:

31 MAY 2023

Signature and seal of the 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.1063/D OF 2010
ORDER NO. 23 DATED: 26.05.2023

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

**Estate Nandalal Vyas,
Birla Building, 8th Floor,
9/1, R.N Mukherjee Road,
Kolkata-700001.**

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 02.08.2019 you are called upon to show cause on or before 26.08.2019 why an order requiring you to pay damages of Rs. 1,826.73 (Rupees One thousand eight hundred twenty six and paise seventy three only) 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. 1,826.73 (Rupees One thousand eight hundred twenty six and paise seventy three only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 26.04.2005 to 31.07.2005 (both days inclusive) to SMPK by 14.06.2023

PLEASE SEE ON REVERSE

Handwritten signature

By Order of :
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
21/05/23
Home Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



: 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. CG-176/1

Covered space measuring 5.946 sq.m. or thereabout on the top floor/3rd floor of the Kolkata Port Trust's building being premises No.P-221/1, Strand Bank Road, situated on the West side of Strand Road in the presidency town of Kolkata.

Date

31 MAY 2023

Suman Mukherjee
Signature & Seal of the
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
31/5/23
HOD ASSN
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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. 1063, 1063/R-D of 2010 Order Sheet No. 19

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

ESTATE NANDALAL VYAS

23
26.05.2023

FINAL ORDER

The matter is taken up today for final disposal. The factual matrix is required to be put forward in a nutshell in order to link up the chain of events leading to this proceedings. It is the case of Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust/KoPT], hereinafter referred to as SMPK, the Applicant herein, that Port property being covered space msg.5.946 sq.m. or thereabout on the top floor of SMPK's building being premises No.P-221/2, Strand Bank Road, situated on the west side of the Strand Road in the presidency town of Kolkata comprised under occupation No.CG-176/1 was allotted to **Estate Nandalal Vyas**, on the strength of a monthly lease, executed and registered by and between the parties on certain terms and conditions and O.P. violated the condition of such lease by defaulting in payment of rental dues to SMPK and also by way of unauthorized parting with possession of the subject premises to third parties. It is the case of SMPK that in view of such breaches committed by O.P, SMPK served notice of ejection to O.P. dated 24.03.2005, demanding possession of the public premises from O.P. and it is argued that O.P. has no authority under law to occupy the public premises after expiry of the period as mentioned in the said notice of ejection.

This Forum of Law formed its opinion to proceed against O.P. under the relevant provision of the Act and issued Show Cause Notice u/s.4 of the Act on 02.08.2019 vide Order No.14 dated 29.07.2019 (for adjudication of the prayer of SMPK for order of eviction) and two Show Cause Notices u/s.7, both dated 02.08.2019 vide Order No.14 dated 29.07.2019(for damages and recovery of arrear rental dues) as per Rule, calling upon O.P. to show cause on or before 26.08.2019 etc. Such notice/s u/s.4 and 7 were affixed on the property as per reports of the process server dated 20.10.2022 and 15.11.2022. The Notice/s sent by post were repeatedly returned undelivered to the forum with remarks of the Postal Department as "no such Company in this address" on

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
26/05/23
Hood Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

J

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. 1063.1063/R-7 of 2010 Order Sheet No. 20

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

ESTATE NANDALAL VYAS

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26.05.2023

19.10.2022 and also with remarks "ACNL/RTS" on 14.11.2022. As no one appeared on behalf of O.P. to represent their case, a notice was also published in English Daily "The Statesman" on 13.12.2022 for the purpose of effecting service of notice to all concerned interested in the property in question. In spite of service of notice to all concerned, nobody appeared before me at the date scheduled for hearing etc. and nobody from O.P's side filed any objection or reply to the Show Cause Notice u/s.4 & 7 of the Act. In such a scenario, I think effective service of notice has already been made as per mandate of the statute by affixation on the premises and through press publication. As there is no reply to the Show Cause Notice u/s.4 & 7 of the Act in spite of sufficient service of notice to all concerned, I have nothing to disbelieve SMPK's case against O.P. and I am left with no other alternative but to serve order of eviction against O.P. on the following reasons/grounds.

- 1 That O.P. has failed to submit reply to the Show Cause Notice/s u/s.4 & 7 of the Act in spite of sufficient chances.
- 2 That nobody from O.P's end came to bear any witness or adduce any evidence in support of its occupation as "authorized occupation" in spite of sufficient chances.
- 3 That O.P. has violated the fundamental condition of tenancy as granted by the Port Authority on monthly lease basis.
- 4 That O.P. has failed to pay the rental dues to SMPK amounting to Rs.57,216.08 upto 25th April 2005 in gross violation of the conditions of tenancy as granted under lease by the Port Authority.
- 5 That O.P has parted with possession of the subject premises to third parties without having any permission from Port authority.

By Order of :
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Signature]
21/05/23
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Handwritten mark]



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. 1063.1063/R-D of 2010 Order Sheet No. 21

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

ESTATE NANDALAL VYAS.

23
26.05.2023

- 6 That O.P's tenancy under monthly lease has duly been determined by the Port Authority by due service of notice to Quit dated 24.03.2005.
- 7 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 24.03.2005.
- 8 That O.P's occupation has become unauthorized in view of Sec.2(g) of the P. P. Act
- 9 That O.P. is in wrongful occupation of the Port property (being the public premises in question) on and from 26.04.2005 and liable to pay damages for such wrongful use and occupation upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

ACORDINGLY, Department is directed to draw up formal order of eviction u/s.5 of the Act as per Rules made thereunder, giving 15 days time to O.P. to vacate the premises. It is made clear that any person/s whoever may be in occupation is/are directed to vacate the premises in terms of the order u/s.5 of the Act. 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 occupation of the property against O.P. 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.57,216.08/- (Fifty seven thousand two hundred sixteen and paisa eight only) for the period from 01.04.1988 to 25.04.2005 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of rental dues and O.P. must have to pay the rental dues to SMPK on or before 14.06.23 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

[Handwritten signature]

By Order of
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

21/5/23
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

Proceedings No. 1063.1063/R-D of 2010 Order Sheet No. 22

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

ESTATE NANDALAL NYAS

23
26.05.2023

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 SMPK's books of accounts.

Likewise, I find that SMPK has made out an arguable claim against O.P., founded with sound reasoning, regarding the damages/compensation to be paid for unauthorised occupation. As such, I must say that Rs.1,826.73(Rupees One thousand eight hundred twenty six and paise seventy three only) as claimed by the Port Authority as damages in relation to the subject premises in question, is correctly payable by O.P. for the period 26.04.2005 to 31.07.2005 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to SMPK by 14.06.23. The said damages shall 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 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 SMPK's books of accounts. I sign the formal orders u/s 7 of the Act.

I make it clear that SMPK 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, and as such the liability of O.P. to pay damages extends beyond 31.07.2005 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 31.07.2005, 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 purpose of assessment of such damages as per Rule made under the Act.

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

8



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. 1063, 1063/R-D of 2010 Order Sheet No. 23

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
ESTATE NANDLAL VYAS.

23
26.05.2023

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

S. Mukhopadhyay
(S. Mukhopadhyay)
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
SYAMA PRASAD MOOKERJEE PORT
Head
21/05/23
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT