



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 Unauthorised Occupants) Act 1971
OFFICE OF THE ESTATE OFFICER
6, Fairlie Place (1st FLOOR) KOLKATA-700001

Court Room at the 1st Floor
Of SMPK's
Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.1764/D OF 2019
ORDER NO. 19 DATED: 10.07.2023

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

The Director,
Govt of India,
Ministry of Environment & Forest,
Institute of Forest Productivity,
Ranchi, Gulma Road, NH-23,
Lalgutwa-Ranchi-835303,

And

Directorate of Lac Development,
Circular Road,
Ranchi.

And also

Regional Manager,
M/s. Central Warehousing Corporation, CMC Building
Phase-I, 6th Floor, New Market Complex,
15/N, Nellie Sengupta Sarani,
Kolkata-700043.

By Order of :
**THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT**
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
R. Head Assistant
OFFICE OF THE I.D. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

10.07.2023

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

AND WHEREAS by written notice dated 19.08.2020 you are called upon to show cause on or before 11.09.2020 why an order requiring you to pay damages of Rs.37,61,594/- (Rupees Thirty seven Lakh sixty one thousand five hundred ninety four Only) together with [compound interest] for unauthorised use and occupation of the said premises, should not be made;

AND WHEREAS, I have considered your objections and/or the evidence produced by you;

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.37,61,594/- (Rupees Thirty seven Lakh sixty one thousand five hundred ninety four Only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.02.2012 to 29.11.2016(both days inclusive) to SMPK by 26.07.2023.

[Signature]
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 -D-83/1

The said piece or parcel of land msg. 1583.156 Sq.m or thereabouts is situated on the West side of Nimak Mahal Road, Thana-West Port Police Station, Kolkata, District-24 Parganas(South), Registration Dist. Alipore. It is bounded on the North & West by the Trustees' land leased to P.C Chatterjee & Company, on the East by Nimak Mahal Road & on the South by the Trustees' land leased to Hindustan Petroleum Corporation Limited. Trustees' means the Board of Syama Prasad Mookerjee Port, Kolkata Authority (Erstwhile Board of Trustees' for the Port of Kolkata).

Date 11.07.2023


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

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

10.07.2023

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. 1764 Of 2019 Order Sheet No. 16

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

**DIRECTORATE OF LAC DEVELOPMENT INSTITUTE OF FOREST PRODUCTION
174(2) M/S. CENTRAL WARE HOUSING CORPORATION**

19

10.07.2023

FINAL ORDER

The instant Proceedings No. 1764/D of 2019 arose out of the application bearing No. Lnd. 4329/III/18/3134 dated 21.01.2019 read with an application dated 22.11.2019 filed by the Syama Prasad Mookerjee Port Kolkata (Formerly Kolkata Port Trust/KoPT), hereinafter referred to as SMPK, the Applicant herein, praying for order for recovery of arrear damages/compensation charges, taxes, along with interest from **The Director, Govt of India, Ministry of Environment & Forest, Institute of Forest Productivity, Directorate of Lac Development**, hereinafter referred to as **O.P/Respondent No.1** and **Regional Manager, M/s. Central Warehousing Corporation**, hereinafter referred to as **O.P/ Respondent No.2**. The material facts of the case is summarized here under.

Land msg. 1583.156 Sq.m. or thereabouts situated at Nimak Mahal Road comprised under (Occupation No. D-83/1) was allotted to Opposite Party No.1 on long term lease basis for period of 30 years w.e.f 01.09.1988 and O.P. No.1 violated the condition for grant of such lease by way of not making the payment of monthly rental dues to SMPK and also by unauthorised parting with possession to M/s Central Warehousing Corporation/C.W.C., hereinafter referred to as O.P No.2. Thereafter, the lease was determined by SMPK by serving the notice of ejection bearing No.Lnd.4329/II/09/1005 dated 10.07.2009. The O.P. No.1 was asked to hand over clear, vacant and unencumbered possession of the premises on 15.01.2010 in terms of the notice of ejection dated 10.07.2009. During this period the O.P/Respondent No.1 communicated to SMPK that C.W.C would operate the godowns and pay all the rent and taxes to SMPK w.e.f 01.04.1982 for a period of 5years. On 19.09.2016, SMPK issued another letter, asking the O.P/Respondent No.1 to hand over possession of the land to SMPK and in compliance of said letter, C.W.C, the O.P/Respondent No.2 vide their letter dated 15.11.2016 expressed its willingness to surrender the premises to SMPK and accordingly, the possession of the premises was handed over to SMPK by the Opposite Parties/Respondents on 29.11.2016. Thereafter, SMPK in terms of the application dated 22.11.2019 has submitted its claim on account of compensation/ damage charges, which reportedly was due and recoverable from the O.P.No.1

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

R. Am
Head Assistant

THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

10.07.2023

(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. 1764 of 2019 Order Sheet No. 17

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

① DIRECTORATE OF LAL DEVELOPMENT INSTITUTE OF FOREST PRODUCTIVITY

② M/s. CENTRAL WARE HOUSING CORPORATION

19

10.07.2023

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

10.07.2023

for its use and enjoyment of the port property in question. CWC was made a party in such application dated 22.11.2019.

After considering the claim of SMPK, this Forum formed its opinion to proceed against both the Opposite Parties and issued Show Cause Notice dated 19.08.2020 (vide Order no. 03 dated 18.08.2020) u/s 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971.

Both the Opposite Parties/respondents contested the matter and filed reply to the Show cause notice on 08.09.2020 and 31.10.2020. SMPK on the other hand, filed their comments dated 06.06.2022 in response to the reply to Show Cause filed by Opposite Parties.

The main contentions of Opposite Party/Respondent No.1 can be summarized as follows:-

- 1) Since the premises was used by CWC, Kolkata upto 2016 and in the past payment of compensation charges to SMPK from April 2010 to February, 2012 was made by Regional Manager, M/s. Central Warehousing Corporation, payment of the outstanding amount of Rs.37,61,594/- is the liability lying on C.W.C, Kolkata only. Hence, bill may be raised directly to C.W.C.
- 2) This Institute has nil financial liability.

The main contentions of Opposite Party/Respondent No.2 can be summarized as follows:-

- 1) The piece of land measuring about 1583.156 Sq.m mentioned in the Schedule-I of the Show Cause Notice was under the occupation of CWC with the mutual agreement through the Director, Government of India, Ministry of Environment & Forest, Institute of Forest Productivity, Ranchi and handed over the land to SMPK on 29.11.2016.
- 2) CWC continued to make payment of the rent and other taxes to SMPK through the Institute of Forest Productivity, Ranchi and the last payment released to SMPK from April 2010 to February, 2012 for an amount of Rs.9,33,848.00/-.
- 3) As regards the demand of SMPK for Rs.37,61,594.00/- as mentioned in Schedule II of the Show Cause Notice, O.P No.2 has placed an appeal to SMPK for consideration of the following points:-



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.

1764

Of

2019

Order Sheet No.

18

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

① DIRECTORATE OF LAC DEVELOPMENT INSTITUTE OF FOREST PRODUCTIVITY

19

② MRS. CENTRAL WARE HOUSING CORPORATION

10.07.2013

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 I.D. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

10.07.2013

- > 3 times rent charges for the month of July, 2012 to September, 2012 and September, 2016 to December, 2016.
- > To impose enhancement of rent as per "The KOLKATA GAZETTE, EXTRAORDINARY, MARCH 28, 2011" stated at point no.6 as "In case of all existing monthly leases and monthly licenses fee shall be escalated @ 2% per annum".
- > C.W.C, a Govt of India Undertaking utilized the storage space on agreement with the primary lease holder i.e Government of India, Ministry of Environment & Forest, Institute of Forest Productivity, Ranchi as such interest or penal interest as imposed by SMPK on the outstanding statement as payable by O.P should be waived.
- > C.W.C has handed over the land/godown on 29.11.2016 but in the dues Statement rent for the month of December, 2016 has been claimed which should be looked into for recalculation by the SMPK.

SMPK, the Petitioner, denying the claim of Opposite parties argued that to determine the long term lease of O.P ejection notice was served upon O.P on the ground of non-payment of rent and unauthorised parting with possession. During that period it was stated by O.P to SMPK that C.W.C would operate the godown and pay all rent and taxes accordingly. However, SMPK issued letter to O.P on 19.09.2016 demanding possession and in response to the same CWC vide their Letter dated 15.11.2016 expressed their willingness to surrender and accordingly possession was taken over on 29.11.2016. Now O.P is still liable to pay huge outstanding dues to SMPK for their unauthorised occupation.

Now, while passing the Final Order, after carefully considered the documents on record and the submissions of the parties, I find that following issues have come up for my adjudication:-

- I) Whether the instant Proceeding against O.P. is maintainable or not;
- II) Whether O.P. is liable to pay the damages to the Port Authority, for the use and occupation of the public premises from 01.02.2012 to 29.11.2016, as claimed for by SMPK;
- III) Whether O.P's claim for waiver of interest for delayed payment as charged by SMPK has got any merit or not;



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. 1764 of 2019 Order Sheet No. 19

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

① DIRECTORATE OF LAC DEVELOPMENT INSTITUTE OF FOREST PRODUCTIVITY

② M/S. CENTRAL WARE HOUSING CORPORATION

19

10.07.2023

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

10.07.2023

As regards **issue no. I**, I must say that the properties owned and controlled by the Port Authority has been declared as "public premises" by the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and Section-15 of the Act puts a complete bar on Court's jurisdiction to entertain any matter relating to eviction of unauthorized occupants from the public premises and recovery of rental dues etc. SMPK has come up with an application for an order of recovery of compensation charges etc against Opposite Parties on the ground of non-payment of the same in respect of the premises in question. So long the property of the Port Authority is coming under the purview of "public premises" as defined under the Act, adjudication process by serving Show Cause Notice u/s 7 of the Act is very much maintainable and there cannot be any question about the maintainability of proceedings before this Forum of Law. In fact, proceedings before this Forum of Law is not statutorily barred unless there is any specific order of stay of such proceedings by any competent court of law. The Issue no.I is therefore decided accordingly.

Issues No. II & III are clubbed together for convenient discussion as the issues are related with each other. Regarding the **issue no. II**, I must say that the long term lease for a period of 30 years w.e.f 01.09.1988 with respect to the public premises in question was entered into by the Port Authority with the O.P.No.1 and such lease was determined vide a notice of ejectment dated 10.07.2009 on the ground of non-payment of rent and unauthorised subletting to M/s. Central Warehousing Corporation/CWC). Accordingly, the O.P.No.1 was requested to arrange for vacation of the subject premises on 15.01.2010 free from all encumbrances. Thereafter it appears from the application of SMPK that Central Govt. vide their letter dated 22.05.2009 had decided that M/s. CWC would operate the subject godown and pay all the rent and taxes to SMPK w.e.f 01.04.1982 for the period of 5 years. It further appears that in the said application it was also stated that O.P/respondent No.1 had clear off all dues till 14.01.2010 and CWC was entrusted with the job of maintenance and operation of the AC godown constructed on the subject premises in question in compliance with the direction/order of Govt. of India issued from time to time since 1967. Thereafter SMPK issued a Letter dated 19.09.2016 to



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. 1764 of 2019 Order Sheet No. 20

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

① DIRECTORATE OF LAC DEVELOPMENT, INSTITUTE OF FOREST PRODUCTIVITY

19

② M/S. CENTRAL WARE HOUSING CORPORATION

10.07.2023

both the Opposite Parties asking them to hand over the land of SMPK and in response to such Letter CWC/Respondent No.2 vide their letter dated 15.11.2016 expressed their willingness to surrender the premises and finally the possession of the subject premises was taken over by SMPK on 29.11.2016. Admittedly, the O.P.No.1 continued in possession of the public premises through O.P. No.2 even after due determination of lease in question vide ejection Notice dated 10.07.2009 therefore, I have no hesitation in deciding that O.P.No.1 or any person interested in the property has no enforceable right after determination of such long term lease. The possession of the public premises by the Opposite Parties till the date of recovery of possession, therefore, is nothing but "unauthorized occupation" within the meaning of sec 2 (g) of the P.P. Act, 1971, which reads as under:-

"unauthorized occupation", in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises, has expired or has been determined for any reason whatsoever."

The lease granted to O.P.No.1 was undoubtedly determined by the Port Authority by due service of notice of ejection and institution of proceedings against Opposite Parties by SMPK is a clear manifestation of Port Authority's intention to get back possession of the premises. In fact there is no material to prove Opposite Parties intention to pay the dues/charges to SMPK and all my intention to narrow down the dispute between the parties has failed. In such a situation, I have no bar to accept SMPK's contentions regarding determination of lease by notice dated 10.07.2009, on evaluation of the facts and circumstances of the case.

"Damages" are like "mesne profit" that is to say the profit arising out of wrongful use and occupation of the property in question. I have no hesitation in mind to say that after determination of lease as mentioned in the said quit notice dated 10.07.2009, O.P.No.1 has lost its authority to occupy the public premises, on the

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 ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

10.07.2023



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. 1764 of 2019 Order Sheet No. 21

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

① DIRECTORATE OF LAC DEVELOPMENT INSTITUTE OF FOREST PRODUCTIVITY

② M/S. CENTRALWARE HOLDING CORPORATION

19

10.07.2013

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

10.07.2013

evaluation of factual aspect involved into this matter and O.P. No.1 is liable to pay damages for such unauthorized use and occupation. To come into such conclusion, I am fortified by the decision/observation of the Hon'ble Supreme Court in Civil Appeal No.7988 of 2004, decided on 10th December 2004, reported (2005)1 SCC 705, para-11 of the said judgement reads as follows.

Para:11-“ under the general law, and in cases where the tenancy is governed only by the provisions of the Transfer of Property Act 1882, once the tenancy comes to an end by determination of lease u/s.111 of the Transfer of Property Act, the right of the tenant to continue in possession of the premises comes to an end and for any period thereafter, for which he continues to occupy the premises, he becomes liable to pay damages for use and occupation at the rate at which the landlord would have let out the premises on being vacated by the tenant.

In course of hearing, the representative of SMPK states and submits that Port Authority never consented in continuing O.P.'s occupation into the public premises and never expressed any intention to accept Opposite Parties as tenant. It is contended that SMPK's intention to get back possession is evident from the conduct of the Port Authority and O.P.No.1 cannot claim its occupation as "authorized" without receiving any rent demand note. The long term lease was doubtlessly determined by the landlord by notice, whose validity for the purpose of deciding the question of law cannot be questioned by any of the Opposite Parties. Therefore, there cannot be any doubt that the O.P.No.1 was in unauthorized occupation of the premises, once the lease was determined. In my opinion, institution of this proceeding against Opposite Parties is sufficient to express the intention of SMPK to obtain an order of compensation/damages and declaration that SMPK is not in a position to recognize O.P.No1 as tenant under lease.

The Port Authority has a definite legitimate claim to get its revenue involved into this matter as per the existing terms and conditions for allotment for the relevant period and Opposite Parties cannot claim continuance of its occupation without making payment of requisite charges for occupation. To take this view, I am fortified by the Apex Court judgment report in JT 2006 (4) Sc 277 (Sarup Singh Gupta -vs- Jagdish Singh & Ors.) wherein it has been clearly observed that in the event of

[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. _____

1764

of 2019

Order Sheet No. _____

22

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

- ① DIRECTORATE OF LAC DEVELOPMENT INSTITUTE OF FOREST PRODUCTIVITY
- ② MRS. CENTRAL WARE HOUSING CORPORATION

19

10.07.2023

termination of lease, the practice followed by Courts is to permit landlord to receive each month by way of compensation for use and occupation of the premises, an amount equal to the monthly rent payable by the tenant.

It appears that during the course of hearing, SMPK has claimed compensation charges @ 3times against O.P. from July, 2012 to September, 2012 and September, 2016 to December, 2016 but denying the said compensation charges, O.P./respondent No.2 in their application dated 31.10.2020(as received on 02.11.2020) contended that such compensation charges of SMPK is unreasonable therefore, appeal has been made to SMPK authority for consideration. It was further agitated by O.P that the rent should be enhanced as per "The Kolkata GAZETTE, EXTRAORDINARY, March 28, 2011" and in case of all existing monthly lease and licences, the rate of rent/licence fees should be escalated @2%. However, I am not convinced by such submissions of O.P. No.2, I must say that as per law, when any occupant enjoys possession without having any valid authority, the party whose interest is hampered by such unauthorised occupation is entitled to receive, from the party who is occupying unauthorisedly, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from any breach, or which parties knew, when they made the contract to be likely to result from the breach of it.

As regards the three times rate of compensation in respect of unauthorised occupation, the order dated 03.09.2012 passed by Hon'ble Justice Dipankar Datta in WP no. 748 of 2012 (M/s Chowdhury Industries Corporation Pvt. Ltd. versus Union of India & others) is very relevant. The said Order reads as follows:

".....
It is undisputed that there has been no renewal of the lease prior to its expiry or even thereafter. There is also no fresh grant of lease. The petitioner has been occupying the property of the Port Trust unauthorisedly and, therefore, the Port Trust is well within its right to claim rent at three times the normal rent in terms of the decision of the TAMP, which has not been challenged in this writ petition.

Furthermore, enhancement to the extent of three times the normal rent for persons in unauthorised occupation of Port Trust property does not appear to be utterly unreasonable and arbitrary warranting interference of the Writ Court.

....."
In my view, such claim of charges for damages at the rate of 3 times of the rent by SMPK is based on sound reasoning and

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

10.07.2023



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. 1764 of 2019 Order Sheet No. 23

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

① DIRECTORATE OF LAC DEVELOPMENT INSTITUTE OF FOREST PRODUCTIVITY

19

② MIS. CENTRAL WARE HOUSING CORPORATION

10.07.2023

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

10.07.2023

should be acceptable by this Forum of Law. As per law, when a contract has been broken, the party who suffers by such breach is entitled to receive, from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract to be likely to result from the breach of it. Moreover, as per law O.P.No.1 is bound to deliver up vacant and peaceful possession of the public premises to SMPK after expiry of the period as mentioned in the notice to quit in its original condition. As such, the issue is decided in favour of SMPK. I have no hesitation to observe that Opposite Parties act in continuing occupation is unauthorized and O.P.No.1 is liable to pay damages for unauthorized use and occupation of the Port property in question upto the date of delivering vacant, unencumbered and peaceful possession to SMPK. With this observation, I must reiterate that the ejection notice, demanding possession from O.P.No.1 as stated above have been validly served upon the O.P. No.1 in the facts and circumstances of the case and such notice are valid, lawful and binding upon the parties. In view of the discussions above, the issue is decided firmly in favour of SMPK.

Regarding the issue of interest in **issue no.III**, I must say that payment of interest is a natural fall out and one must have to pay interest in case of default in making payment of the principal amount due to be payable. Needless to mention that one of the basic conditions of lease that the lessee/ O.P.No1 is liable to pay rents in timely manner to the lessor SMPK and any breach in such terms shall invariably attract the penal charges by way of interest. All canons of law permits charging of interest if payments are being made in delayed fashion. O.P.No1 cannot deny such liability of payment of interest as it has failed to pay the principal amount due to be payable by him more so this forum has no power in the matter of waiver of interest for which O.P No.1 has to pray before proper Authority of SMPK. As such, I have no hesitation to decide the issue in favour of SMPK and I have no bar to accept the claim of SMPK on account of Interest accrued for delayed payment.

(Signature)

NOW THEREFORE, I think it is a fit case for issuance order for recovery of damages u/s 7 of the Act as prayed for on behalf of SMPK. I sign the order as per rule made under the Act, giving time upto 10.07.2023 for payment of damages of Rs. 37,61,594/- (Rupees Thirty seven lakh sixty one thousand five hundred ninety four only) to SMPK by O.P.No1 for the period 01.02.2012 to 29.11.2016 respectively. However, as the subject premises had been given by SMPK to The Director, Government



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. 1764 Of 2019 Order Sheet No. 24

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

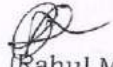
- ① DIRECTORATE OF LAC DEVELOPMENT INSTITUTE OF FOREST PRODUCTIVITY
- ② M/S. CENTRAL WARE HOUSING CORPORATION

19

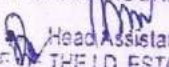
10.07.2023

of India, Ministry of Environment & Forest, Directorate of Lac Development (O.P No.1), who unauthorisedly inducted M/s. Central Warehousing Corporation/CWC without there being any authority of subletting, it is my considered view that M/s. Central Warehousing Corporation/CWC also should not be allowed to wash off their hand from the liability of making payment for their unauthorised occupation into the subject premises in question. Accordingly O.P.No.1 may be made liable to pay such dues jointly and severally with M/s. Central Warehousing Corporation/CWC(O.P No.2), from the date of incurrence of their liability upto the date of taking over possession. 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 Opposite Parties, in terms of SMPK's books of accounts.

I make it clear that in the event of failure on the part of Opposite Parties to pay the amounts to SMPK as aforesaid, Port Authority is entitled to proceed further in accordance with Law. All concerned are directed to act accordingly.
GIVEN UNDER MY HAND AND SEAL


(Rahul Mukherjee)
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

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

10.07.2023