

### REGISTERED POST WITH A/D. HAND DELIVERY AFFIXATION ON PROPERTY

THE ESTATE OFFICER, 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)

5, Fairley Place (1st Floor) KOLKATA – 700 001

Court Room At the 1st Floor of Kolkata Port Trust's Fairlie Warehouse

REASONED ORDER NO.16 DT 28.01.2020 PROCEEDINGS NO. 1318 OF 2012

6, Fairley Place, Kolkata- 700 001.

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-

Shri Basantalal Singh (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 Shri Basantalal Singh, Shop No.13, Taratala Staff Colony Market (West) Taratala Road, Kolkata-700053 AND ALSO AT CPT Staff Colony Masjid, Plot No.1, Taratala Road, Calcutta-700088 is in unauthorized occupation of the Public Premises specified in the Schedule below:

#### REASONS

- 1. That O.P. has failed to file reply to the Show Cause Notice/s inspite of sufficient chances and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P., demanding possession dated 27.07.2010.
- 2. That O.P. has parted with possession of the Public Premises in question without having any authority under law.
- 3. That O.P. has violated the condition of tenancy by way making unauthorized construction and also by way of making encroachment without having any authority under law.
- 4. That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.
- 5. That the Quit notice dated 27.07.2010 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties and O.P's occupation into the Public Premises has become unauthorized in view of Sec.2(g) of the P.P. Act.

PLEASE SEE ON REVERSE

- 6. That O.P. has violated the condition of monthly lease as granted by the Port authority by way of not making payment of rental dues and taxes to KoPT, for a prolonged period.
- 7. That O.P. is liable to pay damages for wrongful use and occupation of the public premises up to the date of handing over the clear, vacant and unencumbered possession to the port authority

A copy of the reasoned order No. 16 dated 28.01.2020 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 Shri Basantalal Singh, Shop No.13, Taratala Staff Colony Market (West) Taratala Road, Kolkata-700053 AND ALSO AT CPT Staff Colony Masjid, Plot No.1, Taratala Road, Calcutta-700088 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 Shri Basantalal Singh, Shop No.13, Taratala Staff Colony Market (West) Taratala Road, Kolkata-700053 AND ALSO AT CPT Staff Colony Masjid, Plot No.1, Taratala Road, Calcutta-700088 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.D-378/4/6

The said piece or parcel of land msg.33.44 sq.m or thereabouts is situated at the western end of the lessor's Taratala Staff Colony at Taratala Road, Thana- Taratala Police Station, District-24 Parganas, Registration District – Alipore. It is bounded on the North & South by the lessor's vacant land, on the East by the lessor's leased out land and on the West by the Trustees' leased out land.

Trustees' means the Board of Trustees' for the Port of Kolkata.

Date- 30:01.2020



Signature & Seal of the Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER, KOLKATA PORT TRUST FOR INFORMATION.



# REGISTERED POST WITH A/D. HAND DELIVERY AFFIXATION ON PROPERTY

THE ESTATE OFFICER, 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

1st Floor, 6, Fairlie Place Warehouse,

Kolkata-700001

Court Room At the 1<sup>st</sup> Floor 6, Fairlie Place Warehouse

Form " E"

PROCEEDINGS NO.1318/R OF 2012 ORDER NO. 16 DATED: 28.01.2020

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

To
Shri Basantalal Singh,
Shop No.13,
Taratala Staff Colony Market (West)
Taratala Road, Kolkata- 700053
AND ALSO AT
CPT Staff Colony Masjid,
Plot No.1, Taratala Road,
Calcutta-700088.

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

AND WHEREAS, by written notice dated 02.01.2018 you are/were called upon to show cause on/or before 30.01.2018 why an order requiring you to pay a sum of Rs 3,20,975.03 (Rupees Three Lakh Twenty Thousand Nine Hundred Seventy Five and paisa Three 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 subsection (1) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby require you to pay the sum of Rs 3,20,975.03 (Rupees Three Lakh Twenty Thousand Nine Hundred Seventy Five and paisa Three only) for the period 01.09.1983 to 31.08.2010 (both days inclusive) to Kolkata Port Trust by 07.02.2020.

R

PLEASE SEE ON REVERSE

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest at the rate of 15% per annum upto 18.09.1996 and thereafter @18% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum on the above sum from the date of incurrence of liability till its final payment in accordance with Kolkata Port Trust's Notification published in Official Gazette/s.

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.D-378/4/6

The said piece or parcel of land msg.33.44 sq.m or thereabouts is situated at the western end of the lessor's Taratala Staff Colony at Taratala Road, Thana- Taratala Police Station, District-24 Parganas, Registration District – Alipore. It is bounded on the North & South by the lessor's vacant land, on the East by the lessor's leased out land and on the West by the Trustees' leased out land.

Trustees' means the Board of Trustees' for the Port of Kolkata.

Dated: 30.01.2020



Signature and seal of the Estate Officer

COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER, KOLKATA PORT TRUST FOR INFORMATION.



# REGISTERED POST WITH A/D. HAND DELIVERY AFFIXATION ON PROPERTY

THE ESTATE OFFICER, 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, Fairlie Place (1st Floor) KOLKATA – 700 001

Court Room At the 1st Floor of Kolkata Port Trust's Fairlie Warehouse 6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.1318/D OF 2012 ORDER NO.16 DATED: 28.01.2020

### 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
Shri Basantalal Singh,
Shop No.13,
Taratala Staff Colony Market (West)
Taratala Road, Kolkata- 700053
AND ALSO AT
CPT Staff Colony Masjid,
Plot No.1, Taratala Road,
Calcutta-700088.

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

And whereas by written notice dated 02.01.2018 you are/were called upon to show cause on/or before 30.01.2018 why an order requiring you to pay damages of Rs. **4,84,813.00** (Rupees Four Lakhs Eighty Four thousand Eight hundred Thirteen 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 Subsection (2) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby order you to pay the sum of Rs. **4,84,813.00** (Rupees Four lakhs Eighty Four thousand Eight hundred Thirteen only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.09.2010 to 19.05.2017 to Kolkata Port Trust by 07.02.2020.

D

PLEASE SEE ON REVERSE

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest @ 15% per annum upto 18.09.1996 and thereafter @ 18% per annum till 06.04.2011 and thereafter @14.25% per annum on the above sum from the date of incurrence of liability till its final payment in accordance with Kolkata Port Trust's Notification published in official Gazette/s.

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 by Collector.

### SCHEDULE

Plate No.D-378/4/6

The said piece or parcel of land msg.33.44 sq.m or thereabouts is situated at the western end of the lessor's Taratala Staff Colony at Taratala Road, Thana- Taratala Police Station, District-24 Parganas, Registration District – Alipore. It is bounded on the North & South by the lessor's vacant land, on the East by the lessor's leased out land and on the West by the Trustees' leased out land.

Trustees' means the Board of Trustees' for the Port of Kolkata.

Date 30:01:2020



Signature & Seal of the Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER, KOLKATA PORT TRUST FOR INFORMATION.



Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

1318, 1318/R, 1318/D OI 2012 Order Sheet No.

# BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Basantalal Singh

### FINAL ORDER

16 28.01.2020 The instant proceedings No. 1318, 1318/R, 1318/D of 2012 arises out of the application bearing No. Lnd.2669/3/9/10/3084 dated 14.12.2010 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of eviction and recovery of dues/damages/ mesneprofit/Compensation and other charges etc. along with accrued interest in respect of the public premises as defined in the against application, of said Schedule Basantalal Singh, the O.P herein, under relevant (Eviction Premises provisions Public of Unauthorized Occupants) Act, 1971.

came into occupation of the port property being or thereabout land measuring 33.44sq.mtrs. situated at western end of Taratala Staff colony at Taratala Road (under Plate No.D-378/4/6) Thana-Taratala Police Station, District-24 Parganas, as a Lessee on monthly term, more fully described in the Schedule 'A' of the KoPT's application dated 14.12.2010. The allegations levelled by KoPT against the O.P is that while in possession of Port property as lessee, the O.P has (a) defaulted in payment of monthly rent, taxes also accrued interest thereon the details of which has given in 'Schedule-B of the KoPT's application dated 14.12.2010 (b) made

unauthorised construction on the said land and

The fact of the case in a nutshell is that the O.P.

By Oxder of : THE ESTATE OFFICER KOLKATA PORT TRUST

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Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

1318, 1318/R, 1318/D Of 2012 Order Sheet No.

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# BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Basantalal

16 28.01.2020

By Order of : THE ESTATE OFFICER KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER PASSED BY THE ESTATE OFFICER

FFICE OF THE LD. ESTATE OFFICER NOLKATA PORT TRUST

also (c) made unauthorised encroachment of 11.0 Sq.m of land in violation of the terms of said lease. It is submitted by KoPT that the said lease with O.P. was determined by way of a Quit Notice dated 27.07.2010 and the O.P. was asked to vacate the premises on 31.08.2010 but O.P failed and neglected to vacate/ hand over the possession of the premises after service of the said Notice to Quit.

Considering the submission advanced by KoPT and the documents on record, Notice/s to Show Cause under section 4 and 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 all No.5 Order 02.01.2018(vide dated 07.12.2017) were issued by this Forum to O.P. The Notice/s were issued in terms of the said provisions of the Act calling upon the O.P. to appear before this authorized or through person Forum in representative capable to answer all material questions in connection with the matter along with the evidence which the opposite party intends to produce in support of their case.

The said notice/s were served through Speed Post as well as by hand delivery to the recorded address of O.P. at Shop No.13, Taratala Staff Colony Market (West) Taratala Road, Kolkata-700088. It appears from record that said Notice/s sent to the recorded address of O.P. by Speed Post were returned back due to possible insufficiency of address. The report of the Process Server dated 11.01.2018 also depicted that the said Notice/s were not sent to O.P personally. However, affixation was made on the



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### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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28.01.2020

property under schedule on 11.01.2018 about 3 P.M. in compliance of the provisions of the Act. On the day fixed for appearance and filing of reply to the Show Cause by the O.P., none appeared on behalf of O.P. before this Forum. Thereafter dated 30.01.2018 Process Server submitted before the Forum that said address of O.P is not correct therefore, KoPT was directed to provide correct address of O.P. and on 20.02.2018 KoPT submitted that O.P' is in occupation of Plot No.4/Shop No.4, therefore, earlier address is incorrect. Thereafter the order was again served on O.P, the report of the Process Server dated 08.03.2018 depicted that said order have been served upon O.P. which was received by one Sri Santosh Kr Singh on behalf of O.P. After that the attempts have been made by this Forum to provide chances to the O.P. for his appearance and filing of reply before this Forum following the principles of natural justice.

On 10.04.2018 one Ramesh Singh, claiming himself as a nephew of O.P turned up before the Forum and prayed for time to file reply to the Show Cause but on the scheduled date of filing of the said reply i.e 10.05.2018, Ramesh Singh again appeared but failed to file his reply to the Show Cause again. He further submitted that O.P had sold the half of the property to one Prabhunath Singh therefore, not in occupation of the full property. KoPT contended that considering the submission of Ramesh Singh, Unauthorised parting be considered as one of the ground for eviction of O.P. Thereafter another

THE ESTATE OFFICER
KOLKATA PORT TRUST
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PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUSTA
OFFICE OF THE LD. ESTATE OFFICER
KOLKATA FORT TRUST



Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 13/8, 13/8/R, 13/8/D Of 2012 Order Sheet No. -

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### **BOARD OF TRUSTEES OF THE PORT OF KOLKATA**

Sheri Basantalal Singh

16 28.01.2020 chance was allowed by the Forum to O.P to file his reply and proof of identity on 05.06.2018. As the O.P further failed to appear and file his reply on repeated call, the final Order was reserved in the matter on 17.07.2018.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of KoPT.

It is seen that inspite of service of Notice/s through all the available modes, no one appears on behalf of O.P. except dated 10.04.2018, 24.04.2018 and 10.05.2018, and no attempts has ever been made by the O.P. to satisfy this Forum of Law about any consent on the part of KoPT in occupying the public premises. Rather it is a case of KoPT that by notice dated 02.01.2018, O.P. was directed to hand over possession of the premises to KoPT. A letter /notice issued in official course of business has definitely got an evidentiary value unless there is no material, sufficient to contradict the case of KoPT on the basis of such letter/Notice. It is a settled question of law that O.P. cannot claim any legal right to hold the property after expiry of the notice in question, without any valid grant or allotment from KoPT's side. More over person appeared on behalf of O.P admitted that O.P had made unauthorised parting of the said property in violation of the lease term.

Further, as there is no reply to the Show Cause notice issued u/s 4 and u/s 7 of the Act inspite of sufficient chances provided to the O.P., I am left with no other alternative but to issue order of eviction u/s

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THE ESTATE OFFICER KOLKATA PORT TRUST CERTIFIED COPY OF THE ORDER PASSED BY THE ESTATE OFFICER

By Order of :

OFFICE OF THE LO. PSTATE OFFICER KOLKATA PORT TRUST

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

1318,1318/K, 1318/D

2012

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### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Basantalal Singh

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5 of the Act against O.P. on the following grounds/reasons:-

- 1. That O.P. has failed to file reply to the Show Cause Notice/s inspite of sufficient chances and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P., demanding possession dated 27.07.2010.
- 2. That O.P. has parted with possession of the Public Premises in question without having any authority under law.
- 3. That O.P. has violated the condition of tenancy by way making unauthorized construction and also by way of making encroachment without having any authority under law.
- 4. That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.
- 5. That the Quit notice dated 27.07.2010 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties and O.P's occupation into the Public Premises has become unauthorized in view of Sec.2(g) of the P.P. Act.
- 6. That O.P. has violated the condition of monthly lease as granted by the Port authority by way of not making payment of rental dues and taxes to KoPT, for a prolonged period.

MULKATA PORT TRUST

By Order of : THE ESTATE OFFICER

KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER PASSED BY THE ESTATE OFFICER

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Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 13/8, 13/8/6. 1318/D Of 2012 Order Sheet No \_\_\_\_\_\_\_

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shi Basantalal Smyti

28:01:2020

7. That O.P. is liable to pay damages for wrongful use and occupation of the public premises up to the date of handing over the clear, vacant and unencumbered possession to the port authority

ACCORDINGLY, I sign the formal order of eviction u/s 5 of the Act as per Rule made there under, giving 15 days time to O.P. 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.P. in accordance with Law up to the date of recovery of possession of the same. KoPT 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 could 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. 3,20,975.03/- for the period 01.09.1983 to 31.08.2010 (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 KoPT on or before 07.02.2020. Such dues attract interest @ 15% per annum upto 18.09.1996 and thereafter @ 18% per annum upto 06.04.2011 and thereafter @ 14.25% per annum, till the liquidation of the same, from the date of

By Order of : THE ESTATE OFFICER KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
WOLKATA FORT TRUST

OFFICE OF THE LD. ESTATE OFFICER
KOLKATA PORT TRUST



Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 13/8, 13/8/2, 13/8/D Of

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### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Sheri Basantalal singh

16 28.01.2020 incurrence of liability in accordance with the notification of KoPT, issued under Authority of Law, as per adjustment of payments made so far by O.P., n terms of KoPT's books of accounts.

Likewise, I find that KoPT 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. 4,84,813.00/- 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 01.09.2010 to 19.05.2017 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by 07.02.2020. The said damages shall carry simple interest @ 18% per annum upto 06.04.2011 and thereafter @ 14.25% per annum on the above sum from the date of incurrence of liability till its final with relevant payment accordance the in notification/s published in Official Gazette. I sign the formal orders u/s 7 of the Act.

By Order of : THE ESTATE OFFICER KOLKATA PORT TRUST CERTIFIED COPY OF THE ORDER PASSED BY THE ESTATE OFFICER KOLKATA PORT TRUST OFFICE OF THE LD. ESTATE OFFICER KULKATA PORT TRUST

I make it clear that KoPT 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 19.05.2017 as well, till such time the possession of the premises continues to be under the unauthorised occupation with the O.P. KoPT is



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1318, 1318/R, 1318/D OF 2012

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### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Basantalal Singh

16

28.01.2020

directed to submit a statement comprising details of its calculation of damages after 19.05.2017, 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.

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

(A.K Sarkar)

ESTATE OFFICER.

By Order of : THE ESTATE OFFICER KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER PASSED BY THE ESTATE OFFICER

OFFICE OF THE LD. ESTATE OFFICER KOLHATA FORT TRUST

\*\*\* ALL EXHIBITS AND DOCUMENTS ARE REQUIRED TO BE TAKEN BACK WITHIN ONE MONTH FROM THE DATE OF PASSING OF THIS ORDER\*\*\*

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