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**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

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

REASONED ORDER NO. 29 DT 02.07.2021  
PROCEEDINGS NO., 1260, 1261 & 1262 of 2011

BOARD OF TRUSTEES OF THE PORT OF KOLKATA  
-Vs-

**M/s. Shalimar Works Pvt. Ltd (since become M/S Shalimar Works  
[1980] 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. Shalimar Works Pvt. Ltd (since become M/s. Shalimar Works [1980] Ltd), 4, Garden Reach Road, Kolkata-700043 AND ALSO AT Managing Agents M/s. Turner Morrison & Co. Ltd, 6, Lyons Range, Kolkata-700001** is in unauthorized occupation of the Public Premises specified in the Schedule below :

**REASONS**

1. That O.P. has violated the condition of both the short term & long term leases as granted by the Port Authority by way of not making payment of rental dues and taxes to KoPT, for a prolonged period of time.
2. O.P has failed to register the lease deed in respect of the property for the relevant period as per requirement of law.
3. The O.P or any other person/occupant have failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation".
4. That O.P. has failed to make out any ground with regard to the application of the law of Limitation to the present proceedings.
5. That the notice to quit all dated 14.02.1974 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P.'s occupation and that of any other occupant of the premises has become unauthorised in view of Sec.2 (g) of the P.P. Act.
6. 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.

PLEASE SEE ON REVERSE

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(2)

A copy of the reasoned order No. 29 dated 02.07.2021 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. Shalimar Works Pvt. Ltd(since become M/s. Shalimar Works [1980] Ltd), 4, Garden Reach Road, Kolkata-700043 AND ALSO AT Managing Agents M/s. Turner Morrison & Co. Ltd, 6, Lyons Range, 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 **M/s. Shalimar Works Pvt. Ltd(since become M/s. Shalimar Works [1980] Ltd), 4, Garden Reach Road, Kolkata-700043 AND ALSO AT Managing Agents M/s. Turner Morrison & Co. Ltd, 6, Lyons Range, 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.(HL-536/2)

The said piece or parcel of land comprising 6 cottahs 4 chittacks 24 sq. feet or 420.29 sq.m or thereabouts of high land and 51 cottahs 12 chittacks 28 sq. feet or 3464.17 sq.m or thereabouts of low land altogether msg.58 cottahs 1 chittacks 7 sq. feet or 3884.46 sq.m or thereabouts is situated at Timber Pond, Howrah, P.S. Shibpore, District & Registration District- Howrah. It is bounded on the North partly by the lessors land leased to the lessees partly by the Foreshore Road and partly by the lessors toll office goomty, on the East partly by the lessors land leased to the lessees and partly by the lessors toll office goomty, on the South by the River Hooghly and on the West partly by the lessors land leased partly to B.S. and Company and partly to the lessees and partly by the lessors toll office goomty.

##### Plate Nos. (HL-533/1 & HL-535)

The said piece or parcel of land comprising Plot(1) msg.2812.17 sq.m or thereabouts and 2471.87 sq.m or thereabouts of high land and low land respectively and Plot(2) msg.437.57 sq.m or thereabouts of high land altogether msg.5721.61 sq.m or thereabouts is situated at Timber Pond, Howrah, P.S. Shibpore, District & Registration District- Howrah. Plot(1) is bounded on the North by the Foreshore Road, on the East by the land owned by private parties, on the South by the river Hooghly and on the West by the Trustees' land leased to the lessee. Plot(2) is bounded on the North partly by Foreshore Road and partly by the Trustees' one storied pucca building leased to the lessees, on the East partly by the Trustees' land leased to the lessees and partly by Trustees one storied building leased to the lessees, on the South partly by the Trustees' land leased to the lessees and partly by the Trustees' one storied pucca building leased to the lessees and on the West partly by the Trustees' one storied pucca building leased to the lessees and partly by the Trustees' land leased to B.S. and Company.

PLEASE SEE ON ~~REVERSE~~ <sup>NEXT PAGE</sup>

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(3)

**Plate No. (HB-30)**

The said Trustees' one storied pucca building msg.154.68 sq.m or thereabouts is situated at Timber Pond, Howrah, P.S-Shibpore, District and Registration District-Howrah. It is bounded on the North, East, South and West by the Trustees' land occupied by M/s. Shalimar Works Limited.

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

Date- 02.07.2021

Signature & Seal of the  
Estate Officer.

**COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA FOR INFORMATION.**



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**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 1<sup>st</sup> Floor  
of Kolkata Port Trust's  
Fairlie Warehouse  
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO. 1260/D, 1261/D & 1262/D of 2011  
ORDER NO.29 DATED: 02.07.2012

**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

**M/s. Shalimar Works Pvt. Ltd**  
**(since become M/s. Shalimar Works [1980] Ltd),**  
**4, Garden Reach Road, Kolkata-700043**  
**AND ALSO AT**  
**Managing Agents M/s. Turner Morrison & Co. Ltd,**  
**6, Lyons Range, Kolkata-700001.**

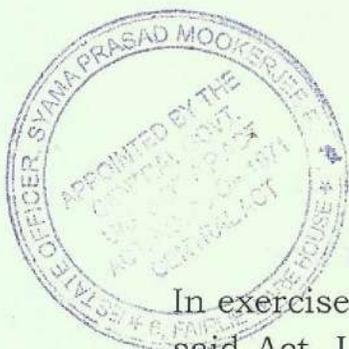
WHEREAS I, the undersigned, am satisfied that you are in unauthorised occupation of the public premises mentioned in the Schedule below:

AND WHEREAS by written notice dated 04.06.2012 you are called upon to show cause on/or before 06.07.2012 why an order requiring you to pay damages of Rs 21,89,137.71 for (Plate No.HL-536/2), Rs.38,59,777.42 for (Plate Nos.HL-533/1 & HL-535) & Rs.3,87,139.20 for ( Plate No.HB-30) 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 21,89,137.71 for (Plate No.HL-536/2), Rs.38,59,777.42 for (Plate Nos.HL-533/1 & HL-535) & Rs.3,87,139.20 for (Plate No.HB-30) assessed by me as damages on account of your unauthorised occupation of the premises all for the period from 01.04.1974 to 28.02.2010 (both days inclusive) to SMP, Kolkata by 20.07.2012

PLEASE SEE ON REVERS



: 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 @ 6.20 % 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.(HL-536/2)**

The said piece or parcel of land comprising 6 cottahs 4 chittacks 24 sq. feet or 420.29 sq.m or thereabouts of high land and 51 cottahs 12 chittacks 28 sq.feet or 3464.17 sq.m or thereabouts of low land altogether msg.58 cottahs 1 chittacks 7 sq. feet or 3884.46 sq.m or thereabouts is situated at Timber Pond, Howrah, P.S. Shibpore, District & Registration District- Howrah. It is bounded on the North partly by the lessors land leased to the lessees partly by the Foreshore Road and partly by the lessors toll office goomty, on the East partly by the lessors land leased to the lessees and partly by the lessors toll office goomty, on the South by the River Hooghly and on the West partly by the lessors land leased partly to B.S. and Company and partly to the lessees and partly by the lessors toll office goomty.

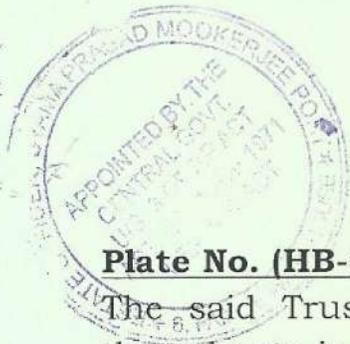
#### **Plate Nos. (HL-533/1 & HL-535)**

The said piece or parcel of land comprising Plot(1) msg.2812.17 sq.m or thereabouts and 2471.87 sq.m or thereabouts of high land and low land respectively and Plot(2) msg.437.57 sq.m or thereabouts of high land altogether msg.5721.61 sq.m or thereabouts is situated at Timber Pond, Howrah, P.S. Shibpore, District & Registration District- Howrah. Plot(1) is bounded on the North by the Foreshore Road, on the East by the land owned by private parties, on the South by the river Hooghly and on the West by the Trustees' land leased to the lessee. Plot(2) is bounded on the North partly by Foreshore Road and partly by the Trustees' one storied pucca building leased to the lessees, on the East partly by the Trustees' land leased to the lessees and partly by Trustees one storied building leased to the lessees, on the South partly by the Trustees' land leased to the lessees and partly by the Trustees' one storied pucca building leased to the lessees and on the West partly by the Trustees' one storied pucca building leased to the lessees and partly by the Trustees' land leased to B.S. and Company.

PLEASE SEE ON REVERSE

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(3)

**Plate No. (HB-30)**

The said Trustees' one storied pucca building msg.154.68 sq.m or thereabouts is situated at Timber Pond, Howrah, P.S-Shibpore, District and Registration District-Howrah. It is bounded on the North, East, South and West by the Trustees' land occupied by M/s. Shalimar Works Limited.

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

Date 02.07.2021

Signature & Seal of the  
Estate Officer.

**COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA FOR INFORMATION.**



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**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

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

**Form " E "**

PROCEEDINGS NO.1260/R,1261/R & 1262/R OF 2011  
ORDER NO. 29 DATED: 02.07.2021

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. Shalimar Works Pvt. Ltd  
(since become M/s. Shalimar Works [1980] Ltd),  
4, Garden Reach Road, Kolkata-700043  
AND ALSO AT  
Managing Agents M/s. Turner Morrison & Co. Ltd,  
6, Lyons Range, 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 04.06.2012 you are called upon  
to show cause on or before 06.07.2012 why an order requiring you to pay  
a sum of Rs.24,464.47 for (Plate No. HL-536/2), Rs.35,139.99 for (Plate  
No.HL-533/1) & Rs.3,123.75 for (Plate No.HB-30) being the rent payable  
together with compound interest in respect 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 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.24,464.47 for (Plate No. HL-536/2), Rs.35,139.99 for (Plate No.HL-  
533/1) & Rs.3,123.75 for (Plate No.HB-30) all for the period 1<sup>st</sup> May  
1971 to 31<sup>st</sup> March,1974 (both days inclusive) to SMP, Kolkata by  
20.07.2021

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 @ 6.20 % 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.(HL-536/2)**

The said piece or parcel of land comprising 6 cottahs 4 chittacks 24 sq. feet or 420.29 sq.m or thereabouts of high land and 51 cottahs 12 chittacks 28 sq.feet or 3464.17 sq.m or thereabouts of low land altogether msg.58 cottahs 1 chittacks 7 sq. feet or 3884.46 sq.m or thereabouts is situated at Timber Pond, Howrah, P.S. Shibpore, District & Registration District- Howrah. It is bounded on the North partly by the lessors land leased to the lessees partly by the Foreshore Road and partly by the lessors toll office goomty, on the East partly by the lessors land leased to the lessees and partly by the lessors toll office goomty, on the South by the River Hooghly and on the West partly by the lessors land leased partly to B.S. and Company and partly to the lessees and partly by the lessors toll office goomty.

#### **Plate Nos. (HL-533/1 & HL-535)**

The said piece or parcel of land comprising Plot(1) msg.2812.17 sq.m or thereabouts and 2471.87 sq.m or thereabouts of high land and low land respectively and Plot(2) msg.437.57 sq.m or thereabouts of high land altogether msg.5721.61 sq.m or thereabouts is situated at Timber Pond, Howrah, P.S. Shibpore, District & Registration District- Howrah. Plot(1) is bounded on the North by the Foreshore Road, on the East by the land owned by private parties, on the South by the river Hooghly and on the West by the Trustees' land leased to the lessee. Plot(2) is bounded on the North partly by Foreshore Road and partly by the Trustees' one storied pucca building leased to the lessees, on the East partly by the Trustees' land leased to the lessees and partly by Trustees one storied building leased to the lessees, on the South partly by the Trustees' land leased to the lessees and partly by the Trustees' one storied pucca building leased to the lessees and on the West partly by the Trustees' one storied pucca building leased to the lessees and partly by the Trustees' land leased to B.S. and Company.

PLEASE SEE ON REVERSE

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(3)

**Plate No. (HB-30)**

The said Trustees' one storied pucca building msg.154.68 sq.m or thereabouts is situated at Timber Pond, Howrah, P.S-Shibpore, District and Registration District-Howrah. It is bounded on the North, East, South and West by the Trustees' land occupied by M/s. Shalimar Works Limited.

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

Dated: 02.07.2021

  
Signature and seal of the  
Estate Officer

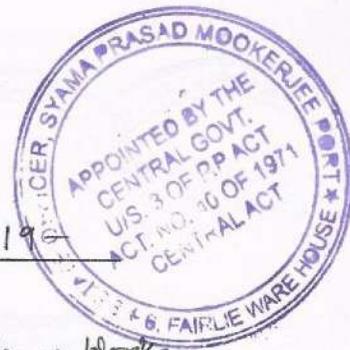
**COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA FOR INFORMATION.**



## 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. 1260, 1260/R, 1260/D  
1261, 1261/R, 1261/D Of 2011 Order Sheet No. -19  
1262, 1262/R, 1262/D



### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Shalimar Works Pvt. Ltd <sup>VS</sup> (Since become M/S Shalimar Works [1980] Ltd)

29  
02.07.2021

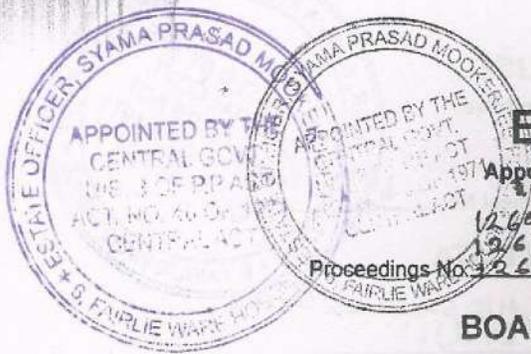
#### FINAL ORDER

The proceeding Nos.1260, 1260/R, 1260/D, 1261, 1261/R, 1261/D and 1262, 1262/R & 1262/D all of 2011 are taken up today for final disposal. The factual aspect involved in these matters are required to be put forwarded in a nutshell in order to link up the chain of events leading to these Proceedings. It is the case of Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust], hereinafter referred to as KoPT, Applicant herein, that the land respectively measuring about 3884.46 sq.m (Plate No.HL-536/2) & 5721.61 Sq.m (Plate Nos. HL-533/1 & HL-535) and a building space msg. about 154.68 Sq.m (Plate No. HB-30) which are situated at Timber Pond, Howrah, Thana- Shibpur, District- Howrah, were allotted to **M/S Shalimar Works Private Limited (Since become M/S Shalimar Works [1980] Ltd)**, O.P. herein on certain terms and condition.

It is placed on record that amongst the above referred plots, only the Plot msg. about 3884.46 Sq.m was allotted to O.P on short term monthly Lease basis and the other Plots and the building space (msg.154.68sq.m) were allotted on long term lease basis for a period of 10 years with effect from 01.10.1966 without any option of renewal. It is argued on behalf of KoPT that in gross violation of the said lease agreement O.P neglected to pay monthly rent, taxes and other charges of KoPT along with the accrued interest thereon and also failed to complete and register the deed of lease as executed on 20<sup>th</sup> June 1970.

In view of the aforesaid breaches committed by the O.P., KoPT had issued notice to quit all dated 14.02.1974 asking the O.P. to hand over clear, vacant, peaceful and unencumbered possession of the property to KoPT 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  
Head Ass:  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
05.07.2021



## 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. 1260, 1260/R, 1260/D, 1261, 1261/R, 1261/D, 1262, 1262/R, 1262/D Of 2011 Order Sheet No. - 20 -

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Shalimar Works Pvt Ltd. VS (since become M/S Shalimar Works [1980] Ltd.)

29  
02.07.2021

01.04.1974. But O.P has failed and neglected to vacate/hand over the possession of those premises to KoPT after service of the said Notice to Quit. This Forum of Law formed its opinion to proceed against O.P. and issued Show Cause Notice/s u/s 4 of the Act (for adjudication of the prayer for order of eviction etc.) and Show Cause Notice/s u/s 7 of the Act (for adjudication of the prayer for recovery of rental dues and compensation etc.) all dated 04.06.2012 (vide Order No.05 dated 25.05.2012).

The said notice/s were sent through Speed Post/hand delivery to the recorded address of O.P. at 4, Garden Reach Road, Kolkata-700043 and also to 6, Lyons Range, Kolkata-700001. The Postal Services to the last mentioned recorded address of O.P returned undelivered to the Forum with a mark 'Left'. However, the report of the Process Server dated 14.06.2012 depicts that said notice/s were served upon O.P's address personally on 13.06.2012 and due affixation were also made over the subject premises in question on 14.06.2012 as per the mandate of the P.P Act.

On the day fixed for appearance and filing of reply to the Show Cause by the O.P., i.e on 06.07.2012 one Gobinda Chandra Bandopadhyay, expressing himself as a Ld' Advocate of O.P, appeared before the Forum and filed his Vokalatnama along with the reply/written Statement to the Show Cause duly signed by O.P's Managing Director Mr. Somdev Chatterjee. Ld' Advocate of O.P in his reply submitted that after completion of the exercise as was undertaken by both the parties for adjustment of their dues to each other, the entire principal dues as payable to KoPT would be squared up and reconciliation process of respective book of accounts would also be finalized. It was further argued by the advocate of O.P that as the Shalimar Works Ltd had already been went into

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



# 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. 1260, 1260/R, 1260/D / 1261, 1261/R, 1261/D / 1262, 1262/R, 1262/D Of 2011 Order Sheet No. 21



## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

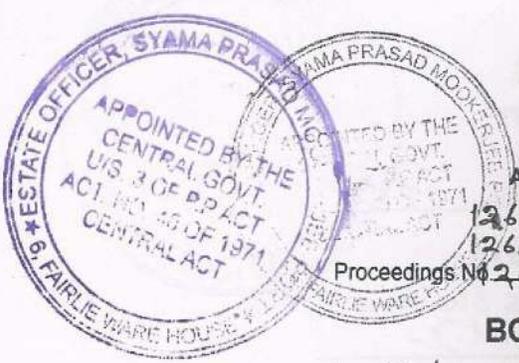
M/S Shalimarz Works Pvt.Ltd VS (since become M/S Shalimarz Works [1980] Ltd.)

29  
02.07.2021

liquidation as per Hon'ble High Court's Order, the new Company Shalimar Works (1980) could not be made liable for the dues of Shalimar Works Ltd. The representative of KoPT, on the other hand, strongly objected such submission of O.P and argued only on the scope of Show Cause notices in entertaining Forum's power. However, hearing the submission of both, the Forum directed KoPT to confirm what extent of dues of O.P had been adjusted by them. Thereafter, on 03.08.2012 both the parties prayed adjournment for reconciliation of their respective book of accounts. As the reconciliation requires certain old papers/documents for linking up and to assess the claim and counter claim of the parties for arriving at a correct financial position, the Forum allowed such adjournment for a considerable period. Thereafter on 02.11.2012 O.P filed an application /reply in connection with proceeding No. 1262, 1262/R & 1262/D of 2011 alleging KoPT's prayer for eviction of Shalimar Works (1980) on the ground of demolition of the building space measuring 154.68 Sq.m (Plate No.HB-30) as untenable in the eye of law and KoPT also made their submission on a pending administrative decision thereon. Considering their submission, Forum allowed liberty to O.P for filing a comprehensive Affidavit along with other supportive documents and thereafter on 30.11.2012, O.P filed an additional reply to the Show Cause to make their claim more firm against KoPT but KoPT again failed to file any report in support of the administrative decision and the settlement of claim with O.P. therefore, the Forum gave liberty to the Port Authority for mentioning such matter only after submission of such Report. Thereafter on 07.01.2018, more than six years later, the matter was assigned to the undersigned and this Forum asked the 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  
Head Assistant  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

2



# 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. ~~1260, 1260/R, 1260/D~~ ~~1261, 1261/R, 1261/D~~ ~~1262, 1262/R, 1262/D~~ Of 2011 Order Sheet No. 22

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

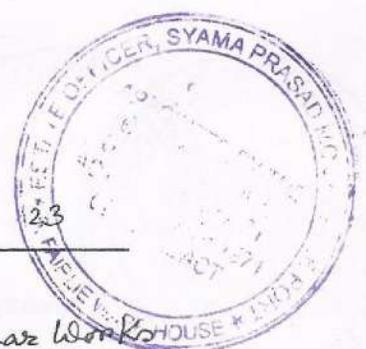
M/S Shalimar Works Pvt- Ltd. VS (since become Shalimar Works [1980] Ltd.)

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02.07.2021

about their intention to proceed with the matter. When KoPT prayed further time for compliance of the Order dated 30.11.2012, the matter was again posted for hearing after giving a direction for due intimation to O.P. On 12.03.2018, representative of KoPT, without filing any final administrative decision, made a verbal submission on the development of the issue. However, considering such submission as dilatory and time consuming, The Forum gave a direction for immediate compliance of such Order and directed the Port Authority to submit a comprehensive report in this regard after including all such developments and also a present status of such property. Thereafter on 23.04.2018, representative KoPT filed an application being No. Lnd.2931/V/18/190 dated 23.04.2018 stating therein the details of outstanding charges as payable by O.P and also the unauthorized occupation of the entire subject premises by O.P. However, the O.P's financial Advisor after appearing before the Forum on 27.06.2018, submitted that a meeting was already been held between KoPT and O.P and in consequence of such meeting a Minutes had also been drawn up on 17.11.2016 where it was decided that the outstanding amount payable by O.P to KoPT would be adjusted with the dues payable by Haldia Dock Complex, another unit of KoPT to Shalimar Works Ltd i.e O.P herein. He further submitted before the Forum that a reply would be filed by O.P on the next dated of hearing against the application of Port Authority as was filed on 23.04.2018. Thereafter on 08.08.2018, O.P filed certain documents which includes the correspondence with KoPT between 01<sup>st</sup> Feb 2011 to 2017 and made a further prayer before the Forum for filing their effective reply/comments and the Forum allowed such opportunity to O.P. and such effective reply to the Show

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KOLKATA PORT TRUST

*[Handwritten signature]*



# 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. 1260/1260/R, 1260/D, 1261/1261/R, 1261/D Of 2011 Order Sheet No. 23

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Shalimar Works Pvt Ltd. VS (since become Shalimar Works [1980] Ltd.)

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Cause Notice/s with special reference to KoPT's application dated 23.04.2018 was filed by O.P on 24.08.2018. Thereafter on 10.09.2019, KoPT was directed to file their comments in connection with the abovementioned effective reply of O.P., however, it appeared from record that after being failed to file such comments on couple of occasion, KoPT had finally filed such comment on 31.10.2019 vide their application being No. Lnd.2931/V/19/2558 dated 30.10.2019 by repudiating the claim of O.P. In their comment port authority had further submitted that O.P's occupation could not be regularized in view of their reply/Application dated 24.08.2018 when the outstanding dues had been mounted up Rs.2,02,43,006.43 in recent time. Thereafter, this Forum vide its order dated 14.11.2019, gave liberty to both the parties for filing their respective Written Notes of Arguments on the issue within seven days of the instant hearing and on 26.11.2019 when the Ld' Advocate of O.P had filed such Written Notes of Arguments, the matter was reserved for final Order in presence of the representative of KoPT.

Now, while passing the Final Order, after carefully considering the documents on record and the submissions of the parties. I find the following issues for my adjudication/decision:

- I) Whether O.P. has defaulted in making payment of rental dues to KoPT, or not;
- II) Whether the arrear rental dues of KoPT is adjustable with the arrear Bill of O.P or not;
- III) Whether O.P has failed to register the lease deed in respect of the property for the relevant period as per requirement of law or not;

*(Signature)*

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SYAMA PRASAD MOOKERJEE PORT



### Estate Officer, Kolkata Port Trust

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

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### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Shalimar Works Pvt. Ltd vs (Since become M/s Shalimar Works [1980] Ltd).

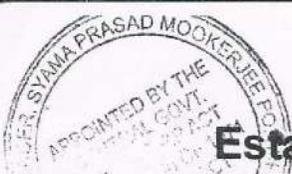
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- IV) Whether O.P. can take the shield of Limitation Act to contradict the eviction proceedings against O.P. and claim of KoPT on account of dues while in possession and enjoyment of the Port Property in question or not;
- V) Whether the O.P can claim waiver of Interest amount or not;
- VI) Whether the notice to quit dated 14.02.1974 as issued by the Port Authority is valid and lawful in the present facts and circumstances of the case or not;
- VII) Whether O.P.'s occupation could be termed as "unauthorised occupation" in view of Sec.2 (g) of the P.P. Act and whether O.P. is liable to pay damages to KoPT during the period of its unauthorised occupation or not;

Issue no I and II are taken up together, as the issues are related with each other. O.P vide their initial reply to the Show Cause notices dated 06.07.2012 & 02.11.2012, has denied their liabilities on account of rental dues. It is the categorical submission of O.P that KoPT did not raise their arrear rental bills previously and all of a sudden a bill of Rs.85 Lakhs was first time raised in the year 2000. O.P has further submitted that they have already paid the rental dues for the period 01.04.2010 to 31.03.2012 on the basis of meeting held on 23.10.2009 and are not liable to pay the rental dues pertaining to the erstwhile Company i.e prior to 12<sup>th</sup> January 1981. Therefore, such rental dues should be calculated after deduction of the

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2



# Estate Officer, Kolkata Port Trust

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

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1261, 1261/R, 1261/D

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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

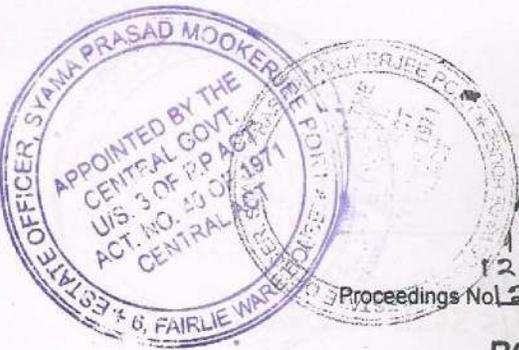
M/S Shalimar Works Pvt. Ltd VS (Since become M/S Shalimar Works [1980] Ltd).

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amount pertaining to the period prior to 1981. However, I must say that this statement of O.P does not come to their protection at all because it appears from the Comments of KoPT as filed on 30.10.2019 that O.P. has not made any payment since long but KoPT had deducted all outstanding dues payable to O.P on the pretext of Ship repair job of various vessels conducted by O.P. In this instant case KoPT has adjusted payment from Ship -repairing Bills of O.P. pertaining to HDC for liquidation of dues but inspite of such adjustment, all the dues of O.P to KoPT are still not liquidated. Moreover, during the course of hearing besides their application/comment dated 30.10.2019, KoPT has also filed an updated Statement of Accounts dated 31.10.2019 & 15.02. 2012 in respect of said occupation which clearly indicates the huge dues on the part of the O.P. In my view, such statement maintained by the statutory authority in the usual course of business has definite evidentiary value, unless challenged by any of the concerned/interested parties with fortified documents/ evidences etc, ready to bear the test of legal scrutiny. During the course of hearing, I am given to understand by the Port Authority that the rent charged from time to time is based on the rates notified by the Tariff Authority for Major Ports (TAMP) in the Official Gazette, which is binding on all users of the port property. In my view, the breach committed by the O.P. is very much well established in the facts and circumstances of the case and O.P. must have to suffer the consequences, following due applications of the tenets of law. In my view, the conduct of the O.P. does not inspire any confidence and I am not at all inclined to protect O.P. even for the sake of natural justice. In my considered view, the Port Authority has a definite

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### Estate Officer, Kolkata Port Trust

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

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

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legitimate claim to get its revenue involved into the Port Property in question as per the KoPT's Schedule of Rent Charges for the relevant period and O.P. cannot deny such payment of requisite charges as mentioned in the Schedule of Rent Charges. In the aforementioned circumstances, being satisfied as above, I have no hesitation to uphold the claim of the Port Authority.

As regards the issue No. III, I must say that allegation of the Port Authority is not unreasonable because it is seen from the record that except such short term lease, the rest of the leases were granted to O.P on long term basis for 10 years however, such leases were not registered. When as per the statute, the registration of all the long terms leases are mandatory, both the long term leases under this proceedings lack such essential ingredients. Such non registration after execution is nothing but a willful act of O.P. But in this instant matter, inspite of such non registration, right of the lessor (KoPT) is no way hampered because as per the provision of Transfer of Property Act -1882, it cannot be said that holding possession under an unregistered lease is a trespass, here the tenant is treated as tenant at will and the lessor never lose their right to receive rents or compensation from such tenant. Thus this issue is decided in favour of KoPT.

As regards the issue No. IV, i.e on the question of time barred claim of KoPT on "limitation" and whether the proceedings u/s 7 of the Act is maintainable, I have borrowed my contention from the several decisions of the Hon'ble Judiciary, in particular the decisions of the Hon'ble Supreme Court, wherein it was decided that the

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# Estate Officer, Kolkata Port Trust

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

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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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Limitation Act has no application in the proceedings before the Estate Officer which is not a Civil Court, governed by the Civil Procedure Code. Sec. 15 of the P.P. Act puts a complete bar in entertaining any matter before the Civil Court in respect of Public Premises. As such, I am firm in holding that Limitation Act has no application in the instant case. The Division Bench judgment of Madhya Pradesh High Court reported in AIR 1980 MP 196 (D.B) (L.S. Nair -VS-Hindusthan Steel Ltd. & Ors.) has its applicability in all sense of law. The judgment of the Delhi High Court in Nandaram's case 87 (2000) DLT 234 also supports the view taken by Hon'ble Calcutta High Court. In this connection I am fortified by a judgment of the Hon'ble High Court, Calcutta in S.N. BHALOTIS -VS- L.I.C.I. & Ors. reported in 2000(1) CHN 880 with reference to the judgment reported in AIR 1972 Tripura 1 (Hemchandra Charkraborty -Vs- Union of India) wherein it was clearly held that proceedings initiated by an Estate Officer are not in the nature of suit nor the Estate Officer acts as a Court while deciding proceedings before him.

As regards the issue No.V, I must say that waiver of KoPT's claim on account of interest is required to be adjudicated seriously as the issue involves mixed question of fact and law as well. It is my considered view 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. is liable to pay rents in timely manner to the lessor KoPT 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

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## Estate Officer, Kolkata Port Trust

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

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### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Shalimarz Works Pvt. Ltd. vs (since become M/S Shalimarz Works  
[1980] Ltd).

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delayed fashion. For occupation and enjoyment of Port property, the charges leviable upon the tenants/occupiers are based on the Schedule of Rent Charges as applicable for a tenant/occupier in respect of respective zone as indicated in such Schedule of Rent Charges. Here in this instant matters as per the Joint Minutes, O.P was asked to give an undertaking for payment of interest but they had not forwarded any undertaking regarding the payment of interest. Thus O.P cannot deny such liability of payment of interest as he 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 has to pray before proper Authority of KoPT. As such, I have no hesitation to decide the issue in favour of KoPT and I have no bar to accept the claim of KoPT on account of Interest accrued for delayed payment.

Issue no VI and VII are taken up together, as the issues are related with each other. I must say that a lessee like O.P. cannot claim any legal right to hold the property after expiry of the period as mentioned in the Notice to Quit. O.P has failed to satisfy this Forum about any consent on the part of KoPT in occupying the public premises. Rather it is a case of KoPT that by notice dated 14.02.1974, 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 material, sufficient to contradict the case of KoPT on the basis of such letter. Further, I am consciously of the view that KoPT never recognized O.P., as a lawful user/tenant in respect of the property in question after expiry of the period mentioned in the Notice to Quit dated 14.02.1974. As per Section 2 (g) of the P. P.

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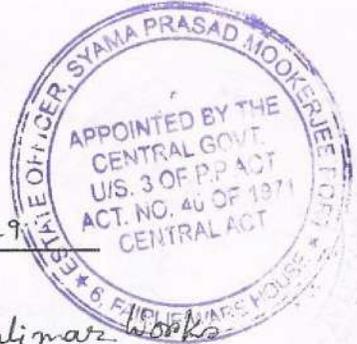


# Estate Officer, Kolkata Port Trust

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

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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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Act the "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. Further, as per the Transfer of Property Act, a lease of immovable property determines either by efflux of time limited thereby or by implied surrender or on expiration of notice to determine the lease or to quit or of intention to quit, the property leased, duly given by one party to another. It is a settled question of law that O.P. cannot claim any legal right to hold the property after expiry of the period mentioned in the Notice to Quit dated 14.02.1974, without any valid grant or allotment from KoPT's side. This issue is also decided in favour of KoPT. In the instant case, the landlord i.e. KoPT claims to have issued a Notice to O.P. dated 14.02.1974 asking for vacation of the premises on 01.04.1974 as O.P. was duty bound to hand over possession to KoPT and it had failed to do, KoPT's claim by filing Application dated 22.03.2010 is very much justifiable. O.P. failed to substantiate as to how its occupation could be termed as "authorised" in view of Sec. 2(g) of the P.P Act, after expiry of the period as mentioned in the KoPT's notice dated 14.02.1974, demanding possession from O.P. I have no hesitation to observe that O.P's act in continuing occupation after expiry and determination of the lease is unauthorized and O.P. 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 KoPT. Further one more thing can be added

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## Estate Officer, Kolkata Port Trust

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

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### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

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with this issue of damages/ compensation when O.P has disputed such charges @ three times. In my view, O.P's plea as regards the exorbitant rate of compensation charges is not relevant because enhancement and/or imposition of monthly charges for occupation into the Port Property is governed by the provisions of the Major Port Trusts Act, 1963 on the basis of schedule of rent charges as time to time notified in the Official Gazette under Authority of Law and O.P. must have constructive notice in respect of publication of such notification as per law like all tenant/occupier of Port Premises. In fact nobody can deny the existence and enforceability of such notification under law. The Issues VI and VII are thus decided in favour of KoPT.

In view of the discussions above, the issues are decided firmly in favour of KoPT. I find that this is a fit case for passing order of eviction against O.P or other interested Party whoever in occupation, and hence, being satisfied as above I hereby, pass Order of eviction under Section 5 of the Act on following grounds.

1. That O.P. has violated the condition of both the short term & long term leases as granted by the Port Authority by way of not making payment of rental dues and taxes to KoPT, for a prolonged period of time.
2. O.P has failed to register the lease deed in respect of the property for the relevant period as per requirement of law.
3. The O.P or any other person/occupant have failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation".

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Assistant  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE

or



# Estate Officer, Kolkata Port Trust

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

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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

*M/s. Shalimar Works Pvt Ltd VS (Since become M/s Shalimar Works [1980] Ltd).*

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02.07.2021

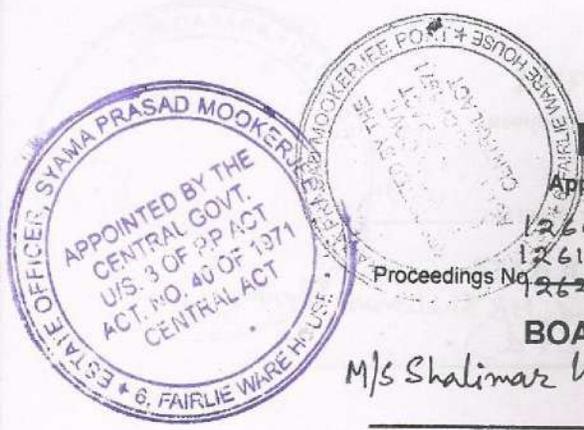
4. That O.P. has failed to make out any ground with regard to the application of the law of Limitation to the present proceedings.
5. That the notice to quit all dated 14.02.1974 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P.'s occupation and that of any other occupant of the premises has become unauthorised in view of Sec.2 (g) of the P.P. Act.
6. 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.24,464.47 for (Plate No. HL-536/2), Rs.35,139.99 for (Plate No. HL-533/1) & Rs.3,123.75 for (Plate No.HB-30) all for the period 1<sup>st</sup> May 1971 to 31<sup>st</sup> March 1974 (both days inclusive) are due and recoverable from O.P. by the Port

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# Estate Officer, Kolkata Port Trust

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

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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Shalimar Works Pvt Ltd. VS (since become M/s Shalimar Works [1980] Ltd.)

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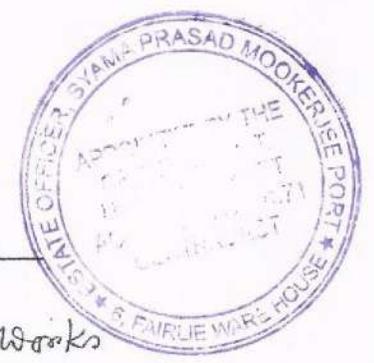
authority on account of rental dues and O.P. must have to pay the rental dues to KoPT on or before ..... Such dues attract compound interest @ 6.20 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) 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 O.P., in 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 21,89,137.71 for (Plate No.HL-536/2), Rs.38,59,777.42 for (Plate Nos.HL-533/1 & HL-535) & Rs.3,87,139.20 for ( Plate No.HB-30) as claimed by the Port Authority as damages in relation to the subject premises in question, are correctly payable by O.P. all for the period 01.04.1974 to 28.02.2010 (both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by 20.07.2021. The said damages shall attract compound interest @ 6.20 % 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 O.P., in terms of KoPT's books of accounts. I sign the formal orders u/s 7 of the Act.

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

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# Estate Officer, Kolkata Port Trust

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

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1261, 1261/R, 1261/D

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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

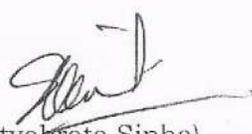
M/s Shalimar Works Pvt Ltd. VS (Since become Shalimar Works [1980] Ltd).

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damages extends beyond 28.02.2010 as well, till such time the possession of the premises continues to be under the unauthorised occupation with the O.P. KoPT is directed to submit a statement comprising details of its calculation of damages after 28.02.2010, 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.

GIVEN UNDER MY HAND AND SEAL

  
(Satyabrata Sinha)  
ESTATE OFFICER

By Order of:  
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SYAMA PRASAD MOOKERJEE PORT  
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Head Assistant  
OFFICE OF THE ESTATE OFFICER,  
SYAMA PRASAD MOOKERJEE PORT

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