

REGISTERED POST WITH A/D.
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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, Fairlie Place (1st Floor)

KOLKATA - 700 001

REASONED ORDER NO. 33 DT 07.10.2021 read with ORDER NO.34 DT. 27-01-2022.

Court Room at the 1st Floor
of Kolkata Port Trust's

Fairlie Warehouse,

By Order of: 6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO. 1667 OF 2018

THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-

M/S Soorajmull Baijnath(O.P.)

F O R M - "B"

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

Head Assistant
28-02-2022

OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC
PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971

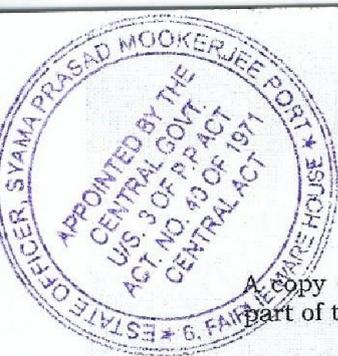
WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that M/S Soorajmull Baijnath of 138, Biplabi Rash Bihari Basu Road, Kolkata-700001 AND ALSO AT 304 Jasmine Tower, 31 Shakespeare Sarani, Kolkata-700017 is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

1. That this Forum of Law is well within its jurisdiction to adjudicate upon the matters relating to eviction and recovery of arrear dues/damages etc. as prayed for on behalf of KoPT.
2. That the lease as granted to O.P. by KoPT had doubtlessly determined by efflux of time, in the facts and circumstances of the case.
3. That O.P. cannot claim renewal of lease from the Port Authority as a matter of right and cannot dictate the terms and conditions of any renewal of lease that may be offered by the Port Authority in terms of their Estate Management Policy.
4. That O.P. has parted with possession of the public premises without any authority of law, in facts and circumstances of the case.
5. The O.P. or any other person/occupant has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation".
6. That no case has been made out on behalf of O.P. as to how its occupation in the Public Premises could be termed as "authorised occupation" after issuance of notice dated 07.06.2017, demanding possession by the Port Authority and O.P.'s occupation has become unauthorized in view of Sec.2(g) of the P.P. Act, 1971.
7. That right from the date of expiry of the lease, O.P. has lost its authority to occupy the Public Premises and O.P. is liable to pay dues/compensation charges with interest for wrongful use and enjoyment of the Public Property upto the date of handing over of 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. 34 dated 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 Soorajmull Baijnath of 138, Biplabi Rash Bihari Basu Road, Kolkata-700001 AND ALSO AT 304 Jasmine Tower, 31 Shakespeare Sarani, Kolkata-700017** 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 Soorajmull Baijnath of 138, Biplabi Rash Bihari Basu Road, Kolkata-700001 AND ALSO AT 304 Jasmine Tower, 31 Shakespeare Sarani, Kolkata-700017** 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.166/C

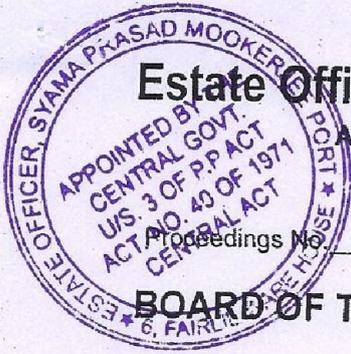
The said piece and parcel of Trustees' land measuring about 5181.04 Sq.mts or thereabouts situated at Ramkristopur, Howrah, P.S: Shibpur, District and Registration District Howrah. It is bounded by on the North partly by the Trustees' road partly by the Trustees' strip of open land alongside Port Trust Railway Siding land and partly by the Trustees' shed occupied by you, on the east partly by the Trustees' Grand Foreshore road and part by the Trustees' shed occupied by you, on the south partly by the Trustees' shed occupied by you and partly by the Trustees' strip of open land alongside northern spur and on the west by the Trustees' strip of open land alongside Port Trust Railway Siding.

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

Signature & Seal of the Estate Officer

Date- 08-02-2022.

COPY FORWARDED TO THE ESTATE MANAGER, SMP, 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.

1667

Of 2018

Order Sheet No. -42-

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S. Soorajmull Baijmath ^{VS}

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27-01-2022

The file is requisitioned from the Department. It is seen that the representative of SMP, Kolkata has filed an application bearing No.Lnd.1182/1/A/III/21/4053 dated 07.12.2021 for rectification of the schedule of Form-B which has wrongly been recorded as "godown" in place of "land" in the instant Final Order dated 07.10.2021.

Perused the said application of SMP, Kolkata. It appears that in terms of the said application SMP, Kolkata has submitted that in the Form-B of the instant Final Order as passed by this Forum on 07.10.2021 Port property has been wrongly recorded as "godown" in place of "land". Such error, I find is apparently an inadvertent typographical error which crept in the said Form and it deserve to be treated as such.

In view of the above it is my considered view that such error does not go into such deep to affect the merit of the case and I am firm in holding that the error is not prejudicial to the rights and contentions of both the parties. Even if such error remain unnoticed, only the execution part of the Final Order dated 07.10.2021 might face difficulties, without touching the substantive issues of this proceeding as envisaged in the Show cause notice/s issued by this Forum.

It is, therefore, directed that henceforth the subject premises should be read as "land" instead of "godown" for all the material purposes of this proceeding. In the given facts and circumstances, Department is directed to issue the Form-B once again incorporating the corrected portion which forms a part of the reasoned order No.33 dated 07.10.2021 and intimate the parties accordingly.

Department is directed serve the copy of this Order to both the parties. All concerned are directed to act accordingly.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
1 Dec 02, 2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

ESTATE OFFICER