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

ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(erstwhile KOLKATA PORT TRUST)

Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
Public Premises (Eviction of Unauthorized Occupant) Act 1971
OFFICE OF THE ESTATE OFFICER
6, Fairley Place (1st Floor)
KOLKATA - 700 001

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

REASONED ORDER NO. 17 DT 08/02/2022
PROCEEDINGS NO. 1834 of 2020

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-
Smt. Monorama Devi

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 **Smt. Monorama Devi, Prop. Mahalaxmi Coal Traders, 49, Chetla Rly. Siding, Kolkata- 700 027 AND ALSO OF 16/2, Shibtala Lane, Kolkata - 700 015** is in unauthorized occupation of the Public Premises specified in the Schedule below:

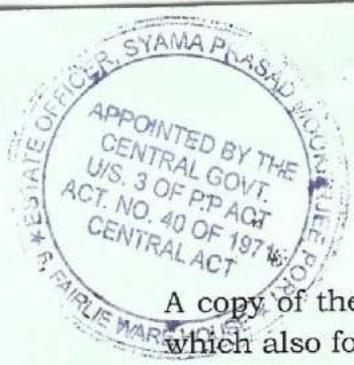
REASONS

- 1) That O.P. has failed to appear before this Forum and failed to file reply to the Show Cause Notice/s under the Act inspite of sufficient chances being given.
- 2) That the notice to quit dated 14.05.1992 as served upon the 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 Section 2(g) of the P.P Act.
- 3) That O.P./any other person on behalf of O.P. have failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 4) That O.P. or any other person/s asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation", inspite of sufficient chances being provided.
- 5) That O.P. is liable to pay damages for wrongful use and occupation of the Public Premises upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

Please see on reverse

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A copy of the reasoned order No. 17 dated 08/02/2022 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 Smt. Monorama Devi, Prop. Mahalaxmi Coal Traders, 49, Chetla Rly. Siding, Kolkata- 700 027 AND ALSO OF 16/2, Shibtala Lane, Kolkata - 700 015 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 Smt. Monorama Devi, Prop. Mahalaxmi Coal Traders, 49, Chetla Rly. Siding, Kolkata- 700 027 AND ALSO OF 16/2, Shibtala Lane, Kolkata - 700 015 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

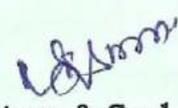
Plate no - D-464/A

The said piece or parcel of land msg. 80.082 sqm or thereabouts is situate at Chetla Station Yard, P.S. New Alipore, District 24 Parganas. It is bounded on the North by the Trustees' land leased to Messrs. Mahalaxmi Coal Concern, on the East by the Trustees' land leased to Ram Bachan Singh, on the South by the Trustees' land reserved as margin of safety alongside Port Trust Railway line and on the West by the Trustees' open land used as passage.

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

Dated: 08/02/2022




Signature & Seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, SYAMA PRASAD MOOKERJEE PORT, KOLKATA FOR INFORMATION.



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

**ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(erstwhile KOLKATA PORT TRUST)**

(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
Public Premises (Eviction of Unauthorized Occupant) Act 1971

OFFICE OF THE ESTATE OFFICER

6, Fairley Place (1st Floor)

KOLKATA - 700 001

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6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 17 DT 08/02/2022
PROCEEDINGS NO. 1834/D OF 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
Smt. Monorama Devi,
Prop. Mahalaxmi Coal Traders,
49, Chetla Rly. Siding, Kolkata- 700 027
AND ALSO OF
16/2, Shibtala Lane,
Kolkata - 700 015

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 16.03.2021 you were called upon to show- cause on/or before 06.04.2021 why an order requiring you to pay a sum of Rs. 4,13,024/- (Rupees Four Lakhs Thirteen Thousand Twenty Four only) being damages payable together with compound interest for unauthorised use and occupation of the said premises, should not be made.

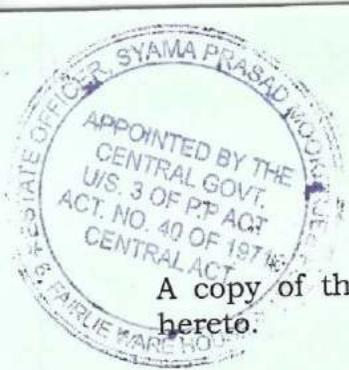
And whereas you have not made any objections or produced any evidence before the said date;

Now, therefore, in exercise of the powers conferred on me by Sub-section (2) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby order you to pay the sum of Rs. 4,13,024/- (Rupees Four Lakhs Thirteen Thousand Twenty Four only) for the period from 30.04.2005 to 04.02.2021 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust, by 08/02/2022.

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, 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) on the above sum with effect from the date of incurrance of liability, till its final payment in accordance with Notification Published in Official Gazette/s.

Please see on reverse

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A copy of the reasoned order no. 17 dated 08/02/2022 is attached hereto.

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.

SCHEDULE

Plate no - D-464/A

The said piece or parcel of land msg. 80.082 sqm or thereabouts is situate at Chetla Station Yard, P.S. New Alipore, District 24 Parganas. It is bounded on the North by the Trustees' land leased to Messrs. Mahalaxmi Coal Concern, on the East by the Trustees' land leased to Ram Bachan Singh, on the South by the Trustees' land reserved as margin of safety alongside Port Trust Railway line and on the West by the Trustees' open land used as passage.

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

Dated: 08/02/2022



Syama
Signature and seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, KOLKATA PORT TRUST 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



1834, 1834/D Of 2020 Order Sheet No. 19

TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
Mahalaxmi Coal Traders.

08/02/2022

FINAL ORDER

The instant proceedings No. 1834, 1834/D of 2020 arise out of the applications bearing No. Lnd 3184/123/II dated 24.06.1993 and Lnd 3184/123/II/21/512 dated 08.02.2021 filed by Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust/ KoPT, hereinafter referred to as 'SMP, Kolkata'], the applicant herein, under the provisions of the **Public Premises (Eviction of Unauthorised Occupants) Act, 1971** (hereinafter referred to as 'the Act') praying for an order of eviction and recovery of compensation dues/mesne profit/ damages and other charges etc. along with accrued interest in respect of the public premises, being the land measuring about 80.082 sq.m. situated as Chetla Station Yard, against **Smt. Monorama Devi, Prop. Mahalaxmi Coal Traders** (hereinafter referred to as **O.P.**).

The fact of the case in a nutshell is that the O.P. came into occupation of the port property (under Plate Nos. D-464/A) as a monthly tenant at the land measuring about 80.082 sq.m. situated as Chetla Station Yard, Kolkata, morefully described in the Schedule 'A' of the SMP, Kolkata's said application dated 24.06.1993. The allegations levelled by SMP, Kolkata against the O.P are that the O.P had failed and neglected to quit, vacate and deliver up peaceful possession of the said premises in terms of the notice to quit dated 14.05.1992. It is the case of SMP, Kolkata that the tenancy with the O.P. was determined w.e.f. 01.07.1992 in terms of the Notice to Quit dated 14.05.1992 and the O.P. failed and neglected to vacate/ hand over the possession of the premises after service of the said Notice to Quit. SMP, Kolkata has made out a case that O.P. has no right to occupy the premises after the determination of tenancy in question upon service of a quit notice dated 14.05.1992.

This Forum of Law formed it opinion to proceed against O.P. and issued 2 (two) no. of Show Cause Notices upon the O.P., one u/s

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

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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



1834, 1834)D of 2020 Order Sheet No. 20

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
Mahalaxmi Coal Traders.

4 of the Act (for adjudication of the prayer of eviction) and the other u/s 7 of the 'Act (for adjudication of the prayer of compensation dues/ damages/ mesne profit alongwith the accrued interest thereon etc.), both dated 16.03.2021 (vide Order No. 10 dated 16.03.2021), as per the Rules made under the Act.

The said Notices were sent through 'Speed Post' to the 2 (two) nos of recorded addresses of O.P., viz., at 'Chetla Rly. Siding, Kolkata- 700 027', and '16/2, Shibtala Lane, Kolkata- 700 015'. However, the notice sent to Shibtala Lane, Kolkata returned undelivered by the Postal Department with the remarks "Not Known". Be that as it may, the other notice sent to the Chetla Rly. Siding, Kolkata has not returned to this Forum raising a presumption of its due delivery to the addressee. The 'Process Server' attached with this Forum has submitted a report dated 23.09.2021 that the Notices have been affixed in the property under schedule for a notice to all concerned, as per the mandate of the Act. However, on the day fixed for Show Cause by the O.P., viz. on 06.04.2021, neither the O.P. nor any person interested in the property has appeared before this Forum. Following the principles of natural justice that no one should be condemned unheard ('Audi Alteram Partem'), another chance was given to the O.P. to represent their case. However, such effort remained infructuous as neither the O.P. nor anyone interested in the property made a contact or approached the Forum in connection with the Show Cause Notice issued by this Forum on certain occasions thereafter. A decision was then taken to publish a notice in a widely circulated newspaper for a notice to all concerned about the pendency of the instant proceeding, in order to provide an opportunity to the O.P. to appear before this Forum and to represent their case. Such a notice was published in 'The Times of India (Kolkata edition)' on 23.07.2021 fixing the date for the O.P's appearance, filing reply to Show Cause on 03.08.2021, but such effort too went in vain, as none appeared from O.P's side and the efforts remained ineffective. Considering the

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

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 ESTATE OFFICER
KOLKATA PORT TRUST

18



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. 1834, 1834/D of 2020 Order Sheet No. 21

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

**Mahalaxmi VS
Coal Traders.**

17

08/02/2022

situation that the attendance of O.P. could not be procured by this Forum, at any point of time, inspite of the possible efforts being made, even after the publication of a Notice in an English daily and even thereafter, I am inclined to proceed ex-parte against the O.P. I may say that I have nothing to disbelieve the allegations levelled against the O.P. from the documents filed by the Port Authority and I am left with no other alternative but to issue the Order of Eviction against O.P., as prayed for on behalf of SMP, Kolkata, on the following grounds/reasons:-

- 1) That O.P. has failed to appear before this Forum and failed to file reply to the Show Cause Notice/s under the Act inspite of sufficient chances being given.
- 2) That the notice to quit dated 14.05.1992 as served upon the 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 Section 2(g) of the P.P Act.
- 3) That O.P./any other person on behalf of O.P. have failed to make out any case in support of its occupation as "authorised occupation", inspite of sufficient chances being given.
- 4) That O.P. or any other person/s asserting any right through O.P. has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation", inspite of sufficient chances being provided.
- 5) That O.P. is liable to pay damages for wrongful use and occupation of the Public Premises upto the date of handing over of 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

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

AS



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

1834,1834)D of 2020 Order Sheet No. 22



BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Mahalaxmi ^{VS} Coal Traders.

17

08/02/2022

order and the Port Authority is entitled to claim damages for unauthorized use and enjoyment of the property against O.P., in accordance with the canons of Law till the date of unencumbered recovery of possession of the same.

SMP, Kolkata 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 can 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. 4,13,024/- (Rupees Four Lakhs Thirteen Thousand Twenty Four only) for the period from 30.04.2005 upto 04.02.2021 is due and recoverable from O.P. by Port Authority on account of compensation dues/ damages/ mesne profit and O.P. must have to pay the rental dues to SMP, Kolkata on or before 28/02/2022. Such dues shall attract compound interest @ 6.20 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered 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 SMP, Kolkata's books of accounts. I sign the formal orders u/s 7 of the Act.

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

[Signature]

I make it clear that SMP, Kolkata 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 04.02.2021 as well, till such time the possession of the premise continues to be under the unauthorized occupation with the O.P. SMP, Kolkata is directed to submit a statement comprising details of its



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

Proceeding No. 1834/1834/D of 2020 Order Sheet No. 23

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

Mahalaxmi Coal Traders.

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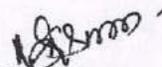
08/02/2022

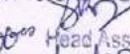
calculation of damages after 04.02.2021, indicating therein, the details of the rate of such charges, and the period of the damages (i.e. till the date of taking over of possession) together with the basis on which such charges are claimed against O.P., for my consideration for the purpose of assessment 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 pay the amounts to SMP, Kolkata as aforesaid, Port Authority is entitled to proceed further for recovery of its claim in accordance with law.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL


(Nirmalya Biswas)
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 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 ***