



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

ESTATE OFFICER SYAMA PRASAD MOOKERJEE PORT, KOLKATA (crstwhile 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. 05 DT 05.5. 2022 PROCEEDINGS NO. 1889 OF 2021

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Syama Prasad Mookerjee Port, Kolkata (Erstwhile Board of Trustees' for the Port of Kolkata) -Vs

Estate Nafar Chandra Sreemany and Dulal Chandra Sreemany represented by their legal heirs namely i) Laxmi Kant Sreemany, S/O Late Nafar Chandra Sreemany ii) Jayabati Sreemany, W/O Late Dulal Chandra Sreemany) iii) Ashima Dey and Suroma Kundoo, D/O of Late Dulal Chandra Sreemany iv) Panchanon Sreemany, Sailendranath Sreemany, Mritunjoy Sreemany and Sanjoy Kr. Sreemany, all are Sons of Late Dulal Chandra Sreemany AND Shri Ramji Singh(Any other person in wrongful occupation of the subject land), Opposite Parties.

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 Estate Nafar Chandra Sreemany and Dulal Chandra Sreemany represented by their legal heirs namely i) Laxmi Kant Sreemany, S/O Late Nafar Chandra Sreemany ii) Jayabati Sreemany, W/O Late Dulal Chandra Sreemany) iii) Ashima Dey and Suroma Kundoo, D/O of Late Dulal Chandra Sreemany iv) Panchanon Sreemany, Sailendranath Sreemany, Mritunjoy Sreemany and Sanjoy Kr. Sreemany, all are Sons of Late Dulal Chandra Sreemany AND Shri Ramji Singh(Any other person in wrongful occupation of the subject land) of P-56/1, Strand Bank Road, Kolkata-700006 And also at 1, Meerbahar Ghat Street, Kolkata-700 007 are in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

- That O.P.No.1 has failed to appear before the Forum and has failed to file any reply to Show cause Notice.
- That the sitting occupant appearing before the Forum has failed to explain their authority to occupy the premises.
- That the O.P. No.1 or any other person/occupant have failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation"
- That O.P. No.1 has parted with possession of the subject public premises to rank outsiders without having any authority of law.
- That the O.P. No.1 and other person/occupant are 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.

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PLEASE SEE ON REVERSE

(2)

A copy of the reasoned order No. 05 dated __O5. 5.2022_ 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 Estate Nafar Chandra Sreemany and Dulal Chandra Sreemany represented by their legal heirs namely i) Laxmi Kant Sreemany, S/O Late Nafar Chandra Sreemany ii) Jayabati Sreemany, W/O Late Dulal Chandra Sreemany) iii) Ashima Dey and Suroma Kundoo, D/O of Late Dulal Chandra Sreemany iv) Panchanon Sreemany, Sailendranath Sreemany, Mritunjoy Sreemany and Sanjoy Kr. Sreemany, all are Sons of Late Dulal Chandra Sreemany AND Shri Ramji Singh(Any other person in wrongful occupation of the subject land) of P-56/1, Strand Bank Road, Kolkata-700006 And also at 1, Meerbahar Ghat Street, Kolkata-700 007 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 Estate Nafar Chandra Sreemany and Dulal Chandra Sreemany represented by their legal heirs namely i) Laxmi Kant Sreemany, S/O Late Nafar Chandra Sreemany ii) Jayabati Sreemany, W/O Late Dulal Chandra Sreemany) iii) Ashima Dey and Suroma Kundoo, D/O of Late Dulal Chandra Sreemany iv) Panchanon Sreemany, Sailendranath Sreemany, Mritunjoy Sreemany and Sanjoy Kr. Sreemany, all are Sons of Late Dulal Chandra Sreemany AND Shri Ramji Singh(Any other person in wrongful occupation of the subject land) of P-56/1, Strand Bank Road, Kolkata-700006 And also at 1, Meerbahar Ghat Street, Kolkata-700 007 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 - SB-275

The said piece or parcel of land Msg. 195,282 sq.m or thereabouts is situated on the Commissioners' riverside east side land at Pathuriaghat in the Presidency town of Kolkata. It is bounded on the North by SMP's lands used as passage, on the East by SMP's Strand Bank Road, on the South by SMP's land occupied by Estate Ram Chandra Sett and Bankim Chandra Sett & on the West by SMP's open land beyond which are their Staff Quarters. Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata).

Dated: 05.5.2022

Signature & Seal of Estate Officer.



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

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

(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act) Public Premises (Eviction of Unauthorised Occupants) Act 1971 OFFICE OF THE ESTATE OFFICER 6, Fairlie Place (1st FLOOR) KOLKATA-700001

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

PROCEEDINGS NO. 1889/D OF 2021 ORDER NO.05 DATED: 05.5.2022

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

Estate Nafar Chandra Sreemany and Dulal Chandra Sreemany

represented by their legal heirs namely

i) Laxmi Kant Sreemany, S/O Late Nafar Chandra Sreemany

ii) Jayabati Sreemany, W/O Late Dulal Chandra Sreemany)

iii) Ashima Dey and Suroma Kundoo, D/O of Late Dulal Chandra Sreemany iv) Panchanon Sreemany, Sailendranath Sreemany, Mritunjoy Sreemany and Sanjoy Kr. Sreemany, all are Sons of Late Dulal Chandra Sreemany

Shri Ramji Singh (Any other person in wrongful occupation of the subject land). P-56/1, Strand Bank Road, Kolkata-700006 And also at

1, Meerbahar Ghat Street, Kolkata-700 007.

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 30.12.2021 you are called upon to show cause on or before 20.01.2022 why an order requiring you to pay damages of Rs.38,00,525.40 (Rupees Thirty eight lakh five hundred twenty five and paisa forty Only) together with [compound interest] for unauthorised use and occupation of the said premises, should not be made;

AND WHEREAS I have considered your objections and/or evidence produced before this Forum;

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.38,00,525.40 (Rupees Thirty eight lakh five hundred twenty five and paisa forty Only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.02.1971 to 30.06.2017 (both days inclusive) to SMP, Kolkata by 19.5.2022





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 @ 6.30 % 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 - SB-275

The said piece or parcel of land Msg. 195.282 sq.m or thereabouts is situated on the Commissioners' riverside east side land at Pathuriaghat in the Presidency town of Kolkata. It is bounded on the North by SMP's lands used as passage, on the East by SMP's Strand Bank Road, on the South by SMP's land occupied by Estate Ram Chandra Sett and Bankim Chandra Sett & on the West by SMP's open land beyond which are their Staff Quarters. Trustee's means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata).

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Date 05.5.2022

Signature & Seal of the Estate Officer.

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

Proceedings No. 1889, 1889/D

or_2021

Order Sheet No.

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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Estate Nofor Chandra Greemany and Dulal Chandra Erremany.

05.5.2022

FINAL ORDER

The matter is taken up today for final disposal. The factual aspect involved in this matter is required to be put forward in a nutshell in order to link up the chain of events leading to this proceedings. It is the case of Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust], hereinafter referred to as SMPK, Applicant herein, that land msg.195.282 Sq.m or thereabouts situated at Pathuriaghat in the presidency town of Kolkata, comprised under Plate No. SB-275 was allotted to Estate Nafar Chandra Sreemany and Dulal Chandra Sreemany represented by their legal heirs namely il Laxmi Kant Sreemany, S/O Late Nafar Chandra Sreemany ii] Jayabati Sreemany, W/O Late Dulal Chandra Sreemanyl iii) Ashima Dey and Suroma Kundoo, D/O of Late Dulal Chandra. Sreemany iv) Panchanon Sreemany, Sailendranath Sreemany, Mritunjoy Sreemany and Sanjoy Kr. Sreemany, all are Sons of Late Dulal Chandra Sreemany (hereinafter referred to as O.P. No.1) on monthly licence basis for the purpose of business of flour, sugar and dal as embodied in SMPK's offer/letter for allotment being No. LM 3626/8 dated 01.06.1968 and O.P. No.1 violated the condition of such tenancy under licence by way of defaulting in payment of occupational charges of SMPK and also by way of parting with possession in favour of rank outsiders without having any authority of law.It is further the case of SMPK that on a recent inspection it has been found that one Shri Ramji Singh (hereinafter referred to as O.P. No.2) along with some other unauthorised occupants is unauthorisedly occupying the subject premises in question. Now it is contended on behalf of SMPK that both the Opposite Parties have no authority under law to occupythe subject Public Premises & both the Opposite Parties are liable to pay damages for wrongful use and enjoyment of the Port Property upto the date of handing over of clear vacant possession to SMPK.

It appears that during the course of hearing the name of the contesting Sitting Occupant/interested party has been erroneously recorded as "Amarjeet Kaur" in place of "Amarjit Kumar". Such error is only an inadvertent typographical error that should be treated as such and it should not jeopardize the interest of any party. Hence the name of the appearing Sitting Occupant should be read as Amarjit Kumar for all material and practical purposes of this proceeding.

This Forum of Law formed its opinion to proceed against O.P. and issued Show Cause Notice u/s 4 of the Act (for adjudication of the prayer for order of eviction etc.) and Show Notice u/s 7 of the Act (for adjudication of the prayer for

PRASAD MOONERJEE PORT

PRESENTATE OFFICER

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PRASAD MOONERJEE PORT

PRESENTATE OFFICER

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State Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

No. 1889, 1889/D

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Order Sheet No.

SOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Estate Nafor Chandra Sreemany and Dulal Chandra Sreemany.

05.5.2022

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recovery of damages etc.) both dated 30.12,2021(vide Order No.01 dated 02.12.2021).

On the Scheduled date of appearance and filing reply to the Show Cause (i.e 20.01.2022) except the Sitting Occupants, no one appeared on behalf of O.P.No.1 to contest the matter. On 20.01.2022 Ld' Advocate of S. Pareck(Sitting Occupant) files her Vakalatnama to contest the instant matter before the Forum and prayed time to file her reply. It is seen that in the same hearing Amarjit Kumar and Gangadhar Paul, other two Sitting Occupants also placed their submission with the intention to join as an interested party to this instant proceedings. Thereafter on 08.02.2022 said Amarjit Kumar filed his Reply/Written Objections to the Show Cause along with some annexure through his Ld' Advocate Mr. Bhushan Kumar Jain. In his reply he claimed to have in occupation of the subject premises for a considerable period on the strength of a Tenancy Agreement which was made between Smt. Ranita Shreemany and his father Ramratan Kumar on payment of Rs.300 as security deposit andRupees 500/- as monthly licence fees/rent. He further prayed for regularization of such tenancy in his favour on consideration of payment of rent for the aforesaid occupation. Finally on 10.03.2022 when the matter was taken up for hearing SMPK vide their rejoinder dated 09.03.2022 strongly denied such submission of Amarjit Kumar and claimed that SMPK has no relationship with such Sitting Occupant at any material point of time therefore, their occupation is totally unauthorised and issue of regularization of the Sitting Occupant cannot and does not arise in view of the present policy of SMPK. On the same day after hearing both the parties the matter was reserved for passing final

Now while delivering the final order, I have carefully gone through the application/documents on record. Such as original application/s bearing No. Lind.6/47/II/21/3261 and Lind.6/47/II/21/3264 both dated 08.09.2021 filed by SMPK, the statement of accounts produced by the Port Authority, reply filed by Sitting Occupant dated 09.02.2022 as received by this Forum on 10.02.2022 and the rejoinder of SMPK dated 09.03.2022.

On the basis of such documents, I am of the firm view that there is no bar to uphold the contention of the Port Authority as brought out in its application/s dated 08.09.2021. In fact, the presence of sitting occupant in the premises (admittedly, for considerable period) is sufficient enough to conclude "parting with possession" by the O.P.No.1. In this instant case although a Sitting Occupant by filing copy of tenancy agreement, Electric bill and copy of ration Card tried to prove their occupation as authorised however, in my view, such

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SYAMA PRASAD MOOKERJEE PORT

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

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of 2021

Order Sheet No. _

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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

Estate Nafar Chandra bumany and Dulal Chandra Bumany

05.5.2012

ACT No. 40 OF 1971

documents/evidence produced by such Sitting Occupant are not sufficient enough to prove their tenancy in the subject premises in question. Furtherit is evident from the application filed by the sitting occupant on 08.02.2022 that they are occupying the said premises without authority whatsoever and the said occupant has rather sought relief on "humanitarian ground". I must say that this forum is to adjudicate the matter strictly within the four corners of P.P Act while ensuring natural justice is not denied to anyone. In my view, lack of O.P. No.1's interest coupled with prolonged enjoyment of a public premises by sitting occupant, deserves no protection in all sense of law. As such, I am not at all inspired by the prayer of sitting occupant.

Further O.P.No.1's non-appearance and nonfiling of reply to the Show cause does not raise any presumption that O.P.No.1 was not in occupation of the subject premises. Moreso, I have not found any single piece of document wherefrom it will be evident that O.P.No.1 has handed over possession of the subject premises in SMPK's favour. Therefore, it will be presumed that O.P.No.1 was in occupation of the subject premises till the date of institution of such proceeding. In my view, O.P. No.1's continuance in occupation in the public premises was never consented by the Port Authority as there is no demand for monthly licence fees from O.P.No.1 signifying SMPK's assent for such occupation. As per law, institution of proceedings/suit is sufficient to express the intention of the landlord and no notice for revocation of licence is necessary to evict a licensee like O.P.No.1. In view of the discussion above I am left with no other alternatives but to issue the order of eviction against O.P.No.1 and other interested Party whoever in occupation, as prayed for on behalf of SMPK, on following grounds/reasons.

 That O.P.No.1 has failed to appear before the Forum and has failed to file any reply to Show cause Notice.

That the sitting occupant appearing before the Forum has failed to explain their authority to occupy the premises.

 That the O.P. No.1 or any other person/occupant have failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation"

 That O.P. No.1 has parted with possession of the subject public premises to rank outsiders without having any authority of law.

That the O.P. No.1 and other person/occupant are liable to pay damages for wrongful use and occupation of the



state Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

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Order Sheet No.

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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05.5.2022

(Central ACT)

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. No.1 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. SMPK 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.

is my considered view Rs.38,00,525.40 (Rupces Thirty eight lakh five hundred twenty five and paise forty only) for the period 01.02.1971 to 30.06.2017 (both days inclusive) is due and recoverable from O.P.No.1 by the Port authority on account of damages for unauthorized occupation and O.P.No.1 must have to pay such dues to SMPK on or before 19.5.30 WAt the same time as the subject premises had been given by SMP, Kolkata to Estate Nafar Chandra Sreemany & Dulai Chandra Sreemany, represented by their legal heirs namely il Laxmi Kant Sreemany, S/O Late Nafar Chandra Sreemany) ii) Jayabati Sreemany, W/O Late, Dulal Chandra Sreemany) iii) Ashima Dey and Suroma Kundoo, D/O of Late Dulal Chandra Sreemany iv) Panchanon Sreemany, Sailendranath Sreemany, Mritunjoy Sreemany and Sanjoy Kr. Sreemany, all are Sons of Late Dulal Chandra Sreemany (hereinafter referred to as O.P. No.1), who unauthorisedly inducted Shri Ramji Singh (hereinafter referred to as O.P No.2) & other unauthorised Occupants without there being any authority for such parting, it is my considered view that such unauthorised Occupants also should not be allowed to wash off their hand from the liability of making payment for their unauthorised occupation into the subject premises in question. Accordingly O.P.No.1 may be made liable to pay such dues jointly and severally with O.P No.2 and other sitting Occupants, from the date of incurrence of their liability upto the date of taking over

The said damages shall attract compound interest @ 6.30 % per annum, which is the current rate of interest as per the Interest

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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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05.5.2022

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 SMPK's books of accounts. I sign the formal orders u/s 7 of the Act.

I make it clear that SMPK is entitled to claim further 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.No.1, O.P No.2 and any other person in wrongful occupation of the subject land to pay damages extends beyond 30.06.2017 as well, till such time the possession of the premises continues to be under the unauthorised occupation with the aforesaid persons. SMPK is directed to submit a statement comprising details of its calculation of damages after 30.06.2017, 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.No.1, O.P.No.2 and any other person in wrongful occupation of the subject land 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

(Souray Mitra) ESTATE OFFICER

PASSED BY THE ESTATE OFFICER SYAMA PRASAD MOOKE LEE POUT OFFICE OF THE LD. ESTATE OFFICER SYAMA PRASAD MODRETURE PORT

By Order of : THE ESTATE OFFICER

SYAMAPRASAD MOONERJEE FORT

GERMFIED COPY OF THE ORDER

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

