

SCAN

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. 14 DT 01.06.2022
PROCEEDINGS NO: 1765/D OF 2019

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. Srinivasan Engineering Company,
64, South End Park,
Kolkata-700 029,
AND
51, Tollygunge Circular Road,
New Alipore,
Kolkata- 700 053.
AND
2, Harimohan Ghosh Road,
Kolkata - 700 025.
AND ALSO
60/2/7, Kavi Bharati Sarani,
Kolkata - 700 029.

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

02/06/2022
02/06/2022

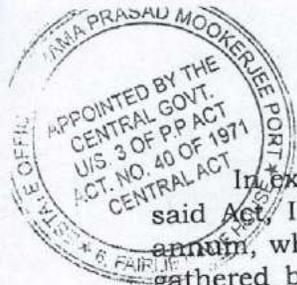
Whereas I, the undersigned, am satisfied that you were in unauthorised occupation of the public premises mentioned in the Schedule below:

And whereas by written notice dated 17.08.2020 you were called upon to show- cause on/or before 11.09.2020 why an order requiring you to pay a sum of Rs 30,57,254.29 (Rupees Thirty lakhs Fifty Seven thousand two hundred fifty four and paise twenty nine *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 30,57,254.29 (Rupees Thirty lakhs Fifty Seven thousand two hundred fifty four and paise twenty nine *only*) for the period from 14.12.2001 to 08.08.2016 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust, by 16.06.2022.

Please see on reverse



In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay compound interest @ 6.30 % 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 incurrence of liability, till its final payment in accordance with Notification Published in Official Gazette/s.

A copy of the reasoned order no. 14 dated 01.06.2022 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.

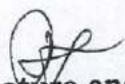
SCHEDULE

Plate no - D-137/5 and SF-100/36/1

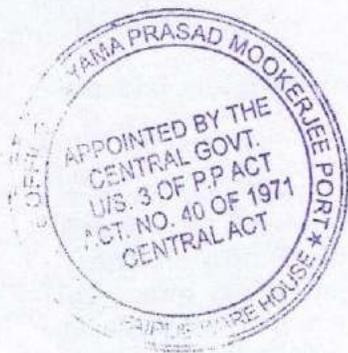
The said piece or parcel of land measuring 554.175 Sq.m or thereabouts is situated at Harimohan Ghosh Road, P.S.: West Port Police Station, District - South 24 Parganas, Registration District - Alipore. It is bounded on the North by Trustees land previously allotted to M/s. Chiliha Rooling Mills (Pvt) Ltd. On the East by the Trustees' strip of open land beyond which is Trustees Railway Siding, On the South by the Trustees land allotted to M/s. Ganges Agencies (Pvt.) Ltd, and on the West by Harimohan Ghosh Road.

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

Dated: 02.06.2022


Signature and seal of the
Estate Officer.

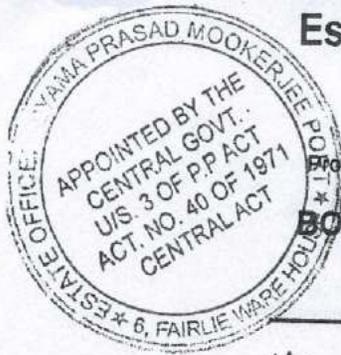
COPY FORWARDED TO THE ESTATE MANAGER, KOLKATA PORT TRUST FOR INFORMATION.



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SYAMA PRASAD MOOKERJEE PORT

Head Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

02/06/2022



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. 1765/D of 2019 Order Sheet No. 12

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
M/S. SRINIVASAN ENGINEERING COMPANY

14

01.06.2022

FINAL ORDER

The instant proceedings No. 1765/D of 2019 arises out of the application filed by the **Syama Prasad Mookerjee Port, Kolkata** [erstwhile Kolkata Port Trust, hereinafter referred to as 'SMPK'], the applicant herein, bearing No. Lnd.4638/II/18/4526 dated 12.02.2018, praying for an order of recovery of dues on account of Damage/Compensation along with accrued interest thereon in respect of the subject public premises, against **M/s Srinivasan Engineering Company**, (hereinafter referred to as **O.P.**), under the relevant provisions of **Public Premises (Eviction of Unauthorized Occupants) Act, 1971** (hereinafter referred to as 'the Act').

The fact of the case in a nutshell is that the O.P. came into occupation of a port property of the piece or parcel of land measuring 554.175 sqm or thereabouts, situated at Harimohan Ghosh Road, comprised under occupations no. D-137/5 and SF-100/36/1, on a long term lease basis for a period of 30 years. The O.P. in violation of the tenancy agreement failed and neglected to pay the rent and taxes to SMPK for the said leased out premises. Consequently, eviction proceeding was initiated by SMPK against the O.P. before this Forum of Law and eventually, the Order of Eviction was passed against the O.P. vide Order No. 56 dated 13.10.2015. The Authorised Officer was appointed to take over possession of the premises in terms of the Order dated 26.04.2016 and finally, the possession of the premises was taken over on 08.08.2016 by the Authorised Officer, who handed it over to SMPK.

Now, SMPK in terms of the said application dated 12.02.2018 and vide the following application dated 16.03.2020, has submitted its claim on account of compensation/ damage/ mesne profit charges, which reportedly was due and recoverable from O.P. for its use and enjoyment of the port property in question. After considering the claim of SMPK, this Forum formed its opinion to proceed against the O.P. and issued Show

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OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

02/06/2022



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02/06/2022



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.

1765/D of 2019 Order Sheet No. 13

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S. SRINIVASAN ENGINEERING COMPANY

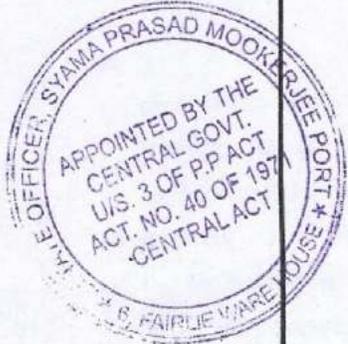
14

01.06.2022

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Cause Notice dated 17.08.2020 (vide Order no. 02 dated 17.08.2020) u/s 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971. The Notice was issued calling upon the O.P. to show cause as to why an order requiring payment of arrear compensation/ damage together with interest would not be made against the O.P.

The said Notice was sent through 'Speed Post' to 4 (four) no of recorded addresses of O.P. However, the notice was returned undelivered by the Postal Department from all the recorded addresses of O.P. with the remarks 'No such addressee in Beat No 1. hence, not known' and 'ACNL, RTS'. The 'Process Server' attached with this Forum for service of such Notices/ Orders etc. has submitted the Report dated 08.01.2021, stating that the door of the occupation of O.P. was in closed condition at the time of his visit on 08.01.2021. However, in terms of the said Report of Process Server dated 08.01.2021, the said notice was affixed on the premises, as per the mandate of the Act. In spite of such efforts being made, the appearance of O.P. could not be procured and such efforts remained futile. Then the possibility of O.P. having an alternative address was explored by this Forum and SMPK was directed vide Order dated 09.10.2020 to provide the alternative address of O.P., if any. In response, the representative of SMPK submitted on 25.04.2022, that they have no alternative address of O.P. other than the recorded addresses as aforesaid. Accordingly, a decision was taken vide Order dated 25.04.2022 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 give a chance to the O.P. to appear before this Forum and to represent their case. Such notice was published in 'The Times of India (Kolkata edition)' on 07.05.2022 fixing the date for the O.P's appearance, filing reply to Show Cause on 16.05.2022. However, when the matter was taken up for hearing on 16.05.2022, neither O.P. nor anyone interested in the property appeared before the Forum. It was also known from Department that nobody, except



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Proceedings No. 1765/D Of 2019 Order Sheet No. 14

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
M/S. SRINIVASAN ENGINEERING COMPANY

14
01.06.2022

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02/06/2022

SMPK, made a contact or approached the Forum in connection with the Show Cause Notice.

Considering the situation that the attendance of O.P. could not be procured by this Forum at any point of time inspite of every possible efforts being made, even after the publication of a Notice in the English daily newspaper and even thereafter, I am inclined to proceed ex-parte against the O.P.

I find that SMPK has produced detailed statement of accounts dated 31.01.2018 filed under the cover of SMPK's application dated 12.02.2018 in respect of the said premises in question. It appears from the said statements of accounts that huge amount is due and recoverable from O.P. In my view, such statements maintained by a statutory authority/ SMPK in its usual course of business has definite evidentiary value, unless challenged with fortified documents/evidences etc, ready to bear the test of legal scrutiny. During the course of hearing, I am given to understand by SMPK that the rent as well as mesne profit/compensation/ damages 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. Non-payment of dues by O.P. is very much prominent and established, as discussed above. Hence, I have no bar to accept the claim of SMPK on account of damages/compensation/ mesne profit etc. I have nothing to disbelief in respect of SMPK's claim against O.P. as per statement of accounts maintained regularly in SMPK's office in regular course of business.

Thus, it is my considered view that a sum of Rs 30,57,254.29 (Rupees Thirty lakhs Fifty Seven thousand two hundred fifty four and paise twenty nine *only*) for Plate no Plate No.D-137/5 is due and recoverable from the O.P. for the period from 14.12.2001 to 08.08.2016 by the Port authority on account of compensation/ mesne profit/ damage charges.

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. 1765/D Of 2019 Order Sheet No. 15

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
M/S. SRINIVASAN ENGINEERING COMPANY



14
01.06.2022

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O.P. must have to pay such dues to SMPK on or before 16.06.2022.

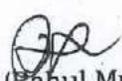
Such dues attracts Compound Interest @ 6.30 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrence of liability, till the liquidation of the same, as per the adjustment of payments, if any made so far by O.P., in terms of SMPK's books of accounts.

The formal order u/s 7 of the Act is signed accordingly.

I make it clear that in the event of failure on the part of O.P. to pay the dues/charges as aforesaid; SMPK is at liberty to recover the dues etc. in accordance with law.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL


(Rahul Mukherjee)
ESTATE OFFICER.

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