

REGISTERED POST WITH A/D
HAND DELIVERY
AFFIXATION ON PROPERTY

ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT, KOLKATA (SMP, KOLKATA)
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971- Central Act.)
The Public Premises (Eviction of Unauthorised Occupants) Act 1971
OFFICE OF THE ESTATE OFFICER
6, Fairlie, 1st Floor
Kolkata - 700 001

Court Room at the 1st Floor
Of Kolkata Port Trust's
Legal Division, Head Office,
15, Strand Road, Kolkata-700 001

PROCEEDINGS No.274/D of 1999
REASONED ORDER No.52 DATED: 29/04/2022

FORM-"G"
Form of Order under Sub-Section (2) and (2A) of Section 7 of the Public Premises
(Eviction of Unauthorized Occupants) Act, 1971

To
Ballygunge Engineering Co.,
38, Biplabi, Rashbehari, Basu Road,
Kolkata-700 001.
AND ASLO
Ballygunge Engineering Co.,
2, Taratala Road,
Kolkata-700 088.

WHEREAS I, the undersigned, am satisfied that you were in unauthorized occupation of the Public Premises described in the Schedule below:

AND WHEREAS by written notice Vide Order No.50 dated 11.03.2022 you were called upon to show cause on/or before 05.04.2022 why an order requiring you to pay damages of Rs.90, 05,671.78 (Rupees Ninety Lakhs Five thousand Six hundred Seventy-One and Seventy-Eight paise only) for Plate No.D-394/1, together with compound interest for unauthorised use and occupation of the said premises, should not be made.

AND WHEREAS as 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 Unauthorized Occupants) Act, 1971, I hereby order you to pay the sum of Rs. 90,05,671.78 (Rupees Ninety Lakhs Five thousand Six hundred Seventy-One and Seventy-Eight paise only) for Plate No. No.D-394/1, assessed by me as damages on account of your unauthorized occupation of the premises for the period from 01.07.1995 to 29.01.2019 (both days inclusive) to Kolkata Port Trust by 27.05.2022.



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 @ 6.30 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered from the official website of State Bank of India) from the date of incurrence of liability till its final payment in accordance with Kolkata Port Trust's Notification published in official Gazette/s.

A copy of the reasoned order No.52 dated 29.04.2022 is attached herewith.

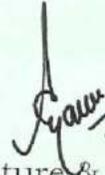
In the event of your refusal or failure to pay the damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue through the Collector.

SCHEDULE-I

The said piece or parcel of land msg. about 391.865Sq.m or thereabouts is situated on Taratala Road, Thana-Taratala, Dist-24 Parganas, Registration District-Alipore. It is bounded on the North by the Trustees' land leased to Nabendu Goswami and Nikhilendu Goswami, on the East by the Trustees' Pump House premises, on the South by the Trustees' land occupied by Merchants Syndicate (Private) Ltd. and on the west by the Trustees' land used as passage.

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

Dated: 29.04.2022


29/04/2022
Signature & Seal of the
Estate Officer.

**COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER,
SYAMA PRASAD MOOKERJEE PORT, KOLKATA, (ERSTWHILE BOARD OF
TRUSTEES' FOR THE PORT OF 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. 274, Of 1999 Order Sheet No. 53

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S, BALLYGUNGE ENGINEERING CO

58
29/04/2022

FINAL ORDER

The instant proceedings number 274/D of 1999 arises out of the application bearing no. Lnd. 3125/47/IV/20/01 dated 03.01.2020 and another application bearing No.3125/47/IV/22/706 dated 11.03.2022 filed by Syama Prasad Mookerjee Port, hereinafter referred to as SMP, Kolkata, (erstwhile known as Kolkata Port Trust), the applicant herein, praying for an order of recovery of outstanding dues/compensation charges as payable by O.P. for the respective periods, i.e. 01.07.1995 to 29.01.2019 (both days inclusive) till taking over the possession on 15.02.2016 alongwith accrued interest in respect of the public premises as defined in the schedule of the said application against M/s. BALLYGUNGE ENGINEERING Co., the O.P. herein, under relevant provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

The **factual** matrix of the case is required to be put forward in a nutshell to link up the chain of events leading to this proceeding no. 274/D of 1999, within the four corners of PP Act, 1971, as revealed under point-wise in a chronological order.

- 1) That in the course of hearing, it was submitted by SMP, Kolkata that O.P. was allotted land msg. about 391.865 Sq.m. situated at Taratala Road, Thana-Taratala, Dist-24 Parganas (S), situated under the jurisdiction of Taratala Police Station, comprised under Plate No.D-394/1 on long term lease for five years without any option for renewal with effect from 01.12.1985 with certain terms and conditions at a monthly rental (inclusive of surcharge, municipal tax on land and municipal tax on structure) from 01.12.1985 realisable according to the English Calendar month which was varied from time to time as per the then CPT Schedule of Rent Charges.
- 2) That the period of lease expired on and from 01.12.1990. SMP, Kolkata (erstwhile known as KoPT) after considering the proposal from O.P.'s end made an offer vide their letter No.Lnd.3125/47/III

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 LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Handwritten signature]

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. 274 , Of 1999 Order Sheet No. 54

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

m/s, BALLYGUNGE ENGINEERING CO

dated 19.05.1998 which specifically states that the O.P. must have to accept the terms and conditions as communicated to O.P. vide letter No.3125/47/II dated 28.01.1993 among other conditions. It is the case of SMP, Kolkata that O.P. had failed and neglected to accept the terms and conditions for the grant of lease and O.P. was continuing in occupation of the property in question wrongfully without any valid authority after the expiry of the lease period on and from 01.12.1990. It is also the case of SMP, Kolkata that the O.P. had lost its authority to occupy the public premises after the expiry of the period as mentioned in the notice of Ejectment dated 12.12.1994.

3) That this Forum of law formed its opinion to proceed against O.P. under the relevant provisions of the Act and Rules made thereunder and issued Show Cause Notice u/s-4 of the Act, enclosing a copy of the petition as filed by the SMP, Kolkata before this Forum of Law. Reply to Show Cause on behalf of O.P. was filed on 15.03.1999. A bare reading of the reply of the Show Cause leaf no room for doubt about the failure on the part of O.P. to pay the rental dues/charges in respect of the property in question. As understood from the reply that O.P. had admitted the facts of carrying out unauthorized constructions on the public premises and had also miserably failed to comply with the Orders as passed by this Ld. Forum dated 05.03.2003. The only allegation of SMP, Kolkata which was contradicted on behalf of O.P. was the allegation of unauthorized sub-letting. In the course of hearing O.P. also did not show any positive gesture to liquidate the dues/charges. Such being the case, Order of Eviction against O.P. was passed by this Ld. Forum vide Order No.19 dated 06.01.2004.

4) That the matter again came up before this Ld. Forum vide an application No.Lnd.3125/47/P.P.Act/A.O.-18/16/3528 dated 16.02.2016, whereby it was submitted that the possession was taken over by the Authorized Officer on 15.02.2016 at 11 AM as per the Order of

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 LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Handwritten signature



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

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29/04/2022

Eviction No. 19 dated 06.01.2004, as passed by this Ld. Forum and prayed for necessary Orders for disposal of the materials/goods lying at the premises for satisfaction of SMP, Kolkata's dues/charges, and further claimed for adjustment of the dues/charges for occupation and enjoyment of the Port Property upto the date of recovery of the possession of the Public Premises in question and the amount due on account of damages etc. against O.P. after disposal of the properties left by O.P./unauthorized occupants in the Public Premises. In view of the prayer made by SMP, Kolkata, and keeping in mind the materials on record, this Ld. Forum issued order u/s-6 of the Act and Rules in respect of the disposal of the property left by the unauthorized occupants, giving a 14 days' time to take immediate action for disposal of the goods left in the public premises in question.

5) That the matter was again requisitioned on 06.04.2016 by representatives of M/s. Balaji Telestructure and M/s. Ped Control India Pvt. Ltd. both unauthorized sitting occupant in respect of a portion of land of subject premises demised to M/s. Ballygunge Engineering Co., the original tenant. They prayed before this Ld. Forum and submitted that certain goods/materials/articles of their own were lying in the concerned premises and they were unaware about the Eviction Order as passed by this Ld. Forum dated 06.01.2004 against O.P., the recorded tenant of SMP, Kolkata. They further prayed that no notices were served upon them before sealing of the premises and prayed before this Ld. Forum to allow them to take back their goods/materials/articles from the Public Premises, as they had no commercial value. But the attention of this Ld. Forum was shifted to the Hon'ble High Court of Calcutta's Order dated 06.05.2016 passed by His Lordships Hon'ble Mr. Justice Dipankar Dutta in connection with W.P. No. 6334 (W) of 2016 Pedcontrol India Pvt. Ltd. -vs- Kolkata Port Trust & Ors. wherein it was directed to KoPT by an interim order to unlock the laboratory of Pedcontrol India Pvt. Ltd. and to allow its access on certain

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
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SYAMA PRASAD MOOKERJEE PORT
02/05/22
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Handwritten signature]



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

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conditions for making payment to KoPT in respect of 2000 sq. ft. area out of the total area of the Public Premises in question. It had also been made clear by the Hon'ble High Court that the equipment's and articles lying in the laboratory belonging to Pedcontrol India Pvt. Ltd. shall not be removed without the leave of the High Court. It furtherance to the W.P. No.6334 (W) of 2016, a joint inventory of the equipments and articles was conducted, and the articles and equipments were handed over to the concerned by SMP, Kolkata (erstwhile known as KoPT). The operative part of the Order of the Hon'ble High Court dated 06.05.2016 reads as follows:

"As and by way of an interim measure, it is accordingly directed that he first petitioner [read M/s. Pedcontrol (India) Pvt. Ltd.] shall pay Rs.15,00,000/- (Rupees Fifteen Lakhs) in favour of KoPT within seven days from the date and is such payment is received, KoPT shall forthwith unlock the laboratory of the first petitioner and allow its access thereto. Such amount of Rs.15,00,00/- (Rupees Fifteen lakhs) shall be invested by KoPT in short term interest bearing fixed deposit amount of a Nationalized Bank. The account shall be renewed until further orders of this Court.

The first petitioner shall also pay lease rent @ Rs.50,000/- (Rupees Fifty Thousand) per month starting from the month of May, 2016. The said amount of Rs.50,000/- (Rupees Fifty Thousand) for May, 2016 shall be paid by the 15th of this month and from June, 2016 onwards by the 10th of each succeeding month.

Payment and receipt of such amount of Rs.15,00,00/- (Rupees Fifteen lakhs) on account of security and rent for Rs.50,000/- (Rupees Fifty Thousand) shall be without prejudice to the rights and contention of the parties with this Writ Petition and subject to further orders that the court might pass."

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 LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Signature]



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

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6) That during the course of further hearing SMP, Kolkata submitted an Order as passed on 17.02.2020 by the Hon'ble High Court at Calcutta in Kolkata Port Trust & Anr. -vs- Prodcontrol (India) Pvt.Ltd. [FMA 494 of 2020 (MAT 448 of 2019 with CAN 6960 of 2019 arising out of W.P. No.6334 (W) of 2016], wherein it is seen that FMA 494 of 2020 along with CAN 6960 of 2019 are disposed of.

7) Thereafter, considering the submission and documents as submitted by SMP, Kolkata, in terms of Order Nos.48, 49 and 50 dated 22.02.2022, 03.03.2022 and 11.03.2022 respectively, this Ld. Forum ordered to issue formal order u/s-7 of the Public Premises (Eviction of Unauthorised Occupation) Act, 1971 Act to show cause as to why an order requiring to pay the outstanding dues/damages, together with interest should not be made against the O.P. It is by virtue of the application as filed by SMP, Kolkata dated 11.03.2022, that this Ld. Forum came to know that no dues on account of Rent is payable by O.P. and the dues on account of compensation considering 3 x SoR is only recoverable from O.P. It is the case of SMP that O.P. was asked to pay damages/compensation upto 29.01.2019, as because the subject premises was finally taken over by SMP on 29.01.2019 by the Eviction Order No.19 dated 06/01/2004 as passed by this Ld. Forum. The O.P. was also called upon to appear before the Forum in person or through authorized representative capable of answering all material questions connected with the matter along with the evidence which the opposite party intends to produce in support of this case. The said notice was served through Speed Post as well as hand delivery to both the correct recorded addresses of O.P (as per records) at "Ballygunge Engineering Co., 38, Biplabi Rashbehari Basu Road, Kolkata-700 001 and also in Ballygunge Engineering Co., 2, Taratala Road, Kolkata-700 088." It appears from the record that the said notice sent to both the recorded address of O.P by speed post was returned

By Order of:
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CERTIFIED COPY OF THE ORDER
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SYAMA PRASAD MOOKERJEE PORT
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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

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on account of "addressee cannot be located" dated 17.03.2022 and 19.03.2022.

8) Thereafter several dates since 23.12.2020 were given with a direction upon O.P. to appear before this Forum for any submission/hearing etc., but neither any response was not filed on behalf of O.P nor any positive gesture was shown by O.P. to appear before this Ld. Forum for their hearing, submission, etc. on any of the schedule dates of hearing. As such I have no bar to accept the claim of SMP on account of rental dues, damages etc. as per statement of accounts maintained regularly in SMP's office in regular course of business.

9) It is my considered view that a sum of Rs. 90, 05,671.78 (Rupees Ninety Lakhs Five thousand Six hundred Seventy-One and Seventy-Eight paise only) for Plate No D-394/1 being arrears of damages for the period of 01.07.1995 to 29.01.2019 respectively (both days inclusive) are due and recoverable from O.P by the Port Authority on account of damages and compensation @ 3xSoR along with interest as on 11.03.2022 and O.P. have to pay such dues to SMP forthwith. Considering the after effects of Covid-19, I find it prudent to allow time till 27th May, 2022 for such payment. Such dues would attract compound interest @ of 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 SMP's books of accounts.

I sign the formal order u/s-7(1) & (2-A) of the Act. I make it clear that in the event of failure on the part of O.P to pay the amount to SMP as aforesaid; Port Authority is entitled to proceed further for recovery of its claim in accordance with law.

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 LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Jaw



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

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Department is directed to draw up final order as per rule u/s-7 of the Act. I make it clear that in the event of failure on the part of O.P to pay the dues/damages/compensation as aforesaid; SMP, Kolkata 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.


29/04/2022
(NARGIS YEASMEEN)
ESTATE OFFICER

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

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
02/05/22
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT