

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. 28 DT 22.06.2022
PROCEEDINGS NO. 1722 OF 2019

**Syama Prasad Mookerjee Port, Kolkata
(Erstwhile BOARD OF TRUSTEES OF THE PORT OF KOLKATA)**

-Vs-

Smt. Charubala Ghosh(Widow of Megnath Ghosh), Sri Monoranjan Ghosh, Sri Jana Ranjan Ghosh, Sri Pravash Ranjan Ghosh, Sri Chittaranjan Ghosh, Sri Nalini Ranjan Ghosh, Smt. Kamala Negi, Smt. Arati Ghosh & Smt. Sandhya Ghosh (O.P)

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. Charubala Ghosh(Widow of Megnath Ghosh), Sri Monoranjan Ghosh, Sri Jana Ranjan Ghosh, Sri Pravash Ranjan Ghosh, Sri Chittaranjan Ghosh, Sri Nalini Ranjan Ghosh(all Sons of Late Megnath Ghosh) 49, Chotelal Missir Road, Malipanch Ghora, Howrah-711101 AND ALSO AT 48, Strand Bank road, Jagannath Ghat Brick Depot, Kolkata-700007 Smt. Kamala Negi(Daughter of Megnath Ghosh) W/o Sailendranath Negi, 105, Karbala Road, P.S: Metiabruz, Kolkata-700018, Smt. Arati Ghosh(Daughter of Megnath Ghosh) W/o, Gopal Ghosh, Phakir Ghosh Colony, Purbasinthi Road, P.S: Dumdum, Kolkata-700030 & Smt. Sandhya Ghosh(Daughter of Megnath Ghosh) W/o, Nirmal Ghosh, South Station Road, Agarpura, P.S: Khardah, Kolkata-700109 are in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

- 1) That Opposite Parties or any other person interested in the property have failed to file any reply to the Show Cause Notice/s U/S 4 & 7 of the Act in spite of sufficient chances being provided to them.
- 2) That Opposite Parties have violated the condition of said monthly term lease as granted by the Port authority by way of not making payment of occupational charges to SMP, Kolkata, for a prolonged period.
- 3) That Opposite Parties have erected unauthorised structures on the demised land and also parted with possession of the said premises to rank outsiders without having any authority under law.
- 4) That the Opposite Parties have failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 5) That Opposite Parties have lost their authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 20.05.1970 read with vacation Notice dated 01.12.2015.
- 6) That Opposite Parties occupation have become unauthorised in view of Sec 2(g) of the Act and Opposite Parties are liable to pay damages for wrongful use and enjoyment of the Port property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

PLEASE SEE ON REVERSE

A copy of the reasoned order No. 28 dated 22.06.2022 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 **Charubala Ghosh(Widow of Megnath Ghosh), Sri Monoranjan Ghosh, Sri Jana Ranjan Ghosh, Sri Pravash Ranjan Ghosh, Sri Chittaranjan Ghosh, Sri Nalini Ranjan Ghosh(all Sons of Late Megnath Ghosh) 49, Chotelal Missir Road, Malipanch Ghora, Howrah-711101 AND ALSO AT 48, Strand Bank road, Jagannath Ghat Brick Depot, Kolkata-700007 Smt. Kamala Negi(Daughter of Megnath Ghosh) W/o Sailendranath Negi, 105, Karbala Road, P.S: Metiabruz, Kolkata-700018, Smt. Arati Ghosh(Daughter of Megnath Ghosh) W/o, Gopal Ghosh, Phakir Ghosh Colony, Purbasinthi Road, P.S: Dumdum, Kolkata-700030 & Smt. Sandhya Ghosh(Daughter of Megnath Ghosh) W/o, Nirmal Ghosh, South Station Road, Agarpura, P.S: Khardah, Kolkata-700109** 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 **Charubala Ghosh(Widow of Megnath Ghosh), Sri Monoranjan Ghosh, Sri Jana Ranjan Ghosh, Sri Pravash Ranjan Ghosh, Sri Chittaranjan Ghosh, Sri Nalini Ranjan Ghosh(all Sons of Late Megnath Ghosh) 49, Chotelal Missir Road, Malipanch Ghora, Howrah-711101 AND ALSO AT 48, Strand Bank road, Jagannath Ghat Brick Depot, Kolkata-700007 Smt. Kamala Negi(Daughter of Megnath Ghosh) W/o Sailendranath Negi, 105, Karbala Road, P.S: Metiabruz, Kolkata-700018, Smt. Arati Ghosh(Daughter of Megnath Ghosh) W/o, Gopal Ghosh, Phakir Ghosh Colony, Purbasinthi Road, P.S: Dumdum, Kolkata-700030 & Smt. Sandhya Ghosh(Daughter of Megnath Ghosh) W/o, Nirmal Ghosh, South Station Road, Agarpura, P.S: Khardah, Kolkata-700109** 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-59

The said piece or parcel of land Msg. 27.871 Sq.m or thereabouts is situated on the west side of Strand Bank Road at Jagannath Ghat, Kolkata, Thana-North Port Police Station. It is bounded on the North by the Trustees' Road, on the East by the Trustees' land occupied by Sambhu Dayal Balasia, on the South by the trustees' land occupied by Ataur Rahaman and on the West by the Trustees' land used as passage

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

Dated: 23.06.2022



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.1722/D OF 2019
ORDER NO.28 DATED: 22.06.2022.

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

**Charubala Ghosh(Widow of Megnath Ghosh)
AND**

**Sri Monoranjan Ghosh, Sri Jana Ranjan Ghosh,
Sri Pravash Ranjan Ghosh, Sri Chittaranjan Ghosh,
Sri Nalini Ranjan Ghosh, all Sons of Late Megnath Ghosh,
49, Chotelal Missir Road, Malipanch Ghora, Howrah-711101**

AND ALSO AT

48, Strand Bank road, Jagannath Ghat Brick Depot, Kolkata-700007.

Smt. Kamala Negi(Daughter of Megnath Ghosh)

**W/o Sailendranath Negi, 105, Karbala Road, P.S: Metiabruz,
Kolkata-700018.**

Smt. Arati Ghosh(Daughter of Megnath Ghosh)

**W/o, Gopal Ghosh, Phakir Ghosh Colony, Purbasinthi Road, P.S: Dumdum,
Kolkata-700030.**

& Smt. Sandhya Ghosh(Daughter of Megnath Ghosh)

**W/o, Nirmal Ghosh, South Station Road, Agarpara, P.S: Khardah,
Kolkata-700109.**

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 25.10.2021 you are called upon to show cause on or before 12.11.2021 why an order requiring you to pay damages of Rs.11,53,561.38 (Rupees Eleven Lakh fifty three thousand five hundred sixty one and paise thirty eight only) 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.11,53,561.38 (Rupees Eleven Lakh fifty three thousand five hundred sixty one and paise thirty eight only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.06.2012 to 31.09.2021 (both days inclusive) to SMP, Kolkata by 07.07.2022.

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 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-59

The said piece or parcel of land Msg. 27.871 Sq.m or thereabouts is situated on the west side of Strand Bank Road at Jagannath Ghat, Kolkata, Thana-North Port Police Station. It is bounded on the North by the Trustees' Road, on the East by the Trustees' land occupied by Sambhu Dayal Balasia, on the South by the trustees' land occupied by Ataur Rahaman and on the West by the Trustees' land used as passage

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

Date 23.06.2022



Signature & Seal of the
Estate Officer.

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.

1722, 1722/D

Of

2019

Order Sheet No.

22

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SMT. CHARUBALA GHOSH (WIDOW OF MAGNATH GHOSH) & ORS

FINAL ORDER

The instant proceedings No. 1722, 1722/D of 2019 arose out of the application bearing No. Lnd.4/56/II/17/893 dated 02.05.2017 filed by Syama Prasad Mookerjee Port, Kolkata (Erstwhile Kolkata Port Trust), the applicant herein, praying for an order of eviction and recovery of dues/damages and other charges etc. along with accrued interest in respect of the public premises as defined in the Schedule of said application dated 02.05.2017, against Smt. Charubala Ghosh (Widow of Megnath Ghosh), Sri Monoranjan Ghosh, Sri Jana Ranjan Ghosh, Sri Pravash Ranjan Ghosh, Sri Chittaranjan Ghosh, Sri Nalini Ranjan Ghosh, Smt. Kamala Negi, Smt. Arati Ghosh & Smt. Sandhya Ghosh, the Opposite Parties herein, under relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

The fact of the case in a nutshell is that the Opposite Parties came into occupation of the Port property being land msg. 27.871 sq.m and Durwan goomty msg. 6.95 Sq.m or thereabout situated on the west side of Strand Bank Road at Jagannath Ghat, Kolkata (under Plate No. SB-59) Thana-North Port Police, as Lessee on monthly term which is more fully described in the Schedule 'A' of the SMP, Kolkata's application dated 02.05.2017. The allegations levelled by SMP, Kolkata against the Opposite Parties are that while in possession of Port property as lessee, the Opposite Parties have defaulted in making payment of monthly occupational charges of SMP, Kolkata, made unauthorised structures and also parted with possession of the said premises to M/s Sandhya Traders, M/s. Anil Traders and M/s Jadav Traders without having any permission from SMP, Kolkata.

It is also the case of SMP, Kolkata that the said lease with the Opposite Parties was determined by way of a Quit Notice dated 20.05.1970 and the Opposite Parties were asked to vacate the premises on 01.08.1970 but the Opposite Parties have failed and neglected to vacate/ hand over the possession of such premises after service of the said Notice to Quit thereafter with reference to the Notice dated 20.05.1970 another notice was issued to Opposite Parties on 01.12.2015 asking them to vacate the premises on 05.12.2016 but Opposite Parties had again failed and neglected to vacate/hand over the possession of such premises to SMP, Kolkata.

By Order of:
THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT,
KOLKATA
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT,
KOLKATA
Head Assistant
Office of the ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT,
KOLKATA
23.06.2022



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 1722, 1722/D of 2019 Order Sheet No. 23

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SMT. CHARUBALA GHOSH (WIDOW OF MAGNATH GHOSH) & ORS

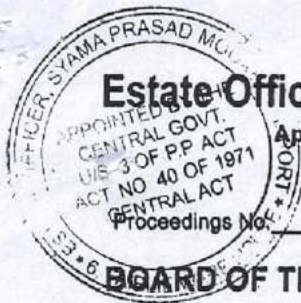
28
22.06.2022

Considering the submission advanced by SMP, Kolkata and the documents on record, Notice/s to Show Cause under section 4 and 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 all dated 25.10.2021 (vide Order No.25 dated 18.10.2021) were issued by this forum to Opposite Parties. The Notice/s were issued in terms of the said provisions of the Act calling upon the Opposite Parties to appear before this forum in person or through authorized representative capable of answering all material questions in connection with the matter along with the evidence which the opposite party intends to produce in support of their case.

The said notice/s were sent through Speed Post to the recorded addresses of O.P. at 49, Chotelal Missir Road, P.S-Malipanch Ghora, Howrah-711101, 48, Strand Road, Jagannath Ghat Brick Depot, Kolkata-700007, 105, Karbala Road, P.S: Metiabruz, Kolkata-700018, Phakir Ghosh Colony, Purbasinthi Road, P.S-Dum Dum, Kolkata-700030, South Station Road, Agarpura, P.S: Khardah, Kolkata-700109. It appears from records that the Notice/s sent to all the recorded addresses of Opposite Parties returned undelivered to the Forum with an endorsement "Left". The Notice/s have also been sent to the occupations of Opposite Parties by hand delivery. It appears from the report of the Process Server dated 26.10.2021 that the copy of such Notice/s have been affixed on the property under schedule on the same day at about 3:10 P.M. in compliance of the provisions of the Act. On the day fixed for appearance and filing of reply to the Show Cause by the Opposite Parties, as none appeared, a decision was taken to publish a Notice in a widely circulated News Paper for a notice to all concerned about the pendency of the instant proceeding in order to give further chances to Opposite Parties to appear before the Forum and to represent their case. Such Notice was published in the classified column of 'The Times of India (Kolkata)' on 29.11.2021 fixing the ultimate date of Opposite Parties appearance on 10.12.2021. But all the efforts went into vain as the Opposite Parties failed to appear before the Forum despite publication of such Notice in the News Paper.

Now in view of the spirit laid down in the Public Premises Act, 1971 for speedy and summary disposal of the case and further considering the non-appearance of Opposite Parties in spite of publication and after exhaustion of all available means of service, this Forum finds no need to keep the

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
22.06.2022
Head Assistant
OFFICE OF THE 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

Proceedings No. 1722, 1722/D of 2019 Order Sheet No. 24

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SMT. CHARUBALA GHOSH (WIDOW OF MAGNATH GHOSH) & ORS.

28

22.06.2022

matter pending and final Order was reserved in the matter on 10.12.2021. Now this Forum has decided to adjudicate the matter ex-parte.

As Opposite Parties have repeatedly failed to appear before this Forum and no reply to the Show Cause Notice u/s 4 & 7 of the Act has been filed as yet, I have no bar to accept the claim of SMP, Kolkata on account of unauthorised occupation of O.P into the Public Premises in question. I think that it is a fit case for issuing Order of eviction u/s 5 of the Act on the following grounds:-

- 1) That Opposite Parties or any other person interested in the property have failed to file any reply to the Show Cause Notice/s U/S 4 & 7 of the Act in spite of sufficient chances being provided to them.
- 2) That Opposite Parties have violated the condition of said monthly term lease as granted by the Port authority by way of not making payment of occupational charges to SMP, Kolkata, for a prolonged period.
- 3) That Opposite Parties have erected unauthorised structures on the demised land and also parted with possession of the said premises to rank outsiders without having any authority under law.
- 4) That the Opposite Parties have failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 5) That Opposite Parties have lost their authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 20.05.1970 read with vacation Notice dated 01.12.2015.
- 6) That Opposite Parties occupation have become unauthorised in view of Sec 2(g) of the Act and Opposite Parties are liable to pay damages for wrongful use and enjoyment of the Port property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

ACCORDINGLY, Department is directed to draw up formal order of eviction u/s. 5 of the Act as per Rule made there under, giving 15 days time to O.Ps' 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.Ps' in accordance with Law up to the date of recovery of possession of the same.

By Order of:
ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
RECEIVED COPY OF THE ORDER
BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Assitant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
22.06.2022



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.

1722, 1722/D

Of

2019

Order Sheet No.

25

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

SMT. CHARUBALA GHOSH (WIDOW OF MAGNATH GHOSH) & ORS

28
22.06.2022

It is my considered view that a sum of Rs.11,53,561.38(Rupees Eleven lakh Fifty three thousand five hundred sixty one and paisa thirty eight)) for the period 01.06.2012 to 31.09.2021(both days inclusive) is due and recoverable from O.P. by the Port authority on account of damages/compensation for unauthorized occupation and O.P. must have to pay such dues to SMP, Kolkata on or before 03.09.2022. It is clarified that such dues will attract 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 SMP, Kolkata's books of accounts. I sign the formal order u/s 7 of the Act.

I make it clear that SMP, Kolkata 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. to pay damages extends beyond 31.09.2021 as well, till such time the possession of the premises continues to be under the unauthorised occupation with the O.P. SMP, Kolkata is directed to submit a statement of accounts comprising details of its calculation of damages after 31.09.2021, 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., for my consideration for the purpose of assessment of such damages as per Rule made under the Act.

Department is directed to draw up formal 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/charges 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

(Kausik Kumar Manna)
ESTATE OFFICER

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

By Order of:
ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
22.06.2022
Head Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT