

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

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

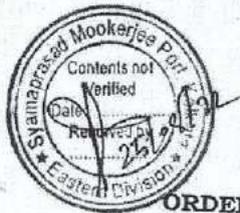
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
Public Premises (Eviction of Unauthorized Occupant) Act 1971

OFFICE OF THE ESTATE OFFICER

6, Fairley Place (1st Floor)
KOLKATA - 700 001

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

REASONED ORDER NO.22-DT 25.08.2022
PROCEEDINGS NO. 1708 OF 2007



SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(ERSTWHILE BOARD OF TRUSTEES OF THE PORT OF KOLKATA)

-Vs-

M/s. Bengal Flour Mills Co. Ltd (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
M/s Bengal Flour Mills Co. Ltd., of 3, Middle Road, Kanoria House, Hastings,
Kolkata-700022 AND ALSO AT 32, Jagat Banerjee Ghat Road, Sibpore,
Howrah-711102 is in unauthorized occupation of the Public Premises specified in
the Schedule below:

REASONS

- 1) That O.P or any other person interested in the property has failed to file any reply to the Show Cause Notice/s U/S 4 & 7 of the Act inspite of sufficient chances being provided to them.
- 2) That O.P has defaulted in making payment of rental dues to SMPK.
- 3) That O.P. has made encroachment upon SMPK's land and also by way of parting with possession of said land allowed third parties to enter upon SMPK's land without having any permission from SMPK.
- 4) That the pond which is the part of the premises is being filled up and the Road alongside the Mall has been encroached and is presently being used for entry and exit to the Mall.
- 5) That a park has been built on the premises in clear violation of the term of such tenancy.
- 6) That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 7) That O.P has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 1.11.2006.
- 8) That O.P's occupation has become unauthorised in view of Sec 2(g) of the Act and O.P is 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.

By Order of :
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

PLEASE SEE ON REVERSE

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

(2)

A copy of the reasoned order No. 92 dated 25.08.2022 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 **M/s Bengal Flour Mills Co. Ltd., of 3, Middle Road, Kanoria House, Hastings, Kolkata-700022 AND ALSO AT 32, Jagat Banerjee Ghat Road, Sibpore, Howrah-711102** 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 **M/s Bengal Flour Mills Co. Ltd., of 3, Middle Road, Kanoria House, Hastings, Kolkata-700022 AND ALSO AT 32, Jagat Banerjee Ghat Road, Sibpore, Howrah-711102** 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: HL-189, HL-190, HL-319/1

The said piece or parcel of land msg. about 6479.331 Sq.m or thereabouts situated at Sq.m. or thereabouts situated at Shibpore, Howrah, P.S: Sibpore, District & Registration District: Howrah. It is bounded on the North by Trustees' Passage used as Road, on the South by Jagat Banerjee Ghat Road on the East by Trustees' land occupied by Burn Standard Co. Ltd., and on the West by Trustees' land used as passage. Trustee's means the Syama Prasad Mookerjee Port, Kolkata (Erstwhile the Board of Trustees of the Port of Kolkata).

****The area of 1464.90sq.m as acquired by Hooghly River Bridge Commissioner (H.R.B.C) from total area i.e 6479.331 Sq.m as depicted in the schedule of Original Application dated 06.12.2018 shall be out of scope and ambit of operation of this order No 92 dated 25.08.22.**

Dated: 26.08.2022 .

By Order of:
**THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT**

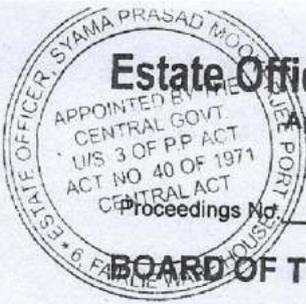
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

P 25.08.2022
Head Assistant

OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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


Signature & Seal of
Estate Officer.



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. 1708, 1708/D of 2019 Order Sheet No. 17

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
M/s BENGAL FLOUR MILLS CO. LTD

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25.08.2022

FINAL ORDER

The instant proceedings No. 1708, 1708/D of 2019 is taken up today for final disposal. It is the case of Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust/KoPT], hereinafter referred to as SMPK, Applicant herein, that a short term lease was granted to **M/s. Bengal Flour Mills Co Ltd** O.P, on certain terms and conditions, in respect of land measuring about 6479.331 Sq.m. comprising 1157.851 sq.m of high land and 5321.48 sq.m of low land situated at Jagat Banerjee Ghat Road, Shibpur, Howrah, P.S- Shibpur, District- Howrah, under Plate No. HL-319/1 along with two way leave plate Nos.HL-189 & HL-190 and O.P violated the condition of such tenancy by way of defaulting in payment of rent, taxes and other charges of SMPK, made encroachment upon SMPK's land, parted with possession of said land by allowing third parties to enter upon SMPK's land without having any permission from SMPK and also allowed a pond which was the part of the premises be filled up by the present management of Avani Riverside Mall. It is also the case of SMPK that the road alongside the Mall has also been encroached and is presently being used for entry and exit to the Mall and a Park has been built up thereon. Now it is argued on behalf of SMPK that O.P. has no authority under law to occupy the public premises after expiry of the period as mentioned in the notice to quit dated 01.11.2006 and O.P is liable to pay damages for unauthorised use and enjoyment of the Port property in question.

This Forum formed its opinion to proceed against O.P under the relevant provisions of the Act and issued Show Cause Notice U/S 4 of the Act (for adjudication of the prayer for order of eviction etc.) and Show Cause Notice U/S-7(for adjudication of the prayer for recovery of arrear

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
25.08.2022
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

9



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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Proceedings No. 1708, 1708/D of 2019 Order Sheet No. _____

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
M/S BENGAL FLOUR MILLS CO. LTD

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25.08.2022

damages etc.) both dated 16.12.2020 (vide Order No. 15 dated 16.12.2020) as per rule made under the Act.

It reveals from the record that said notices/Orders were sent through Speed Post/hand delivery to the recorded addresses of O.P at 3, Middle Road, Kanoria House, Hastings, Kolkata-700022 and also at 32, Jagat Banerjee Ghat Road, Sibpore, Howrah-711102 and it also appears that Orders/Notices sent to the last mentioned recorded address O.P. returned undelivered to the Forum with a mark "abolished". However, the report of the Process Server dated 19.01.2021 depicts that affixation of such notice/s and/or order/s were duly made on the subject premises on 19.01.2021 at about 11:35 P.M as per the mandate of the P.P Act.

On the Schedule date of appearance and filing of reply to the show cause, as no one turned up on behalf of O.P. or any other interested person to give reply to the Show Cause, the present Forum vide its order dated 01.04.2021, for giving chances to O.P as per principles of natural justice, gave a further direction for service of such Order upon O.P. fixing the ultimate date of O.P's appearance on 06.05.2021 and accordingly attempt was made to serve such Order upon O.P both by Speed post/hand delivery. Further affixation was made over the subject premises however, the Speed Post containing such Order again returned undelivered to the Forum from both the recorded addresses of O.P.

As none appeared on behalf of O.P or any other person interested in the property and as there is no reply to the Show Cause Notice/s both u/s 4 & 7 of the Act inspite of repeated chances, the matter was reserved for passing final order. Now this Forum has decided to adjudicate the matter ex-parte.

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 Assesant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
25.08.2022



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.

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2019

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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S BENGAL FLOUR VS
MILLS CO. LTD

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25.08.2022

It appears from the application of SMPK dated 31.10.2019 that in May 1993 certain portion of land measuring about 1464.90 sq.m was acquired by Hooghly River Bridge Commissioners (H.R.B.C) from the lease hold occupation of O.P. for the purpose of construction of an approach Road of 2nd Hooghly River Bridge Project at Howrah Side. It also appears that under the cover of said SMPK's application dated 31.10.2019 an order sheet of special land acquisition Officer, HIT dated 23.04.2008 has been filed in support of such contention of taking over of land by H.R.B.C. It further reveals that a writ Petition being W.P No.1720 of 2006 was preferred by O.P. before the Hon'ble High Court Calcutta and the same was also dismissed by Hon'ble High Court thereafter vide its order dated 12.12.2016 for non-prosecution.

Be that as it may, in view of the aforesaid application of the SMPK, I proceed to consider the instant matter following the principles of natural justice. Now considering the situation of taking over of land by H.R.B.C, it appears that the area of adjudication by this instant Forum has been diminished from the original area as filed with the original application dated 06.12.2018. Moreover, the Forum thinks that the acquisition of such land for the purpose of construction of an approach Road of 2nd Hooghly River Bridge Project is as well a "public Purpose" as per Sec 6 of Land Acquisition Act-1894 for which SMPK is required to lodge their claim before the appropriate authority as prescribe under the Act and not before the Estate Officer.

Therefore, I am not inclined to pass any Order of eviction against O.P. in respect of said area of 1464.90 sq.m as acquired by Hooghly River Bridge Commissioner (H.R.B.C) from the lease hold occupation of O.P. in May, 1993. Hence, SMPK is directed to execute such order keeping such

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
25.08.2022
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

Proceedings No. 1708, 1708/D of 2019 Order Sheet No. 20

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S BENGAL FLOUR MILLS CO. LTD. ^{VS}

1464.90 sq.m of land outside the scope and ambit of operation of this order.

In view of the above, it is therefore directed that the area of 1464.90 sq.m shall not be taken into consideration for the enforcement of this order and this order shall only be enforceable against O.P. for rest of it's occupation /land i.e 5014.431sq.m. less the area of 1464.90sq.m from total area i.e 6479.331 Sq.m as depicted in the schedule of Original Application. As the revised area of land is not mentioned in the original application, SMPK is directed to file a fresh Schedule as directed in my earlier order dated 09.05.2022 for the area of 5014.431sq.m less the area of 1464.90sq.m. from total area of 6479.331sq.m(as mentioned in the Original Application dated 06.12.2018) for further Proceedings into the instant matter. It is also hereby clarified that there should not be any bar for SMPK to proceed with the disputed area of 1464.90 sq.m to any other appropriate forum as per law.

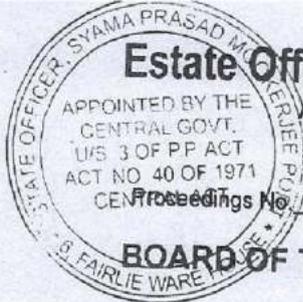
As no one from O.P's side appears and no reply to the Show Cause Notice u/s 4 & 7 of the Act has been filed as yet, I have no bar to accept the claim of SMPK on account of unauthorised occupation of O.P into the Public Premises in question. I think that it is a fit case for issuing Order of eviction u/s 5 of the Act on the following grounds:-

- 1) That O.P or any other person interested in the property has failed to file any reply to the Show Cause Notice/s U/S 4 & 7 of the Act inspite of sufficient chances being provided to them.
- 2) That O.P has defaulted in making payment of rental dues to SMPK.
- 3) That O.P. has made encroachment upon SMPK's land and also by way of parting with possession of said land allowed third parties to enter upon SMPK's land without having any permission from SMPK.

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
25.08.2022

22
25.08.2022

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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

Proceedings No. 1708, 1708/D of 2019 Order Sheet No. 21

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S BENGAL FLOUR MILLS CO. LTD. **VS**

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25.08.2022

- 4) That the pond which is the part of the premises is being filled up and the Road alongside the Mall has been encroached and is presently being used for entry and exit to the Mall.
- 5) That a park has been built on the premises in clear violation of the term of such tenancy.
- 6) That the O.P has failed to bear any witness or adduce any evidence in support of their occupation as "authorised occupation".
- 7) That O.P has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 1.11.2006.
- 8) That O.P's occupation has become unauthorised in view of Sec 2(g) of the Act and O.P is 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.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 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.

I make it clear that I am not inclined to assess the damages at this stage as the Notice u/s 7(2) was issued covering entire 6479.331 sq.m area however, presently such area of adjudication by the Forum has been diminished as 1464.90Sq.m of land as acquired by HRBC has been kept outside side the zone of consideration by the Forum. Hence,

By Order of:
THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT
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PASSED BY THE ESTATE OFFICER,
SYAMA PRASAD MOOKERJEE PORT
25-08-2022
Head Assistant
OFFICE OF THE I.D. ESTATE OFFICER



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. 1708, 1708/D of 2019 Order Sheet No. 22

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

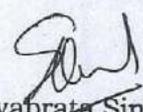
M/S BENGAL FLOOR MILLS CO. LTD **VS**

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25.08.2022

the damages requires to be calculated afresh therefore, SMPK is directed to submit a fresh report regarding its claim on account of damages against O.P., only for 5014.431 Sq.m of land after excluding 1464.90 Sq.m as acquired by H.R.B.C indicating there-in, the details of the computation of such damages with the rate of charges so claimed for the respective periods till the date of taking over of possession, for my consideration in order to assess the damages as per the Act and the Rules made thereunder. At the same time SMP, Kolkata may also approach other competent forum for recovery of damages for such 1464.90 sq.m of land as acquired by H.R.B.C.

I make it clear that in the event of failure on the part of O.P. to hand over possession of the public premises to SMPK as aforesaid, Port Authority is entitled to proceed further for recovery of possession in accordance with law.

GIVEN UNDER MY HAND AND SEAL


(Satyabrata Sinha)
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
25-08-2022
Head Assistant
OFFICE OF THE LD. 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***