



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. 948/D OF 2008
REASONED ORDER No.41 DATED: 31/08/2022

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
M/s. Krebs & Cie (India) Pvt. Ltd.,
M/s. Krebs Manufacturing Services Ltd. (A.P),
Both of 6B, Pritoria Street,
Kolkata-700 071
AND ASLO
P-28, Taratala Road,
Kolkata-700 088.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
01/09/22
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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.39 dated 17.08.2022 you were called upon to show cause on/or before 25.08.2022 why an order requiring you to pay damages of Rs. 10,38,95,172.72 (Rupees Ten Crore Thirty-Eight lakh Ninety-Five Thousand One Hundred Seventy-Two and Seventy-Two paise only), 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 this Ld. Forum on 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. 10,38,95,172.72 (Rupees Ten Crore Thirty-Eight lakh Ninety-Five Thousand One Hundred Seventy-Two and Seventy-Two paise only) for Plate No.161/2, assessed by me as damages on account of your unauthorized occupation of the premises for the period from 01.07.1998 - 06.03.2018 (both days inclusive) to Kolkata Port Trust by 12.09.2022.

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 @ 6.45% 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.41 dated 31.08.2022 is attached herewith.

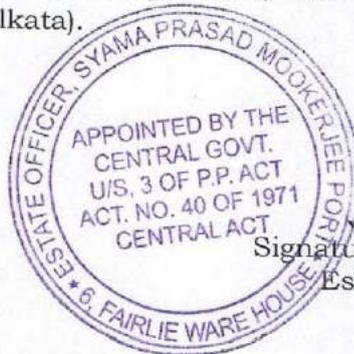
In the event of your refusal or failure to pay the damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue through the Collector.

SCHEDULE-I

The said piece or parcel of land measuring about 3257.50 sq. mtrs or thereabouts in the 1st belt and 14,120.55 sq. mtrs. or thereabouts on the 2nd belt, altogether msg. about 17,378.05 or thereabouts is situated at Taratala Road, Thana-West Port Police Station, Dist-24 Parganas (S) Regn. Dist-Alipore. It is bounded on the North partly by the Trustees' land earlier occupied by M/s. Victor Oil Co. Pvt. Ltd. and partly by the Trustees' land occupies by Khemchand Raj Kumar and partly by their open land, on the East by the Trustees' open land, on the south by the Trustees' land reserved for laying of railway tracks and on the West by the Trustees' open land beyond which is Taratala Road.

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

Dated: 31.08.2022



Signature & Seal of the Estate Officer.

By Order of :
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SYAMA PRASAD MOOKERJEE PORT
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SYAMA PRASAD MOOKERJEE PORT
01/09/22
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

COPY FORWARDED TO THE ESTATE MANAGER (I/C)/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. 948/D, Of 2008 Order Sheet No. 86

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S. KREBS AND CIE INDIA PVT LTD

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FINAL ORDER

The instant proceedings number 948/D of 2008 arises out of the application bearing No.Lnd.4531/VIII/22/1506 dated 30.05.2022 and another application bearing No. Lnd.4531/VIII/22/2470 dated 12.08.2022, 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 compensation charges/damages/mesne profits as payable by O.P. for the respective periods, i.e. 01.07.1998 to 06.03.2018 (both days inclusive) till taking over the possession on 06.03.2018, in respect of the public premises as defined in the schedule of the said application against **M/s. KREBS AND CIE (INDIA) Pvt. Ltd.**, the O.P. herein, under relevant provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971. As stated in the applications dated 30.05.2022 and another application dated 12.08.2022, O.P. is also liable to pay the accrued interest till the date of liquidation of such principal dues, and the final interest figure can only be ascertained once O.P. liquidates the principal dues in full.

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. 948/D of 2008, 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. [M/s. Krebs & Cie (India) Pvt. Ltd.] [now known as Krebs & Cie (India) Ltd.] was allotted land msg. about 17,378.05 sq. mtrs. situated at Taratala Road, Thana-West Port Police Station, Dist-24 Parganas (South) Kolkata, comprised under Plate No.D-161/1/A under West Port Police Station, on the strength of a Registered Lease Deed on certain terms and conditions at a monthly rental for land space (inclusive of Municipal Tax on land and Municipal tax on structure) for the purpose of a factory, on basis of a long term lease for a period of 30 (thirty) years with effect from 12.04.1967 without any option for

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[Signature] 01/09/22
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Signature]



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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renewal and the contractual period of lease was expired on and from 11.04.1997.

2) That it is also the case of SMP, Kolkata that O.P. had parted with possession of the public premises unauthorisedly and inducted sub-tenants within the said premises under consideration, and also failed to accept SMP, Kolkata's (erstwhile known as KoPT) offer letter dated 29.03.2000 offering a fresh long term lease for 15 (fifteen) years in respect of the premises in question, without any option of renewal. O.P. had also 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 11.04.1997. It was also contended by SMP, Kolkata that as O.P. was asked to vacate the premises on 08.06.2007 in terms of the Quit Notice dated 05.12.2006, nevertheless, O.P. failed to give back the possession to the Port Authority in terms of the Notice dated 05.12.2006, hence, O.P. had no authority or rather lost its authority to occupy the Public Premises whatsoever under law after the expiry of the period dated 11.04.1997.

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 for Order of Eviction u/s-5 of the Act, 1971 and u/7-of the Act, 1971, for arrear rental dues and damages all dated 29.07.2008. It reveals from the records that M/s. Krebs & Cie India Ltd., the O.P. herein, duly accepted the Show Cause Notices but did not contest the matter. However, the matter was all along contested by M/s. Krebs Manufacturing Services Ltd., hereinafter known as Added Party (A.P.).

4) That during the course of hearing, it was submitted by A.P. that it has the right to enjoy the property on the basis of the Board for Industrial and Financial Reconstruction's (BIFR) Order dated 29.04.2003

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[Signature]



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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read with Order dated 20.06.2005 in Case No.125 of 1990. It was also submitted by A.P. that they had purchased the Engineering and Works division (EWD) of M/s. Krebs & Cie India Ltd. (O.P) which is situated on land at Taratala Road (on the property under Schedule of Show Cause Notice/s). It was further submitted that in proceedings before BIFR a Draft Revival Scheme (DRS) was prepared for revival of O.P., the Sick Industrial Unit and Notice u/s-18 of the Sick Industrial Companies (Special Provisions) Act, 1985 was published in the newspaper inviting opinion and objection from all the concerned regarding revival of O.P. According to A.P., M/s. Subimal & Co. expressed its intention to purchase the Engineering & Works Division of O.P. situated at the public premises in question and the said M/s. Subimal & Co. floated a new company presently known as M/s. Krebs Manufacturing Services Ltd., for proper management of the said EWD of O.P. as per arrangement recorded in proceedings before BIFR dated 29.04.2003. It is the specific case that A.P. purchased the EWD of O.P. and BIFR de-registered O.P. from the records of BIFR dated 20.06.2005. Finally it was argued by A.P. that purchase of EWD of O.P. in the proceedings before BIFR was for revival of Sick Industrial Unit and SMP, Kolkata did not raise any objection or claim with regard to dues/charges before BIFR, though SMP, Kolkata was aware of the proceedings before BIFR. It was also argued that in the event of Order of Eviction against A.P. /O.P. from the concerned Public Premises, life and livelihood of the workers will be jeopardized, and the Order of BIFR will also be frustrated or will be in nullity. It was also stressed by the Ld. Counsel appearing on behalf of A.P. that A.P. had purchased the property from O.P. as per BIFR's Order, and further referred to the Calcutta Gazette Notification published on 2nd March 2001 by the Govt. of West Bengal, the Rehabilitation Scheme, whereby A.P. could get renewal of lease in respect of the property for revival of the company (O.P.), and all the rent in respect of the Plate No.161/1/A had been paid by the Added Party (A.P), but the receipts were granted

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Head Assistant

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[Signature]

Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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in favour of O.P. But SMP, Kolkata rightly denied the submissions made by A.P. and pleaded that as per the Order of this Ld. Forum, provisional occupational charges had been accepted by SMP, Kolkata without any prejudice to the rights and contentions of SMP, Kolkata, and further submitted that the Added Party (A.P.) had no right over the property, citing some important and relevant case laws by the Hon'ble Apex Court of India in Chamundi Moped Case (1992) 3 SCC 1, Kailash Nath Agarwal Case (2003) 4 SCC 308 and Gujarat Steel Tube Case (1999) 8 SCC 11 stated that allotment of property without inviting tender is not permissible according to the Land Policy Guideline issued by the Govt. of India in the year 2005, and Port Authority also had every legal right to get back the possession of the premises and also had the right of realization of the rental dues/charges in respect of the public premises in question.

5) That after extensive hearing and based on the materials-on-record as submitted by both SMP, Kolkata and O.P./A.P., this Ld. Forum initiated Eviction Proceedings against O.P, and brought out ten main issues for adjudication, which are as follows:

- (i) Whether O.P. and/or anybody asserting any right through O.P. had got any authority under Law to claim the occupation as "authorized occupation" after the expiry of the period of lease in question executed by and between SMP, Kolkata and O.P.;
- (ii) Whether O.P. and/or anybody asserting any right through O.P. had got any authority under Law to claim the occupation as "authorized occupation" without accepting the offer from Port Authority regarding the grant of further lease in respect of the premises in question or not;
- (iii) Whether the statement made on behalf of M/s. Krebs Manufacturing Services Ltd. (A.P.) regarding fixation of rent by this Forum of Law as per order dated 22.02.2002 in proceedings No.264 of 1998 between the parties has got any merit or not;

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Appointed by the Central Govt. Under Section 3 of the Public Premises
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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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- (iv) Whether O.P. can deny the responsibility of making payment of rent/charges for its occupation into the Port Authority as per SMP, Kolkata's demand or not;
- (v) Whether the provisions of SICA have any application into the instant proceedings for dealing with the rights and liabilities of both O.P. and A.P. or not;
- (vi) Whether there is any case to consider that SICA will prevail over public Premises or not;
- (vii) Whether decision of the Apex Court of India reported in (2006) 9 SCC 763 (Board of Trustees of the Port of Kolkata & Others) has got any relevance in deciding the matter of granting lease in favour of A.P. or not;
- (viii) Whether Port Authority can refuse to execute lease deed in respect of the land in question in favour of A.P. or not;
- (ix) Whether KoPT is justified in demanding possession of the property from O.P. in terms of the Notice to Quit dated 05.12.2006 or not;
- (x) Whether O.P's occupation including the occupation of the Added Party (A.P.) is unauthorized in view of Section 2(g) of the PP Act and KoPT is entitled to claim damages for wrongful use and occupation of the Public Premises or not.

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6) That as mentioned above, regarding the points of adjudication, all the issues were decided in favour of SMP, Kolkata, which are pointed in the body of the Order as follows:

- (i) Both the Issues (1 & 2) as raised during the course of hearing, were taken up together. This Ld. Forum was of the conclusion that it is the settled question of law that occupation of a lessee like O.P. cannot be termed as "authorized occupation" after the expiry of the lease period, i.e. 30 years, without the option of renewal. It is also settled that after the expiry of the lease period, i.e. 12.04.1997, O.P. cannot dictate the terms and conditions to SMP, Kolkata (the landlord). This Ld. Forum was also of the opinion that A.P. (M/s. Krebs Manufacturing Services Ltd.,) cannot claim any right as there was no subsisting leasehold interest in favour



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S, KREBS AND CIE INDIA PVT LTD

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of A.P. and A.P. cannot have any independent right over the property apart from the right of O.P. for enjoyment of the property as a rightful/lawful occupier.

(ii) Both the Issues (3 & 4) as raised during the course of hearing, were taken up together. It was admitted that O.P. was in default of payment of arrear dues/charges in respect of the public premises in question, and the amount is to be recovered from O.P. for its use and occupation of the Port Property. It was further demanded on behalf of SMP, Kolkata that the amount was charged as per SMP, Kolkata's Schedule of Rent Charges as published in Calcutta Gazette as per the provision of Major Port Trust Act, 1963 which is applicable to all the tenants/occupier's-users of the Port Property in similar paced situations. A.P.'s liability towards payment of rental dues had been restricted to certain amount in respect of occupational charges. The order was given to accommodate the prayer of O.P. being a Sick Industrial Unit for revival of O.P.'s business and was also required to continue payment without prejudice to the rights and contentions of both the parties.

(iii) Both the Issues (5, 6 & 8) as raised during the course of hearing, were taken up together. In the course of hearing A.P. relied on Section 22 of the SICA which deals with the suspension of legal proceedings, contracts, etc. and further argued that the proceedings for eviction of O.P. from the public premises should be stayed and is not maintainable as per law. But the very foundation to attract Section 22 is that property must be the property of the company like O.P. If the leasehold interest ceased to exist long back on and from 12.04.1997, it is difficult to accept any proposition that the property belongs to the company. Section 22 of SICA is very much specific which provides that no proceedings for winding up of the Industrial

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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

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Company or for execution, distress or like against any of the properties of the Company thereof and no suit for recovery of money or for enforcement of any security against the Industrial Company or of any guarantee in respect of any loans or advance granted to the Industrial Company shall lie or be proceeded with, except with the consent of the Board, or the Appellate Authority as the case may be. A.P here failed to disclose any material or any claim with regard to entitlement of O.P. in respect of the property after the expiry of the leasehold period of interest over the public premises in question. No attempts were taken to establish as to how the property of the Company had become the property of the Company, after the expiry of the lease period. The Apex Court of India in Chamundi Moped's Case was very instructive in deciding the issue of 'maintainability' for eviction proceedings. It is seen that the Port Authority prayed for Order of Eviction against O.P. and prayed for occupational charges for continued use of the occupation, which is absolutely maintainable. The overriding effect of Section 32 of SICA will come into play only in the situation where the provisions of other laws are inconsistent with or not in conformity with SICA. It was observed by this Ld. Forum that there was no inconsistency between the provisions of SICA and the provisions under PP. Act, 1971. It also cannot be an acceptable proposition that the landlord like SMP, Kolkata will be deprived of its legitimate revenue by way of allotment of the land in question. A.P. and O.P. also do not have a right to dictate over the terms and conditions for allotment/grant of further lease, and A.P. and O.P. also do not have any subsisting right over the property in question, on expiry of the lease period. O.P. also never disclosed that M/s. Subimal & Co. or A.P. as purchaser made sufficient enquiry about the status of O.P. and the financial liability towards

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[Signature] 01/09/22
Head Assistant

OFFICE OF THE LD. ESTATE OFFICER
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[Signature]



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S, KREBS AND CIE INDIA PVT LTD

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liquidation of SMP, Kolkata's claim before effecting purchase in question. BIFR's Order was silent about dealing with any matter regarding the public premises in occupation of A.P. It is really absurd that Port Authority could be transferred to M/s. Krebs Manufacturing Services Ltd. by an agreement with O.P. in which the Port Authority is not the party, and any commitment/MoU with regard to Port's property could be made by O.P., without the consent of the Port Authority. It was categorically mentioned that after the Quit Notice, and the expiry of the Lease period, the public premises cannot be the property of O.P. in any case and O.P. is also not competent to transfer any such premises to anybody like M/s. Krebs Manufacturing Services Ltd. Hence it was decided by this Ld. Forum that M/s. Krebs Manufacturing Services Ltd. and O.P. are not entitled to claim grant of lease from the Port Authority based on the stated facts and circumstances.

- (iv) On issue No.7, it was understood that A.P. had desperately tried to convince this Ld. Forum regarding A.P.'s entitlement to get a lease in respect of the property under occupation of A.P. as per BIFR's Order for sale in question referring the Hon'ble Apex Court's decision reported in (2006) 9 SCC 763 (Board of Trustees of the Port of Kolkata -vs- M/s. Eflon Tie Up Pvt. Ltd. & Ors.). But this argument was blown out by this Ld. Forum as the case was on the question of entering lease deed with the company which was purchased in winding up proceedings where the purchaser company never raised any dispute about SMP, Kolkata's claim on account of occupational charges as per KoPT's Schedule of Rent Charges. This issue was also in favour of SMP, Kolkata as the factual aspects of the referred case does not match with the factual aspects involved in this proceedings.

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(v) Both the Issues (9 & 10) as raised during the course of hearing, were taken up together. It is said that Port Authority is very much within its authority to demand possession of the public premises from O.P. after the expiry of the lease period in terms of the Quit Notice dated 05.12.2006, and occupying the premises even after that amounts to being an "unauthorized occupant", as per the Section 2(g) of PP. Act, 1971. Even as per Transfer of Property Act, a lease of immovable property determines either by efflux of time limited thereby or by implied surrender or on expiration of notice to determine the lease or to quit or of intention to quit, the property leased, duly given by one party to another. Here Port Authority had served the Quit Notice dated 05.12.2006, and occupying the premises beyond that date tantamount to unauthorized occupation, and O.P. is liable to pay the damages for such unauthorized occupation. The Ld. Forum had referred to a judgment by the Apex Court of India in JT 2006 (4) SC 277 (Sarup Singh Gupta -vs- Jagdish Singh & Ors.) where it had been clearly observed that in event of termination of lease, the practice followed by Courts is to permit landlord to receive each month by way of compensation of the premises, an amount equal to the monthly rent payable by the tenant. With this observation, this Ld. Forum was of the opinion the Ejectment Notice/s demanding possession from O.P. had been validly served upon O.P. and the Notice/s were valid, lawful and binding on the parties.

7) That all the issues being decided in favour of SMP, Kolkata, this Ld. Forum issued Order of eviction against O.P. u/s-5 of the Act, Vide Order No.22 dated 12.02.2011, based on the following reasons/grounds:

(i) That O.P. cannot question the legality of imposition of charges by the Port Authority for grant of fresh lease after the expiry of the contractual period of lease in question.

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- (ii) That the charges as claimed by the Port Authority for grant of lease to O.P. after expiry of the contractual period of lease in question is legally payable by O.P. and O.P. cannot dictate the terms and conditions for grant of lease.
- (iii) That O.P. has no authority under law to claim any right or interest over the property after the expiry of the period of lease in question and anybody under law to assert any right over the property through O.P.
- (iv) That A.P. has no authority under law to hold the property being the public premises in question on the strength of sale of assets of O.P. over the land ceases long back and the property of the Port Authority in question cannot be the subject matter of sale in any manner whatsoever.
- (v) That O.P. and A.P. had failed to adduce any evidence or bear any witness in support of their authorized occupation into the public premises (for the relevant period) after the expiry in the said Ejectment Notice dated 05.12.2006.
- (vi) That as per Section 2(g) of the PP Act, O.P.'s occupation including the occupation of M/s. Krebs Manufacturing & Services Ltd. (A.P) is unauthorized and O.P. is liable to pay damages for unauthorized use and occupation of the Port Property upto the date of handing over of clear, vacant and unencumbered possession to Port Authority.

8) That the matter again came up before this Ld. Forum vide an application No.Lnd.4531/V/PP Act/A.O.-46/18/482828 dated 07.03.2018, whereby it was submitted that the possession was taken over by the Authorized Officer on 07.03.2018 as per the Order of Eviction No.22 dated 12.02.2011, as passed by this Ld. Forum and prayed for necessary Orders for inventorization and valuation of goods/materials lying in the subject Public premises and also for disposal of the materials/goods lying at the premises. By dint of Order No.25 dated 05.04.2018, this Ld. Forum accepted the dues/charges, and further accepted the adjustment of the dues/charges for occupation

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



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. 948/D, of 2008 Order Sheet No. 96

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S, KREBS AND CIE INDIA PVT LTD

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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. It also appears from the record that by virtue of Order No.29 dated 11.05.2018, the Authorized Officer was directed to forward the report of inventorization and valuation to the Materials Manager, SMP, Kolkata, for the purpose of immediate sale of the said goods/materials through public auction. It was also directed that the sale proceeds after deducting the cost of sale, is required to be adjusted against the adjudicated dues/charges as recoverable from the unauthorized occupants as per the provisions of the PP Act.

9) Thereafter, considering the submission and documents as submitted by SMP, Kolkata, in terms of my Order No.34 dated 15.06.2022, this Ld. Forum ordered to issue formal order u/s-7 (Vide Order No.39 dated 17.08.2022) of the Public Premises (Eviction of Unauthorised Occupation) Act, 1971, to show cause as to why an order requiring to pay the outstanding dues/compensation charges/damages/mesne profit, should not be made against the O.P. It is by virtue of the application as filed by SMP, Kolkata dated 30.05.2022, and another application dated 12.08.2022, 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 is only recoverable from O.P. As stated in the applications dated 30.05.2022 and another application dated 12.08.2022, O.P. is also liable to pay the accrued interest till the date of liquidation of such principal dues, and the final interest figure can only be

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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

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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ascertained once O.P. liquidates the principal dues in full. It is the case of SMP that O.P. was asked to pay damages/compensation upto 06.03.2018, as because the subject premises was finally taken over by SMP on 06.03.2018 by the Eviction Order No.22 dated 12/02/2011 as passed by this Ld. Forum. 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 "M/s. Krebs & Cie (India) Pvt. Ltd., M/s. Krebs Manufacturing Services Ltd. (A.P), Both of 6B, Pritoria Street, Kolkata-700 071 AND ASLO P-28, 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 on account of "left" dated 20.08.2022.

10) Thereafter several dates vide Order No.35, 36, 37 and 39 dated 30.06.2022, 07.07.2022, 20.07.2022 and 17.08.2022 respectively, were given with a direction upon O.P. to appear before this Forum for any submission/hearing etc., but neither any response was 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. On non-appearance of O.P. on the schedule dates of hearing, apart from the regular modes of intimating to O.P., this Ld. Forum vide Order No.36 dated 07.07.2022 had also ordered for paper publication in an English Daily in classified column having wide circulation for information to O.P. and intimating any other interested party/person regarding pendency of the instant proceedings. As understood from the materials-on-record, the same was published in "The Statesman" dated 09.07.2022. But still O.P. failed to appear before this Ld. Forum to represent their matter, hence the matter was decided Ex-Parte. As such I have no bar to accept

By Order of:
THE ESTATE OFFICER
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SYAMA PRASAD MOOKERJEE PORT
01/09/22
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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BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S. KREBS AND CIE INDIA PVT LTD

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the claim of SMP, Kolkata on account of compensation charges/damages/mesne profit etc. as per statement of accounts maintained regularly in SMP, Kolkata's office in regular course of business.

11) That it is my considered view that a sum of Rs. 10,38,95,172.72 (Rupees Ten Crore Thirty-Eight lakh Ninety-Five Thousand One Hundred Seventy-Two and Seventy-Two paise only) for Plate No. D-161/2 being principal amount on account of compensation charges/damages/mesne profits from 01.07.1998 - 06.03.2018 (both day inclusive) in respect of the said premises are due and recoverable from O.P by the Port Authority on account of damages/compensation charges/mesne profits, etc. and O.P. have to pay such dues to SMP, Kolkata forthwith. O.P. is also liable to pay the accrued interest till the date of liquidation of such principal dues, and the final interest figure can only be ascertained once O.P. liquidates the principal dues in full. Considering the huge amount of compensation charges/damages/mesne profits, etc., I find it prudent to allow time till **12th September, 2022** for such payment. Such dues would attract compound interest @ of 6.45% 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 incurrance 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.

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



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



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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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.

(Signature)
31/08/2022

(NARGIS YEASMEEN)
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
(Signature)
01/09/22
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 HIS ORDER ***