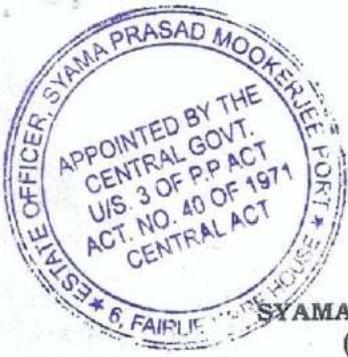


SCAN



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

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

(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
Public Premises (Eviction of Unauthorized Occupant) Act 1971
OFFICE OF THE ESTATE OFFICER
6, Fairley Place (1st Floor)
KOLKATA - 700 001

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

REASONED ORDER NO. 14 DT 17.10.2022
PROCEEDINGS NO: 262/D of 1998

Form "G"

Form of order under Sub-section (2) and (2A) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971

To
M/s. Naresh Nath Mukherjee (Metals) Pvt. Ltd.,
1-A, & 1-B, Soveram Basak Street,
Kolkata - 700 007

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

And whereas by written notice dated 01.08.2022 (vide Order No 11 dated 25.07.2022) you were called upon to show- cause on/or before 22.08.2022 why an order requiring you to pay a sum of Rs. 18,42,969.00 (Rupees Eighteen lakhs Forty two thousand nine hundred sixty nine *only*.) being damages payable together with compound interest for unauthorised use and occupation of the said premises, should not be made.

And whereas you have not made any objections or produced any evidence before the said date;

Now, therefore, in exercise of the powers conferred on me by Sub-section (2) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby order you to pay the sum of Rs. 18,42,969.00 (Rupees Eighteen lakhs Forty two thousand nine hundred sixty nine *only*.) for the period from 01.10.1992 to 14.10.2010 assessed by me as damages on account of your unauthorised occupation of the premises to Kolkata Port Trust, by 01.11.2022.

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 @ 6.65 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) on the above sum with effect from the date of incurrence of liability, till its final payment in accordance with Notification Published in Official Gazette/s.

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 ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
18/10/2022

:2:

A copy of the reasoned order no. 14 dated 17.10.2022 is attached hereto.

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

SCHEDULE

Plate no - SW 57/1

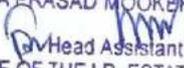
Eastern half of Compartment No. B/1 measuring 86.03 Sq.m or thereabouts in the ground floor of the Trustees' godown known as Strand Warehouse is situate on the West Side of Strand Road within the presidency town of Calcutta. It is bounded on the North partly by Compartment No. A-5, of the said Warehouse and partly by the Trustees' open space, on the East by the Trustees' open space, on the South by passage and on the West by Compartment No. B/1/1 of the said godown occupied by Jaggeswar Guha and Chandra Kumar Guha.

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

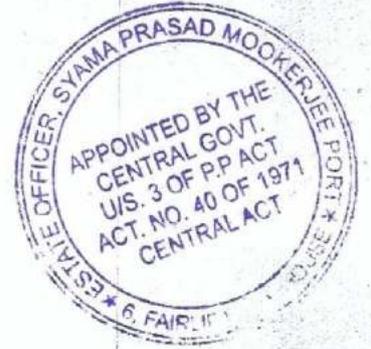
Dated: 18.10.2022


Signature and seal of the
Estate Officer.

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

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 I.D. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

18/10/2022





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. 262 Of 1998 Order Sheet No. 12

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
M/S. NARESH NATH MUKHERJEE (METALS) PVT. LTD.

FINAL ORDER

The instant proceedings No. 262/D of 1998 arises out the application bearing No. Lnd. 12/39/III/22/1138 dated 22.04.2022 filed by the **Syama Prasad Mookerjee Port, Kolkata** [erstwhile Kolkata Port Trust/ KoPT], hereinafter referred to as '**SMPK**', the applicant herein, praying for an order of recovery of dues on account of Compensation/ damage charges along with accrued interest thereon, in respect of the subject public premises, against **Naresh Nath Mukherjee (Metals) Pvt. Ltd.,** (hereinafter referred to as **O.P.**), under the relevant provisions of **Public Premises (Eviction of Unauthorized Occupants) Act, 1971** (hereinafter referred to as '**the Act**').

The fact of the case in a nutshell, as revealed from records, is that the O.P., came into occupation of the Port Property/ Eastern Half of Compartment No. B/1 measuring 86.03 sqm or thereabouts in the ground floor of the Trustees' Godown, known as Strand Warehouse situate on the West side of Strand Road, Kolkata, under plate no SW 57/1, as a monthly lessee. Thereafter, on ground of certain breaches allegedly committed by the O.P., Eviction Proceeding was initiated by SMPK against the O.P. in the year 1998 before this Forum. The proceeding was culminated into an Order of Eviction dated 15.11.1999. It has been stated by SMPK that before the eviction order could be executed, the subject premises was gutted down by a devastating fire on 14.02.2010 and since the incident of fire the possession of the subject premises is with SMPK. Now, in terms of the said application dated 22.04.2022, SMPK has submitted that huge amount is due and recoverable from O.P. on account of compensation/ damage charges, for O.P.'s use

17.10.2022

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

18/10/2022



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

262 of 1998 Order Sheet No. 13

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S. NARESH NATH MUKHERJEE (METAL) PVT. LTD.

14

17.10.2022

By Order of:

THE ESTATE OFFICER

SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER

PASSED BY THE ESTATE OFFICER

SYAMA PRASAD MOOKERJEE PORT

Head Assistant

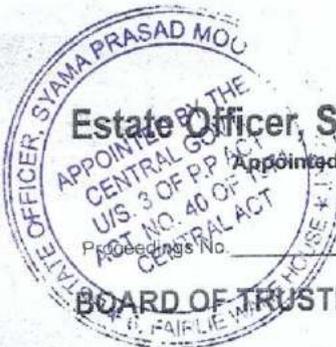
OFFICE OF THE ESTATE OFFICER

SYAMA PRASAD MOOKERJEE PORT

18/10/2022

and enjoyment of the port property in question till the date the premises was gutted down by fire. After considering the case of SMPK, this Forum raised certain queries vide Order no 9 dated 20.06.2022, in order to arrive at the correct actual position. SMPK in terms of their application no ND12/39/III/22/2270 dated 25.07.2022 furnished comments against such queries. It has been stated by SMPK that Title Suit being T.S. no. 150 of 2002 (Shri Ram Ganesh Shaw, sole proprietor of M/s Shankar Tube Co. Vs BTPC & Ors.) was filed by the sitting occupant, viz. Shri Ram Ganesh Shaw in respect of the subject premises in which Order of Stay was passed and made absolute by the Ld. City Civil Court, Kolkata on 28.06.2004. The said Suit, thereafter, was dismissed on 28.07.2010. In support of such contentions a copy of communication issued by the Ld. Advocate of SMPK dated 02.08.2010 has been enclosed. It is further contended by SMPK that as the said Title Suit had been pending with the stay order for a considerable period of time, SMPK could take no effective steps in the meantime to execute the order of eviction dated 15.11.1999. Thereafter, eventually the subject plot was gutted down by fire on 14.02.2010. It is further contended that an offer letter dated 19.10.2001 was issued to M/s Shankar Tube Co. for grant of direct tendency under SMPK. However, said M/s Shankar Tube Co. failed to comply with the terms and conditions of the said letter. As a result, the issue of granting direct tenancy to them could not be materialised by SMPK authorities.

Considering the submissions of SMPK, this Forum formed its opinion to proceed against the O.P. and issued Show Cause Notice dated 01.08.2022 (vide Order no. 11 dated 25.07.2022) u/s 7 of the Public Premises (Eviction of



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

262 of 1998 Order Sheet No. 14

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
M/S. NARESH NATH MCKHERJEE (METAL) PVT. LTD.

14
17.10.2022

Unauthorized Occupation) Act, 1971. The Notice was issued calling upon the O.P. to show cause as to why an order requiring payment of the reported arrear compensation/ damage charges, together with interest, would not be made against the O.P.

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 Assis
OFFICE OF THE LD. OFFICER
SYAMA PRASAD MOOKERJEE PORT

18/10/2022

The said Notice was sent through 'Speed Post' to the recorded address of O.P., viz., '1-A & 1-B, Soveream Basak Street, Kolkata- 700 007'. However, the notice was returned undelivered by the Postal Department with the remark "addressee cannot be located". The 'Process Server' attached with this Forum, for service of such Notice/ Order etc., has submitted the Report dated 11.08.2022 intimating failure to serve such notice, as the O.P. was not found on the subject premises. However, it appears from the said Report dated 11.08.2022 that the Notice has been affixed on a conspicuous part of the premises as per mandate of the Public Premises Act, 1971. On the date fixed for filing the reply to show cause, none appeared on behalf of O.P. before this Forum of Law. Then a decision was taken by this Forum to publish a notice in a widely circulated daily English Newspaper as well as in official website of SMPK for a notice to all concerned about the pendency of the instant proceeding in order to provide a further chance to the O.P. to represent its case. Such notice was published in 'The Times of India (Kolkata edition)' on 07.09.2022 fixing the date for the O.P's appearance, filing reply to Show Cause on 12.09.2022. It appears that on 12.09.2022 neither the O.P. nor anyone interested in the property approached the Forum or made a contact in the meantime, in connection with the Show Cause Notice issued by this Forum. Thus inspite of such efforts being made none appeared on behalf of O.P. and all the efforts remained futile. Considering the



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. 262 of 1998 Order Sheet No. 15

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

DR. MARESH NATH MUKHERJEE (METAL) PVT. LTD

14
17.10.2022

situation that the attendance of O.P. could not be procured by this Forum at any point of time inspite of efforts being made, even after publications of Notice/s in an English Daily twice, this Forum has been constrained to proceed ex-parte against the O.P.

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

18/10/2022

I find that SMPK has produced detailed statement of accounts dated 25.07.2022 in respect of the public premises in question. It appears from the said statements of accounts that no payment, whatsoever, was made by O.P. in respect of the premises for decades together. In my view, such statements maintained by a statutory authority/ SMPK in its usual course of business has definite evidentiary value, unless challenged with fortified documents/evidences etc, ready to bear the test of legal scrutiny. During the course of hearing, I am given to understand by SMPK that the rent as well as compensation/ damages charged from time to time is based on the rates notified by the Tariff Authority for Major Ports (TAMP) in the Official Gazette, which is binding on all users of the port property. Non-payment of dues by O.P. for decades together is very much prominent and established, as discussed above. Hence, I have no bar to accept the claim of SMPK on account of damages/compensation charges. I have nothing to disbelief in respect of SMPK's claim against O.P. as per statement of accounts maintained regularly in SMPK's office in regular course of business.

Thus, it is my considered view that a sum of Rs. 18,42,969.00 (Rupees Eighteen Lakhs Forty Two Thousand Nine Hundred Sixty Nine only) is due and recoverable from the O.P. for the period from 01.10.1992 to 14.10.2010 by



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. 262 of 1998 Order Sheet No. 16

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
MIS. NARESH NATH MUKHERJEE (METAL) PVT. LTD.

14

17.10.2022

the Port authority on account of compensation/ damage charges.

O.P. must have to pay such dues to SMPK on or before 01.11.2022.

Interest is the natural fallout for delayed payments of Rent/ Compensation and as such, the O.P. is liable to pay interest for the same. Such dues attracts Compound Interest @ 6.65 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered 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 SMPK's books of accounts.

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

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

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL


(Rahul Mukherjee)
ESTATE OFFICER.

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

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
18/10/2022