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**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 1<sup>st</sup> Floor  
of SMPK's  
Fairley Warehouse  
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 31 DT 08.12.2022  
PROCEEDINGS NO. 1595 OF 2017

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

-Vs-

Estate Tribeni Singh, represented by his legal heirs namely Chandrima Debi(Widow of Late Tribeni Singh), since deceased, Sri Dasarath Singh(Son), Sri Uday Narayan Singh(Son) & Sri Ramadhar Singh(Son)..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 Estate Tribeni Singh, represented by his legal heirs namely Chandrima Debi(Widow of Late Tribeni Singh), since deceased, Sri Dasarath Singh(Son), Sri Uday Narayan Singh(Son) & Sri Ramadhar Singh(Son) of Village- Khaniara, P.O-Lalgunj, Thana-Deogaon, Dist: Azamgarh AND ALSO Ramkristopur Firewood Siding No.1, P.S & Post Office- Shibpur, Howrah is in unauthorized occupation of the Public Premises specified in the Schedule below:

**REASONS**

1. That the contentions on behalf of O.Ps regarding non-maintainability of the proceedings have got no merit in the facts and circumstances of the case.
2. That O.P's contention regarding non-receipt of ejection notice dated 18.07.1984 has no support of law on evaluation of factual aspect involved in this matter.
3. That O.P. has defaulted in making payment of monthly licence fees/rental dues to SMPK in gross violation to the condition for grant of tenancy under monthly term licence.
4. That Land Manager(I/C), SMPK is authorized by the Board of Trustees of the Port of Kolkata(Now Syama Prasad Mookerjee Port, Kolkata) for service of ejection notice to O.P. and O.P's contention regarding incompetency of service of ejection notice by the Land Manager(I/C), SMPK has got no merit.
5. That O.P. has violated the condition of tenancy under licence by way of using the property other than the purpose as specified in the licence agreement.
6. That O.P. has erected unauthorised constructions on the subject occupation without having any authority of law.
7. That O.P. has failed to bear any witness or adduce any evidence in support of its "Authorised Occupation".
8. That notice for revocation of licence dated 18.07.1984 issued by the Port Authority to O.P., demanding possession is valid, lawful and binding upon the parties.
9. That O.P's occupation has become unauthorized in view of Sec.2 (g) of the P.P. Act.
10. That O.P. is liable to pay damages for its wrongful use and enjoyment of the Port Property upto the date of handing over of clear vacant and unencumbered possession to 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 I.D. ESTE  
SYAMA PRASAD MOOKERJEE PORT

(2)

A copy of the reasoned order No. 31 dated 29.12.2022 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 **Estate Tribeni Singh, represented by his legal heirs namely Chandrima Debi(Widow of Late Tribeni Singh), since deceased, Sri Dasarath Singh(Son), Sri Uday Narayan Singh(Son) & Sri Ramadhar Singh(Son) of Village-Khaniara, P.O-Lalgunj, Thana-Deogaon, Dist: Azamgarh AND ALSO Ramkristopur Firewood Siding No.1, P.S & Post Office- Shibpur, Howrah** 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 **Estate Tribeni Singh, represented by his legal heirs namely Chandrima Debi(Widow of Late Tribeni Singh), since deceased, Sri Dasarath Singh(Son), Sri Uday Narayan Singh(Son) & Sri Ramadhar Singh(Son) of Village- Khaniara, P.O-Lalgunj, Thana-Deogaon, Dist: Azamgarh AND ALSO Ramkristopur Firewood Siding No.1, P.S & Post Office- Shibpur, Howrah** 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-273

The said piece or parcel of land msg. about 103.772 sq.m or thereabouts is situate at Foreshore Road, Ramkristopur, Howrah Shibpur, Thana-Shibpur, Dist & Registration District-Howrah. It is bounded on the **North** by the Trustees' passage, on the **East** by the Trustees' strip of open land alongside Trustees land occupied by M/s. Tide Water Oil Co.(I) Ltd, on the **South** by the Trustees land occupied by Satyadeo Singh and on the **West** by the Trustees' strip of open land alongside Foreshore Road. Trustees' means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata).

Dated: 13.12.2022 .

  
Signature & Seal of  
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  
13.12.22  
Head Assistant  
OFFICE OF THE I.D. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

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



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**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, Fairlie Place (1st Floor)

KOLKATA - 700 001

\*\*\*\*\*

Court Room at the 1<sup>st</sup> Floor  
6, Fairlie Place Warehouse  
Kolkata-700001.

**Form "E"**

PROCEEDINGS NO.1595/R OF 2017  
ORDER NO. 31 DATED: 08.12.2022

Form of order under Sub-section (1) and (2A) of Section 7 of the Public  
Premises (Eviction of Unauthorised Occupants) Act, 1971.

To

Estate Tribeni Singh, represented by his legal heirs namely  
Chandrima Debi(Widow of Late Tribeni Singh), since deceased  
Sri Dasarath Singh(Son)  
Sri Uday Narayan Singh(Son) &  
Sri Ramadhar Singh(Son)  
Village- Khaniara, P.O-Lalgunj,  
Thana-Deogaon, Dist: Azamgarh  
AND ALSO  
Ramkristopur Firewood Siding No.1,  
P.S & Post Office- Shibpur,  
Howrah.

WHEREAS you are in occupation of the public premises described in the  
Schedule below. (Please see on reverse).

AND WHEREAS, by written notice dated 02.02.2018 you are called upon to  
show cause on or before 23.02.2018 why an order requiring you to pay a sum  
of Rs.2,653/- (Rupees Two Thousand six hundred fifty three only) being the  
rent payable together with compound interest in respect of the said premises  
should not be made;

AND WHEREAS, I have considered your objections and/or the evidence  
produced by you;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of  
Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act  
1971, I hereby require you to pay the sum of Rs.2,653/- (Rupees Two Thousand  
six hundred fifty three only) for the period from 26.01.1978 to 30.09.1984  
(both days inclusive) to SMPK by 29.12.2022.

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PREPARED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
29.12.22  
Head Assessor  
OFFICE OF THE LD. ESTATE OFF  
SYAMA PRASAD MOOKERJEE PORT

PLEASE SEE ON REVERSE

2

: 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 @ 6.90 % per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

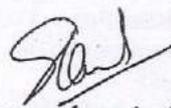
In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

### SCHEDULE

#### Plate No. HL-273

The said piece or parcel of land msg. about 103.772 sq.m or thereabouts is situate at Foreshore Road, Ramkristopur, Howrah Shibpur, Thana-Shibpur, Dist & Registration District-Howrah. It is bounded on the **North** by the Trustees' passage, on the **East** by the Trustees' strip of open land alongside Trustees land occupied by M/s. Tide Water Oil Co.(I) Ltd, on the **South** by the Trustees land occupied by Satyadeo Singh and on the **West** by the Trustees' strip of open land alongside Foreshore Road. Trustees' means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata).

Dated: 13.12.2022 .

  
Signature and seal of the  
Estate Officer

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
MADE BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
13.12.22  
Head Assistant  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

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



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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 1<sup>st</sup> Floor  
Of SMPK's  
Fairlie Warehouse  
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.1595/D OF 2017  
ORDER NO. 31 DATED: 08.12.2022

**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

Estate Tribeni Singh, represented by his legal heirs namely  
Chandrima Debi(Widow of Late Tribeni Singh), since deceased  
Sri Dasarath Singh(Son)  
Sri Uday Narayan Singh(Son) &  
Sri Ramadhar Singh(Son)  
Village- Khaniara, P.O-Lalgunj,  
Thana-Deogaon, Dist: Azamgarh  
AND ALSO  
Ramkristopur Firewood Siding No.1,  
P.S & Post Office- Shibpur,  
Howrah.

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 02.02.2018 you are called upon to show cause on or before 23.02.2018 why an order requiring you to pay damages of Rs. 3,98,993.38 (Rupees Three Lakh ninety eight thousand nine hundred ninety three and paise thirty eight only) together with [compound interest] for unauthorised use and occupation of the said premises, should not be made;

AND WHEREAS, I have considered your objections and/or the evidence produced by you;

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. 3,98,993.38 (Rupees Three Lakh ninety eight thousand nine hundred ninety three and paise thirty eight only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.10.1984 to 30.06.2017(both days inclusive) to SMPK by 29.12.2022.

PLEASE SEE ON REVERSE

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE  
29.12.2022  
Head Assessor  
OFFICE OF THE LD. ESTATE  
SYAMA PRASAD MOOKERJEE

2

: 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 @ 6.90 % 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. HL-273**

The said piece or parcel of land msg. about 103.772 sq.m or thereabouts is situate at Foreshore Road, Ramkristopur, Howrah Shibpur, Thana-Shibpur, Dist & Registration District-Howrah. It is bounded on the **North** by the Trustees' passage, on the **East** by the Trustees' strip of open land alongside Trustees land occupied by M/s. Tide Water Oil Co.(I) Ltd, on the **South** by the Trustees land occupied by Satyadeo Singh and on the **West** by the Trustees' strip of open land alongside Foreshore Road. Trustees' means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata).

Date 13.12.2022 .

  
Signature & Seal of the  
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  
Head Assistant  
213.12.22  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

COPY FORWARDED TO THE ESTATE MANAGER, SYAMA PRASAD MOOKERJEE PORT,  
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. 1595, 1595/R, 1595/D of 2017 Order Sheet No. 32

**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**VS**

**ESTATE TRIBENI SINGH REPRESENTED BY LEGAL HEIRS**

**FINAL ORDER**

The instant proceedings No. 1595, 1595/R & 1595/D of 2017 arose out of an application being No. Lnd. 3762/2/II/14/770 dated 12/06/2014 filed by Syama Prasad Mookerjee Port Kolkata (erstwhile Kolkata Port Trust/KoPT) hereinafter referred to as SMPK, the Applicant herein, praying for an order of eviction and recovery of arrear rent, taxes, compensation along with interest etc. Against **Estate Tribeni Singh, represented by his legal heirs namely Chandrima Debi (Widow of Late Tribeni Singh), since deceased, Sri Dasarath Singh (Son), Sri Uday Narayan Singh (Son) & Sri Ramadhar Singh (Son), the O.P. herein, under relevant provisions of the Public Premises (Eviction of Unauthorised Occupant) Act 1971. The facts of the case is summarised here under.**

O.P. came into occupation of the Port property being Land measuring about 103.772 Sq.m or thereabout situated at Foreshore Road, Ramkristopur, Howrah (under Plate No. HL-273) as monthly licensee on payment of monthly rent on certain terms and conditions as embodied in SMPK's offer letter. SMPK has submitted that while in possession of the Port property as licensee, O.P. violated the condition for such licence by way of not making the payment of licence fees/rental dues to SMPK for use and enjoyment of the Port property in question the details of which has been given in 'Schedule-B' of the SMPK's application dated 12.06.2014.

It is the case of SMPK that in gross violation of the terms of said tenancy O.P. has also unauthorisedly parted with possession of the subject premises to third parties, carried out unauthorised construction, changed the purpose of such lease and further amalgamated with the adjacent plot of land previously allotted to Sri Probodh Kumar Basu Mullick without having any permission from SMPK.

It is the case of SMPK that in view of the aforesaid breaches committed by the O.P., SMPK had issued notice of revocation of licence in terms of quit notice dated 18.07.1984 asking the O.P. to hand over clear, vacant, peaceful and unencumbered

31  
08.12.2022

By Order of:

THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

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

18.12.22  
Head Assistant

OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

2



# 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

Proceeding No. 1595, 1595/R, 1595/D of 2017 Order Sheet No. 33

**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**VS**

**ESTATE TRIBENI SINGH REPRESENTED BY LEGAL HEIRS**

31

08.12.2022

possession of the property to SMPK on 01.10.1984. SMPK submits that O.P. has no authority under law to occupy the public premises after revocation of licence and was required to hand over the possession of the property in question to SMPK on 01.10.1984 as required under the notice for revocation of such Licence dated 18.07.1984. It is the case of SMPK that O.P. is in wrongful occupation in the public premises on and from 01.10.1984 and is liable to pay compensation charges/mesne profits for unauthorized use and occupation of the Port Property in question.

Considering the submission advanced by SMPK 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 02.02.2018 (vide Order No.4 dated 02.02.2018) were issued by this forum to O.P. The Notice/s were issued in terms of the said provisions of the Act calling upon the O.P. 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 O.P. appeared before this Forum through their representative and contested the case and filed several applications/objections. It further appears that during the course of hearing the cause title of instant proceeding was amended by the Forum vide its order dated 23.02.2018 for continuation of the proceeding as Estate Tribeni Singh represented by his legal heirs and O.P. thereafter filed their reply to the Show Cause Notice on 06.04.2018. SMPK on the other hand, filed their comments dated 07.01.2022 in response to the reply to Show cause filed by O.P.

The main contentions of O.P. can be summarized as follows:-

- 1) The Proceeding under objection is not maintainable both in law and in fact.

By Order of:  
THE ESTATE OFFICER,  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER,  
SYAMA PRASAD MOOKERJEE PORT  
13-12-22  
A. P. Dasgupta  
Chief 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

Receiving No. 1595, 1595/R, 1595/O of 2017 Order Sheet No. 34

**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**VS**

**ESTATE TRIBENI SINGH REPRESENTED BY LEGAL HEIRS**

31  
08.12.2022

- 2) The proceeding is hopelessly not maintainable as the same is initiated against a dead person in inspite of the knowledge of the death of the tenants.
- 3) That the alleged notice dated 02.02.2018 is totally illegal, invalid, insufficient and not binding upon the addressees.
- 4) The Land Manager has no locus standi to give the alleged Notice dated 02.02.2018.
- 5) The alleged notice dated 02.02.2018 was never served upon the addresses and no proper and legal notice to quit ever been sent to the tenants.
- 6) The present objector or his predecessor-in interest never violated any fundamental conditions for grant of tenancy under licence or never failed or neglected to pay their rental dues to SMPK(read as SMPK).
- 7) The present objector or his predecessor- in interest have never encroached upon SMPK's Property and never parted with possession of such property unauthorisedly.
- 8) This objector or his predecessor in interest have never been declared as unauthorised and the lawful grant of tenancy has/have never been terminated by the competent authority therefore, the question of alleged delivery of possession does not arise.
- 9) O.P/objector is ready to pay all arrears of rent in respect of such property in easy instalment.
- 10) The alleged claim of the port authority is totally illegal, invalid, exaggerated and SMPK has no occasions to charge the said alleged amount to the tenants/lessees.

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
13.12.22  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

Referring to the contentions, the Estate Tribeni Singh, represented by legal heirs/O.P. has prayed for dismissal of the instant proceeding in limini.

SMPK, the Petitioner, argued that the instant Matter is very much maintainable in the eye of law. Upon receipt of the show cause Notice/s, O.P themselves appeared before this Forum and stated their stand regarding their relationship with 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

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS  
ESTATE TRIBENI SINGH REPRESENTED BY LEGAL HEIRS

31  
08.12.2022

deceased Tribeni Singh. During the course of hearing further O.P has admitted their breaches and prayed for regularisation of their erstwhile tenancy upon liquidation of their all outstanding dues and accordingly, liberty was given to them to liquidate such arrear dues. A joint inspection was conducted on 17.04.2018 wherein no encroachment upon SMPK's vacant land was found however, such joint inspection revealed that the entire premises was used by O.P for his residential purposes by erecting some RTR structure. Regarding the payment of SMPK's dues a joint reconciliation of accounts was conducted and its report was submitted before the Forum on 17.08.2018 and upon O.P's prayer SMPK gave liberty to O.P to pay of all outstanding dues including penalty for unauthorised construction in monthly instalment but O.P had miserably failed to liquidate such dues and continued to occupy the subject premises wrongfully.

Now, while passing the Final Order, after carefully considered the documents on record and the submissions of the parties, I find that following issues have come up for my adjudication:

- I) Whether the proceedings is maintainable against O.P. or not;
- II) Whether the plea taken by O.P. regarding non-service of notice for revocation of licence in terms of Quit Notice dated 18.07.1984 has got any merit in determining the point at issue or not;
- III) Whether the ejectment notice dated 18.07.1984, demanding possession from O.P. issued by the Land Manager (I/C) SMPK is without authority or not;
- IV) Whether O.P. is in default of making payment of licence fees/rental dues to SMPK or not;
- V) Whether SMPK's statement/allegation regarding unauthorized construction by O.P. has got any merit or not;
- VI) Whether O.P. violated the condition of tenancy under monthly term licence by way of utilizing 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  
Head Assis'tant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
2-13-22



**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. 1595, 1595/R, 1595/D of 2017 Order Sheet No. 36

**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**VS**  
**ESTATE TRIBENI SINGH REPRESENTED BY A LEGAL HEIRS**

31  
08.12.2022

property for residential purposes instead of the actual purpose of the licence or not;

- VII) Whether O.P. has made any encroachment upon SMPK's land or not;
- VIII) Whether the notice for revocation of licence, demanding possession from O.P. by the Port Authority dated 18.07.1984 is valid and lawful or not;
- IX) Whether O.P. is liable to pay damages for unauthorized use and enjoyment of the Port Property or not;

With regard to **issue No.I**, I must say that the properties owned and controlled by the Port Authority has been declared as "public premises" by the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and Section-15 of the Act puts a complete bar on Court's jurisdiction to entertain any matter relating to eviction of unauthorized occupants from the public premises and recovery of rental dues and/or damages, etc. SMPK has come up with an application for declaration of O.P's status as unauthorized occupant in to the public premises with the prayer for order of eviction, recovery of rental dues and damages against O.P. on the plea of revocation of licence or determination of lease or termination of authority to occupy the premises as earlier granted to O.P. in respect of the premises in question. So long the property of the Port Authority is coming under the purview of "public premises" as defined under the Act, adjudication process by serving Show Cause Notice/s u/s 4 & 7 of the Act is very much maintainable and there cannot be any question about the maintainability of proceedings before this Forum of Law. In fact, proceedings before this Forum of Law is not statutorily barred unless there is any specific order of stay of such proceedings by any competent court of law. To take this view, I am fortified by an unreported judgment of the Hon'ble High Court, Calcutta delivered by Hon'ble Mr. Justice Jyotirmay Bhattacharya on 11.03.2010 in Civil Revisional Jurisdiction

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  
2-13-22



# 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. 1595, 1595/R, 1595/D of 2017 Order Sheet No. 37

**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**VS**

**ESTATE TRIBENI SINGH REPRESENTED BY LEGAL HEIRS**

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(Appellate Side) being C.O. No. 3690 of 2009 ( M/s Reform Flour Mills Pvt. Ltd. -Vs- Board of Trustees' of the Port of Calcutta) wherein it has been observed specifically that the Estate Officer shall have jurisdiction to proceed with the matter on merit even there is an interim order of statusquo of any nature in respect of possession of any public premises in favour of anybody by the Writ Court.

Relevant portion of the said order is reproduced below:

"In essence the jurisdiction of the Estate Officer in initiating the said proceedings and/or continuance thereof is under challenge. **In fact, the jurisdiction of the Estate Officer either to initiate such proceedings or to continue the same is not statutorily barred.** As such, the proceedings cannot be held to be vitiated due to inherent lack of jurisdiction of the Estate Officer.

The bar of jurisdiction, in fact, was questioned because of the interim order of injunction passed in the aforesaid proceedings".

Hon'ble Division Bench of Calcutta High Court had the occasion to decide the jurisdiction of the Estate Officer under P.P. Act in Civil Appellate Jurisdiction being MAT No.2847 of 2007 (The Board of Trustees of the Port of Kolkata and Anr -vs- Vijay Kumar Arya & Ors.) reported in Calcutta Weekly Note 2009 CWN (Vol.113)-P188 The relevant portion of the judgment (Para-24) reads as follows:-

"The legal issue that has arisen is as to the extent of Estate Officer's authority under the said Act of 1971. While it is an attractive argument that it is only upon an occupier at any public premises being found as an unauthorized occupant would he be subject to the Estate Officer's jurisdiction for the purpose of eviction, the intent and purport of the said Act and the weight of legal authority that already bears on the subject would require such argument to be repelled. Though the state in any capacity cannot be arbitrary and its decisions have

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Head Assistant  
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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

U/S 3 OF P.P. ACT  
ACT NO 40 OF 1971  
CENTRAL GOVT.  
PROCEEDINGS NO.

1595, 1595R, 1595D/01 2017 Order Sheet No. 38

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always to be tested against Article 14 of the Constitution, it is generally subjected to substantive law in the same manner as a private party would be in a similar circumstances. That is to say, just because the state is a Landlord or the state is a creditor, it is not burdened with any onerous covenants unless the Constitution or a particular statute so ordains"

In view of the authoritative decisions as cited above, I have no hesitation in my mind to decide the issue in affirmative that is to say this Forum of Law has absolute authority under law to adjudicate upon the issues relating to the Public Premises in question.

I also find no merit to the contentions regarding non-service of notice of revocation of license as raised by O.P. in **issue No.II**. It has been held by the Hon'ble Calcutta High court that a demand for possession of the land is not a pre-condition of the revocation or filing a suit for eviction of licensee (AIR 1971 CAL 435 - Soyambari -vs- Dwiypada). Institution of this proceedings against O.P. by the Port Authority for recovery of possession is sufficient demonstration of SMPK's intention to get back possession and a license unlike a lease can be revoked without prior notice. It is not necessary for the licensor to countermand his license to effectuate revocation. It will stand revoked if the licensor does any act which shows the determination for example where the licensor files a suit for possession against the licensee (AIR 1956 CAL 79,82 DB-Ragupati Roy -vs- Dabu Karmakar). Moreover, after accepting the notice of revocation of licence dated 18.07.1984, no right sustains in O.P's favour to object or raise any dispute regarding such notice.

In view of the discussion as aforesaid, the issue is decided against O.P.

Regarding the **issue No.III** i.e on the validity of Quit Notice issued by the Land Manager (I/C), I must say that the Land Manager(I/C) of Syama Prasad Mookerjee Port, Kolkata is very much competent to serve ejection notice, acting on behalf of the Board of Trustees' of the Syama Prasad Mookerjee Port

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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. 1595, 1595R, 1595D of 2017 Order Sheet No. 39

**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

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Kolkata, particularly when specific approval of the Chairman, SMPK is obtained before serving such notice. The Land Manager, SMPK is merely communicating the decision of the Chairman, SMPK and such ministerial act on the part of the Land Manager cannot be said to be out of jurisdiction. I am also of the view that the Land Manager(I/C), SMPK has acted as an agent of Board of Trustees' of the Syama Prasad Mookerjee Port Kolkata and such act cannot be questioned by O.Ps. on the plea of "incompetency". To take this view, I have borrowed my support from the decision of the Division Bench of Calcutta High Court delivered on 28.01.2013 by their Lordship Hon'ble Mr. Justice Girish Chandra Gupta and Hon'ble Mr. Justice Tarun Kumar Dutta in A.P.O. No. 108 of 2010 (Kolkata Port Trust -Vs- M/s Universal Autocrafts Pvt. Ltd. &Anr.). It may be re-called that service of notice, determining a tenancy under lease by the Land Manager, SMPK was the subject matter of challenge before the Hon'ble High Court, Calcutta and the Division Bench of Calcutta High Court confirmed that Land Manager is very much competent in serving ejectment notice on behalf of Board of Trustees of the Port of Kolkata. The matter regarding competency in serving of ejectment notice on behalf of Board of Trustees of the Syama Prasad Mookerjee Port, Kolkata went upto the Apex Court of India and the Hon'ble Apex Court by its judgment and order dated 16.04.2014 (In SLP (Civil) No.18347/2013-Sidhartha Sarawgi -Versus- Board of Trustees for the Port of Kolkata and Others With SLP (Civil) Nos.19458-19459/2013- Universal Autocrafts Private Limited and Another -versus-Board of Trustees for the Port of Kolkata and others) etc. upheld the authority of the Land Manager/Officer of Syama Prasad Mookerjee Port, Kolkata in serving ejectment notice by confirming the judgment of the Division Bench of Calcutta High Court in APO No. 108 of 2010 (Kolkata Port Trust -Vs- M/s Universal Autocrafts Pvt. Ltd. &Anr.). It has been decided by the Hon'ble Apex Court of India that lease/license can be terminated by the same authority who executed the lease/license deed and issuance of notice is a ministerial act for implementation. The Chairman, SMPK having duly authorized

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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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**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

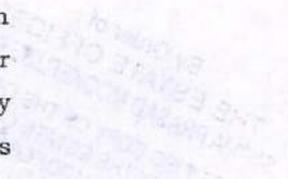
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the Land Manager with regard to service of notice, it cannot be said that ejection notice issued by the Land Manager, SMPK is without jurisdiction. On the same score, allegation of incompetency against the Officer-on-Special Duty for instituting the instant proceedings against the O.P., does not and cannot survive.

As regards the **issue No.IV** i.e on the claim of SMPK on account of arrear licence fees/rent for a particular period is never denied by O.P. by producing any paper/document like receipts for payment for the relevant period. Non-payment of arrear licence fees/rent is taken as a ground for serving Show Cause Notice u/s 4 of the Act and Show Cause Notice u/s 7 of the Act specifically indicated the period for which rental dues have fallen in arrear from O.P. No case has been made out by O.P. throughout the proceedings that they have already paid the rental dues for the relevant period. It is argued by O.P that such claim of SMPK is without jurisdiction and has no basis. Admittedly, a licence on month to month basis was granted to O.P. by the Port Authority on certain terms and conditions which includes a rate for grant of such licence and O.P. continued in occupation of the Port Premises on the basis of such grant. The matter of default in payment of licence fees/rental dues arises during the period 26<sup>th</sup> day of January, 1978 to 30<sup>th</sup> September, 1984. It appears from the submission of SMPK that O.P was intimated their outstanding dues as per the joint reconciliation of accounts and O.P was given liberty to liquidate such outstanding dues on monthly instalments basis but they have failed to liquidate such dues. In my view, such conduct of the O.P. does not inspire any confidence and I am not at all inclined to protect the occupation of the O.P. even for the sake of natural justice. In my considered view, the Port Authority has a definite legitimate claim to get its revenue involved into the Port Property in question as per the SMPK's Schedule of Rent Charges for the relevant period and O.P. cannot claim continuance of its occupation without making payment of requisite charges as mentioned in the Schedule of Rent Charges as applicable for all the tenants/occupiers of the

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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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premises in a similarly placed situation and such Schedule of Rent Charges is notified rates of charges under provisions of the Major Port Trusts Act 1963. Hence, the issue is decided in favour of SMPK.

**Issues no V and VI** are taken up together, as the issues are related with each other. It is made clear that I have not gone into the merit of SMPK's allegations against O.P. regarding carrying out of unauthorized construction as O.P./objectors vide their application dated 08.06.2018 have already admitted the allegation of unauthorised construction as raised by SMPK and expressed their willingness to pay the penal charge. However, as regards the issue of utilizing the property for residential purposes, it is seen from the rejoinder/comment of SMP, Kolkata dated 07.01.2021 that an inspection of the subject public premises was conducted on 17.04.2018 and from such inspection it was found that the entire premises under Plate No.HL-273 had been occupied by O.P. for their residential purposes. Such a submission made by a statutory authority cannot be disbelieved. Moreover, change of purpose of tenancy without the approval of SMPK is also against the spirit of tenancy. Further in my view, utilization of port property for residential purposes is not at all coming under the purview of the permitted purpose clause for allotment of the properties. No case has been made out by O.P. to consider the act of utilizing port property for residential purpose as authorized activity into the premises. As such, O.P.'s utilization of the Port property for residential purposes is the clear violation to the condition of allotment of the properties (violation of purpose clause) and thus both the issues are clearly decided against O.P.

On the question of encroachment of SMPK's property under **Issue No.VII**, I have also not found any merit in SMPK's allegations because the Joint inspection report as submitted by SMPK on 23.04.2018 clearly shows that there was no encroachment on SMPK's land.

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**Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

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**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**VS**

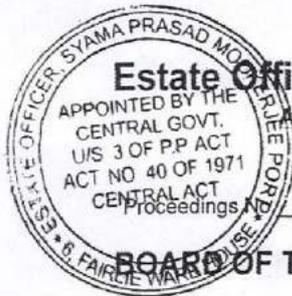
**ESTATE TRIBENI SINGH REPRESENTED BY LEGAL HEIRS**

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Issues No. VIII & IX are taken up together for convenient discussion. In view of the discussion against the foregoing paragraphs, there is no alternative but to hold that the notice for revocation of licence dated 18.07.1984 is valid, lawful and binding upon the parties.

At the cost of reiteration I must say that a licensee like O.P. is bound to pay the monthly demand as licence fees/rent as per demand of SMPK in order to constitute a valid licence in respect of the Property in question and failure on the part of O.P. to comply with the fundamental condition for grant of such licence that is to say non-payment of monthly licence fee is definitely entitled the Port Authority to exercise its right to revoke the licence by due notice to O.P. A monthly licence is continuing on month to month basis on the basis of conduct of both the parties. To clarify the position of a monthly licensee, I must say that O.P. is recognized as a monthly licensee on the basis of renewal of licence by monthly demand and O.P. in turn acknowledges such grant of licence by way of making payment to SMPK on the basis of such demand from SMPK's end. O.P. cannot claim as a licensee without making payment of monthly licence fees on demand from SMPK. As no case has been made out by O.P. with regard to fulfilment of all the conditions of licence in terms of the offer from SMPK, Port Authority is free to take action against O.P. by revoking the licence. In my view, a licensee like O.P. has no right to object or raise any dispute about the SMPK's claim against O.P. for licence fees or rent for occupation and enjoyment of the Port property in question. Licensee like O.P. is holding a very inferior quality of right to occupy the premises that is to say not like a lessee. There is no material to show as to how O.P. can claim its occupation as authorized occupation or subsisting tenancy under licence without receiving or paying any valid demand. The moment, Port Authority decided to stop sending demand/bill to O.P., such act on the part of SMPK is required to be considered under law as unwillingness on the part of the Port Authority to recognize O.P. as licensee in respect of the property in question. Even at the cost of

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# Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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reiteration, I must say that a licensee like O.P. cannot claim its occupation as "subsisting tenancy" without making payment of monthly licence fees for a particular month on evaluation of the factual aspect involved in this matter. True to say that there cannot be any licence without making payment of monthly licence fee and the licence shall be deemed to have been revoked even there is no existence of formal notice for revocation of licence. Hence, I am convinced that there is no merit to the contentions made on behalf of O.P. on the plea of non-receipt of notice for revocation of licence. Moreover, it is the contention of SMPK that notice for revocation of licence has been served upon O.P. followed by stoppage of sending monthly rent demand note. In view of the circumstances, I find no merit to the submissions made on behalf of O.P. regarding O.P's occupation as "authorized occupation" for want of any notice for revocation of licence though notice to quit in question has been identified by SMPK's representative and such notice has been kept and/or maintained by SMPK in its Estate Department in official course of business. I must observe that papers/documents kept regularly in official course of business by a statutory authority like SMPK has a definite probative value of substance.

It is my considered view that O.P's continuance in occupation in the public premises was never consented by the Port Authority as there is no demand for monthly licence fees from O.P. signifying SMPK's assent for such occupation. As per law institution of proceedings/suit is sufficient to express the intention of the landlord and no notice for revocation of licence is necessary to evict a licensee like O.P.

Decisions against the foregoing paragraphs will certainly lead to the conclusion that O.P. is liable to pay damages.

I have deeply gone into the submissions/arguments made on behalf of the parties in course of hearing. The properties of the Port Trust (read as SMPK) are coming under the purview of

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**Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

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**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**VS**  
**ESTATE TRIBENI SINGH REPRESENTED BY LEGAL HEIRS**

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08.12.2022

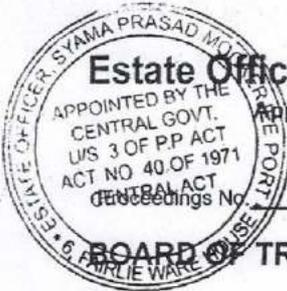
"public premises" as defined under the Act. Now the question arises how a person become unauthorized occupant into such public premises. As per Section 2 (g) of the Act the "unauthorized occupation", in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever. The licence granted to O.P. was undoubtedly revoked by the Port Authority by due service of notice for revocation of licence and institution of proceedings against O.P. by SMPK is a clear manifestation of Port Authority's intention to get back possession of the premises. In fact there is no material to prove O.P's intention to pay the dues/charges to SMPK and all my intention to narrow down the dispute between the parties has failed. In such a situation, I have no bar to accept SMPK's contentions regarding revocation of licence by notice dated 18.07.1984, on evaluation of the facts and circumstances of the case.

"Damages" are like "mesne profit" that is to say the profit arising out of wrongful use and occupation of the property in question. I have no hesitation in mind to say that after expiry of the period as mentioned in the said notice to Quit dated 18.07.1984, O.P. has lost its authority to occupy the public premises, on the evaluation of factual aspect involved into this matter and O.P. is liable to pay damages for such unauthorized use and occupation. To come into such conclusion, I am fortified by the decision/observation of the Hon'ble Supreme Court in Civil Appeal No.7988 of 2004, decided on 10<sup>th</sup> December 2004, reported (2005)1 SCC 705, para-11 of the said judgement reads as follows.

Para:11- under the general law, and in cases where the tenancy is governed only by the provisions of the Transfer of Property Act 1882, once the tenancy comes to an end by

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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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determination of lease u/s.111 of the Transfer of Property Act, the right of the tenant to continue in possession of the premises comes to an end and for any period thereafter, for which he continues to occupy the premises, he becomes liable to pay damages for use and occupation at the rate at which the landlord would have let out the premises on being vacated by the tenant. ....

Undoubtedly, the tenancy under licence is governed by the principles/provisions of the Indian Easement Act and there is no scope for denial of the same. Though the status of a "licencee" is entirely different from the status of a "lessee", the principle established by the Hon'ble Apex Court of India in deciding any question about "damages" in case of a "lease" may be accepted as guiding principle for determining any question about damages in case of a "licence".

In course of hearing, the representative of SMPK states and submits that Port Authority never consented in continuing O.P's occupation into the public premises and never expressed any intention to accept O.P as tenant. It is contended that SMPK's intention to get back possession is evident from the conduct of the Port Authority and O.P. cannot claim its occupation as "authorized" without receiving any rent demand note. The licence was doubtlessly revoked by the landlord by notice, whose validity for the purpose of deciding the question of law cannot be questioned by O.P. Therefore, there cannot be any doubt that the O.P. was in unauthorized occupation of the premises, once the licence was revoked. In my opinion, institution of this proceedings against O.P. is sufficient to express the intention of SMPK to obtain an order of eviction and declaration that SMPK is not in a position to recognize O.P. as tenant under monthly licence.

The Port Authority has a definite legitimate claim to get its revenue involved into this matter as per the SMPK's Schedule

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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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of Rent Charges for the relevant period and O.P. cannot claim continuance of its occupation without making payment of requisite charges as mentioned in the Schedule of Rent Charges. To take this view, I am fortified by the Apex Court judgment reported in JT 2006 (4) Sc 277 (Sarup Singh Gupta - Vs- Jagdish Singh & Ors.) wherein it has been clearly observed that in the event of termination of lease the practice followed by Courts is to permit landlord to receive each month by way of compensation for use and occupation of the premises, an amount equal to the monthly rent payable by the tenant. In course of hearing, it is submitted on behalf of SMPK that the charges claimed on account of damages is on the basis of the SMPK's Schedule of Rent Charges as applicable for all the tenants/occupiers of the premises in a similarly placed situation and such Schedule of Rent Charges is notified rates of charges under provisions of the Major Port Trusts Act 1963. In my view, such claim of charges for damages by SMPK is based on sound reasoning and should be acceptable by this Forum of Law. As per law, when a contract has been broken, the party who suffers by such breach is entitled to receive, from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract to be likely to result from the breach of it. I have no hesitation to observe that O.P's act in continuing occupation is unauthorized and O.P. is liable to pay damages for unauthorized use and occupation of the Port property in question upto the date of delivering vacant, unencumbered and peaceful possession to SMPK. With this observation, I must reiterate that the ejection notice, demanding possession from O.P. as stated above has been validly served upon O.P. in the facts and circumstances of the case and such notice is valid, lawful and binding upon the parties. In view of the discussions above, the issues are decided in favour of SMPK.

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**SYAMA PRASAD MOOKERJEE PORT**



# Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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NOW THEREFORE, in view of the discussion above against foregoing issues, I am left with no other alternative but to issue order of eviction u/s 5 of the Act against O.P. for the following reasons/grounds;

1. That the contentions on behalf of O.Ps regarding non-maintainability of the proceedings have got no merit in the facts and circumstances of the case.
2. That O.P's contention regarding non-receipt of ejectment notice dated 18.07.1984 has no support of law on evaluation of factual aspect involved in this matter.
3. That O.P. has defaulted in making payment of monthly licence fees/rental dues to SMPK in gross violation to the condition for grant of tenancy under monthly term licence.
4. That Land Manager(I/C), SMPK is authorized by the Board of Trustees of the Port of Kolkata(Now Syama Prasad Mookerjee Port, Kolkata) for service of ejectment notice to O.P. and O.P's contention regarding incompetency of service of ejectment notice by the Land Manager(I/C), SMPK has got no merit.
5. That O.P. has violated the condition of tenancy under licence by way of using the property other than the purpose as specified in the licence agreement.
6. That O.P. has erected unauthorised constructions on the subject occupation without having any authority of law.
7. That O.P. has failed to bear any witness or adduce any evidence in support of its "Authorised Occupation".
8. That notice for revocation of licence dated 18.07.1984 issued by the Port Authority to O.P., demanding possession is valid, lawful and binding upon the parties.
9. That O.P's occupation has become unauthorized in view of Sec.2 (g) of the P.P. Act.

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**Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

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08.12.2022

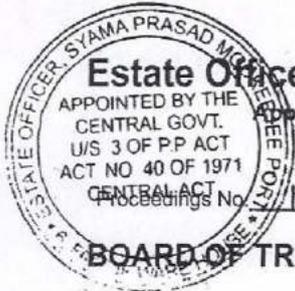
10. That O.P. is liable to pay damages for its wrongful use and enjoyment of the Port Property upto the date of handing over of clear vacant and unencumbered possession to SMPK.

Accordingly, I sign the formal order of eviction under Sec. 5 of the Act as per Rules made thereunder, giving 15 days time to O.P. 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 as their occupation into the Public Premises is/are unauthorised in view of sec. 2(g) of the Act. SMPK is directed to submit a comprehensive status report of the Public Premises in question on inspection of the property after expiry of the 15 days as aforesaid so that necessary action could be taken for execution of the order of eviction u/s. 5 of the Act as per Rule made under the Act.

It is my considered view that a sum of Rs.2,653/- (Rupees Two thousand six hundred fifty three only) for Plate No.HL-273 for the period from 26.01.1978 to 30.09.1984 (both days inclusive) is due and recoverable from O.P. by the Port authority on account of licence fees/rental dues and O.P. must have to pay such dues to SMPK on or before 29.12.22. Such dues attract compound interest @ 6.90 % 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 SMPK's books of accounts.

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  
THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

Likewise, I find that SMPK has made out an arguable claim against O.P., founded with sound reasoning, regarding the damages/compensation to be paid for unauthorised occupation. As such, I must say that Rs.3,98,993.38 (Rupees Three lakh ninety eight thousand nine hundred ninety three and paise thirty eight only) for the above referred Plate in question as claimed by the Port Authority as damages in relation to the subject premises in question, is correctly payable by O.P. all for the period 01.10.1984 to 30.06.2017



**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. 1595, 1595R, 1595D of 2017 Order Sheet No. 49

**BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

**VS**

**ESTATE TRIBBENI SINGH REPRESENTED BY LEGAL HEIRS**

31  
08.12.2022

(both days inclusive) and it is hereby ordered that O.P. shall also make payment of the aforesaid sum to SMPK by ~~29.12.22~~ 29.12.22. The said damages shall attract compound interest @ 6.90% 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 SMPK's books of accounts. I sign the formal orders u/s 7 of the Act.

I make it clear that SMPK is entitled to claim 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 30.06.2017 as well, till such time the possession of the premises continues to be under the unauthorised occupation with the O.P. SMPK is directed to submit a statement comprising details of its calculation of damages after 30.06.2017, 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.

I make it clear that in the event of failure on the part of O.P. to comply with this Order, Port Authority is entitled to proceed further for execution of this order in accordance with law. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

  
(Satyabrata Sinha)  
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 THIS ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
Head Assis. and  
ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT