



# 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. 823, 823/R of 2006 Order Sheet No. 116

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

### VS TEXTILES YARN PVT LIMITED

#### ORDER

The matter is taken up for consideration today. In a nut shell, the instant Proceedings being No.823, 823/R of 2006 had been initiated on the strength of SMPK's application dated 17.02.2006 praying for order of eviction, recovery of dues, taxes and interest etc. from **M/s. Textile & Yarn Pvt. Ltd**, the **O.P.** herein, under the provisions of Public Premises(Eviction of Unauthorised Occupants)Act, 1971. It is the case of SMPK that the O.P. was granted a monthly lease in respect of the public premises in question, measuring about 176.330 sq.m situated on the ground floor of SMPK's building being at premises no.P-221/2, Strand Bank Road in the presidency town of Kolkata(under occupation No.CG-191) and O.P violating the condition of such lease, defaulted in making payment of SMPK's rent and other charges therefore, such lease was determined by SMPK vide its Notice to quit dated 21.12.2005. It is further the submission of SMPK that since O.P. did not hand over clear, vacant, peaceful and unencumbered possession of the property to SMPK on 31.01.2006 O.P.'s occupation is unauthorised and O.P. is liable to pay damages/compensation charges to SMPK upto the date of handing over clear vacant and unencumbered possession to SMPK.

It appears from record that a Show Cause Notice was issued to O.P. both u/s 4 & 7 of the P.P Act-1971 dated 13.09.2006(vide Order No.2 dated 18.08.2006) and O.P contested the matter through Advocate appointed on their behalf. It reveals that the instant proceedings was continued before the Forum for a prolonged period and O.P. liquidated substantial amounts of dues of SMPK. On 06.08.2012, it was submitted by SMPK before the Forum that an amount of Rs. 24 lakh approx. (including interest) was due and payable by O.P. as on that date. The Forum passed an order upon O.P. to clear up at least 50% of the outstanding dues within a month from the date of passing

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10-01-2023

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**



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Proceedings No. 823, 823/R of 2006, Order Sheet No. 117

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

**VS**

TEXTILES YARN PVT LIMITED

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10-01-2023

By Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER  
PREPARED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
*[Signature]*  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

of such order. Challenging the order dated 06.08.2012 O.P. filed a Civil Revisional Application being C.O No.2960 of 2012 before the Hon'ble High Court, Calcutta. The said Revisional Application was thereafter disposed of on 27.08.2013 with a direction to calculate and ascertain the amount of arrear payable by three months from the date of communication of the order after giving opportunity of hearing to both the parties. In consonance with the direction of Hon'ble High Court, Calcutta thereafter the proceeding was again initiated before the Forum and after considering the respective applications and submissions of the contesting parties a Final Order dated 05.05.2014 was passed directing O.P. to pay the outstanding interest amounting to Rs. 19,63,875.75/- calculated upto 09.12.2013. Further liberty was given to SMPK to proceed against O.P. for adjudication of the Show Cause Notice u/s 4 if they fail to pay the interest amount in terms of the said order dated 05.05.2014. O.P being highly aggrieved by the said order preferred another Civil Revisional Application being C.O. No.1769 of 2014 before the Hon'ble High Court, Calcutta and the Hon'ble Court, thereafter, vide its order dated 02.05.2017 set aside the Forum's order dated 05.05.2014 with the observation that the Hon'ble Court did not agree with the Estate Officer's order wherein the Estate Officer had followed the prescribed rate of interest notified in the official gazette in exercise of powers under Major Port Trust's Act and opined that the rate of interest as defined in Section 7(2-A) clearly indicates that the rate of interest should not exceed the current rate of interest as defined in the Interest Act and remitted back the matter to this Forum for fresh consideration in the light of the observation recorded in the order. Direction was also passed for disposal of the instant matter within six weeks from the date of communication of such order. On 15.12.2017, the Forum taking note on the Interest Act-1978 as a guiding



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

**VS**

**TEXTILES YARN PVT LIMITED**

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10-01-2023

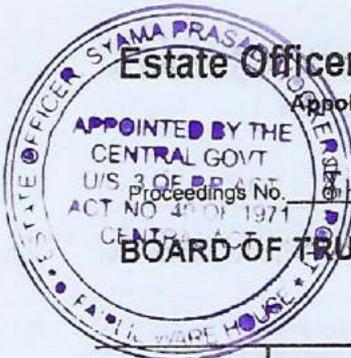
factor directed SMPK to reassess the interest payable @ 9% per annum by O.P. till 09.12.2013. However, the matter was delayed for non ascertainment of rate for a prolonged period. In the said Order SMPK was also directed to clarify whether the amount calculated as above has already been liquidated by O.P or not. Thereafter SMPK filed an application on 04.05.2018 claiming Rs. 6,63,399.07 from O.P. however, O.P raising certain dispute with regard to the adjustment of excess payment made by them filed a contrary application on 25.06.2018. Considering O.P's submission the issue of excess payment was resolved by the Forum on 31.10.2019.

It further appears that as per the Order of this Forum dated 31.10.2019, O.P was directed to pay Rs.6,61,418.07 on account of interest in three equal monthly instalments commencing on and from December, 2019 to SMPK by 15<sup>th</sup> day of every month along with the direction to liquidate the entire amount by 15.02.2020. In the event of failure to pay any of the instalment in the manner as aforesaid, SMPK would be at liberty to proceed for adjudication of Show Cause Notice u/s 4 of the Act. The relevant portion of such order is reproduced below:

"... O.P is directed to pay Rs.6,61,418.07(Rs.63,399.07- minus Rs.1981/-) to KoPT in three equal monthly instalments commencing on and from December,2019. O.P should pay the instalments to KoPT by 15<sup>th</sup> day of of every month and the full amount should be liquidated by O.P by 15.02.2020.

I make it clear that the payments shall be made by O.P to KoPT by way of Demand draft/pay order drawn on Nationalised Bank. Liberty is given to KoPT to proceed for adjudication of the Show Cause Notice u/s 4 of the Act in the event of failure of O.P in payment of any of the instalments in the manner as aforesaid."

By Order of:  
THE ESTATE OFFICER  
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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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Proceedings No. 23, 823/R of 2006 Order Sheet No. 119

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Now SMPK's submission made before the Forum on 17.08.2021 and application dated 05.10.2021 filed by them confirms that O.P had already liquidated the aforesaid amount dues to SMPK within the stipulated period and in the manner as directed by the Forum vide order dated 31.10.2019. This indicates their honest gesture towards liquidation of dues/charges as claimed by SMPK in terms of the aforesaid order passed by this Forum of Law on 31.10.2019.

It has also received my attention that SMPK vide their application/s dated 13.04.2021 again raised a contradictory claim of principal dues till March 2021 and a prayer for inclusion of two additional grounds i.e unauthorised construction and unauthorised subletting as ground for eviction of O.P. Such claim of SMPK was further reiterated in their application dated 21.12.2022.

NOW THEREFORE, what emerges from the records, that besides non-payment, SMPK presses their prayer for eviction of O.P. also on the ground of unauthorised construction and unauthorised subletting. It is seen from records that quit notice dated 21.12.2005 was issued to O.P. on the sole ground of non payment of rent and taxes. SMPK as on date cannot revise their claim stating the fresh grounds of eviction. I am not inclined to pass any order upon the submission of SMPK made on the application dated 13.04.2021 and 21.12.2022, because such claim of SMPK is contradictory and also against the principles of natural justice. Since the inception of the instant Proceedings, non payment of dues/charges was the only cause of action on the part of SMPK against O.P. This forum had already passed relevant order in this regard on 31.10.2019 which has been stated above. Such dues/charges have already been paid up by O.P. in compliance of the order passed by the Forum. Having regard to the conduct of O.P. regarding payment of

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KOLKATA  
HEAD ASSISTANT  
OFFICE OF THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
KOLKATA



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

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

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dues/charges as payable to SMPK, this Forum cannot overlook the fact as it is very much pivotal to decide the instant matter in question. As the O.P has complied the Order and there is no further case of SMPK.

Therefore, the matter is referred back to the Estate Division, SMPK. Liberty is given to SMPK to initiate fresh proceedings against O.P, if so desired, in accordance with law.

Let a certified copy of the order be served upon Syama Prasad Mookerjee Port, Kolkata (erstwhile Kolkata Port Trust) through the Estate Manager, SMPK for action. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

(Sayan Sinha)  
ESTATE OFFICER

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

B. Order of:  
THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT

CERTIFIED COPY OF THE ORDER  
PASSED BY THE ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT  
*[Signature]*  
Head Assistant  
OFFICE OF THE LD. ESTATE OFFICER  
SYAMA PRASAD MOOKERJEE PORT