

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. 763/D OF 2006
REASONED ORDER No. 101 DATED: 27/03/2023

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. Hopes Metal Industries (India) Ltd.,
P-23, Transport Depot Road,
Kolkata-700 088
AND ASLO
P-3, Transport Depot Road,
Kolkata-700 088.

By Order of :
THE ESTATE OFFICE
SYAMA PRASAD MOOKERJEE

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE
Head Assistant
OFFICE OF THE LD/ESTATE OFFICER
SYAMA PRASAD MOOKERJEE

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.99 dated 25.08.2022 you were called upon to show cause on/or before 05.09.2022 why an order requiring you to pay damages of Rs. 21,05,29,794.00 (Rupees Twenty-One Crore Five Lakh Twenty-Nine Thousand Seven Hundred and Ninety-Four and zero 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. 21,05,29,794.00 (Rupees Twenty-One Crore Five Lakh Twenty-Nine Thousand Seven Hundred and Ninety-Four and zero paise only) for Plate No. D-343/4/B, being total amount including Principal Compensation @ 3xSoR and accrued interest as on 22.07.2022 on account of compensation charges/damages from 16.08.2005 to 24.05.2022 (both days inclusive) to Statutory Authority (Kolkata Port Trust) by **14.04.2023**.

// 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 @ 7.50% 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.101 dated 27.03.2023 is attached herewith.

By Order of :

THE ESTATE OFFICER

SYAMA PRASAD MOOKERJEE PORT

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.

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

SCHEDULE-I

The said piece or parcel of land measuring about 10115.465 sq. mtrs or thereabouts which is situated at Transport Depot Road, Thana-Taratata Police Station, Kolkata, Dist-24 Parganas (South) Registration Dist-Alipore, under Plate No.343/4/B. It is bounded on the North partly by the Trustees' Land occupied by M/s. Universal Autocrafts (P) Ltd. and partly by Transport Depot Road, on the East by the Trustees' Land occupied by Post and Telegraph, on the South partly by the Trustees' Land occupied by Post and Telegraph and partly by the Mosque and on the West partly by the Trustees' Railway Siding and partly by the Mosque.

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

Dated: 27.03.2023



Signature & Seal of the Estate Officer.

Ayaz
27/03/2023

COPY FORWARDED TO THE ESTATE MANAGER (I/C)/CHIEF LAW OFFICER, SYAMA PRASAD MOOKERJEE PORT, KOLKATA.

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. 763, 763/R, 763/D Of 2006 Order Sheet No. 130

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/s. HOPES METAL INDUSTRIES INDIA LTD

FINAL ORDER

The instant proceedings number 763/D of 2006 arises out of the application bearing No.Lnd.4367/VI/22/ dated 30.05.2022 and another application bearing No. Lnd.4367/1/VI/Loose/22/2522 dated 19.08.2022, 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 outstanding dues on account of compensation /damages @3xSoR as payable by O.P. for the respective periods, i.e. from 16.08.2005 to 24.05.2022 (both days inclusive) till taking over the possession on 24.05.2022, in respect of the public premises as defined in the schedule of the said application against **M/s. HOPES METAL INDUSTRIES (INDIA) 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 19.08.2022, that in the pending PP Appeal No.11 dated 2022, there is no Stay Order restraining realisation of the compensation/damage charges, including accrued interest.

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. 763/D of 2006, within the four corners of PP Act, 1971, as revealed under point-wise in a chronological order.

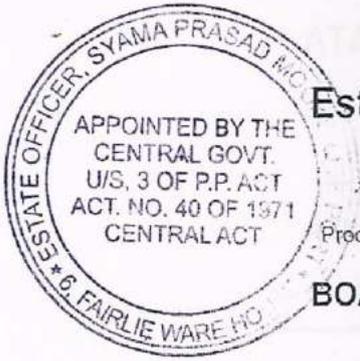
- 1) That in the course of hearing, it was submitted by SMP, Kolkata that O.P. [M/s. **HOPES METAL INDUSTRIES (INDIA) Ltd.**] was allotted a piece of land msg. about 10,115.465 sq. mtrs. situated at Transport Depot Road, Thana-Taratata, Registration District-Alipore, Dist-24 Parganas (South), comprised under Plate No.D-343/4/B, on the strength of a Registered Lease Deed, the lease which was for a period of 30 years, w.e.f. 19.08.1990, without any option of renewal, and also on other

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OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

101
27-03-2023



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. F63, F63/R, F63/D Of 2006 Order Sheet No. 131

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unauthorized parting with the possession to rank outsiders. Prior to such termination of the lease, several reminder letters dated 10.02.2003, 02.04.2003, 03.03.2004 and 12.04.2004 were written to O.P. requesting for liquidation of arrear rent and taxes and to remove other breaches, like unauthorized parting with possession, etc. As O.P. failed to liquidate the arrear rental dues and taxes, and also failed to remove the unauthorized occupants from the subject premises, SMP, Kolkata (then KoPT) thereafter issued Notice to Quit, vacate and deliver up the premises in question to SMP, Kolkata on 16.08.2005, nevertheless, O.P. failed to give back the possession to the Port Authority in terms of the Quit Notice dated 21.07.2005, hence, SMP, Kolkata filed an application being No.Lnd.4367/1/IV/06/362 dated 30.06.2006 before this Ld. Forum praying for eviction and recovery of outstanding dues/charges payable by O.P., as O.P. had no authority or rather lost its authority to occupy the Public Premises whatsoever under law after the issuance of the Notice to Quit dated 21.07.2005.

- 3) That this Forum of Law formed its opinion to proceed against O.P. under the relevant provisions of the Statute, The Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as the PP Act) and Rules made thereunder, when SMP, Kolkata filed an application being No.Lnd.4367/1/IV/06/362 dated 30.06.2006 before this Ld. Forum praying for eviction and recovery of outstanding dues/charges payable by O.P., and issued Show Cause Notice/s u/s-4, 7(1) and 7(2) of the Act, 1971 dated 04.12.2006. It reveals from the records that M/s. Hopes Metal Industries (India) Ltd., the O.P. herein, duly accepted the Show Cause Notices and filed effective reply to Show Cause Notice dated 16.07.2007, denying all the allegations as made by SMP, Kolkata against O.P. The main contentions are summarised

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[Signature] 28/03/23
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

APPOINTED BY THE
CENTRAL GOVT
U/S. 3 OF P.P. ACT
ACT. NO. 13 OF 1971
CENTRAL ACT

Proceedings No. 763, 763/R. 763/D of 2006 Order Sheet No. 132

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

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- (a) It is the case of O.P. that when the Company was ready and was willing to pay all the rent as may be fair, reasonable and firmed up in accordance with Law; the Notice to Quit dated 21.07.2005 is bad in law.
- (b) It is the case of O.P. that SMP, Kolkata failed to provide the break-up of the rent as may have accrued from time to time on repeated request.
- (c) SMP, Kolkata failed to demand the rent accrued and thereafter cannot demand rent at a belated stage which falls beyond the period of limitation and is barred by the Law of Limitation.
- (d) The schedule of rent is also challenged being enhanced at a massive rate and the same is also being challenged
- (e) It is the case of O.P. that Port Trust cannot fix rent which is higher than the standard rent under the West Bengal Premises Tenancy Act, 1956.

4) That the reply to the Show Cause Notice as filed by O.P. on 16.07.2007 was further countered by SMP, Kolkata by filing rejoinder dated 14.08.2007, and still further filed documentary evidence on 18.02.2007 in the form of Telephone Directory alleging that several occupants are operating from the subject premises. The same was filed in support of their allegation of unauthorized parting with possession. Thereafter O.P. filed an application u/s-114 of the Transfer of Property Act, 1882, before this Ld. Forum praying inter alia relieving O.P. against forfeiture and to allow retaining the possession of the subject premises.

5) That the subject proceeding followed certain Court Cases, which is mentioned in brief under this point.

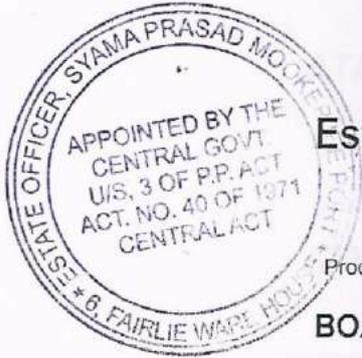
- During continuance and/or pendency of the proceeding, O.P. preferred a Writ Petition bearing No. 19743(W) of 2012 praying for a

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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. 763, 763/R, 763/D of 2006 Order Sheet No. 133

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S, HOPES METAL INDUSTRIES INDIA LTD

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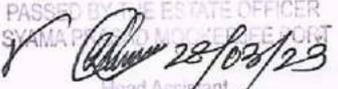
27.03.2023

this Ld. Forum to decide the said application within a month. Thereafter vide Order No.60 dated 25.09.2012 an Order was passed allowing the prayer of SMP, Kolkata for inspection of the subject premises to determine the exact number of unauthorized occupants and only after receiving the joint inspection report, the applicability of Section 114 of the Transfer of Property Act, 1882, would be considered.

- Against the said Order No.60 dated 25.09.2012, O.P. preferred an appeal being Misc. Appeal No.523 of 2012 before the 7th ADJ at Alipore. The said Appeal was dismissed on contest on 03.07.2018, by which the impugned Order No.60 dated 25.9.2012 was affirmed.
- Thereafter O.P. filed a Civil Revision being C.O. No.2591 of 2018 against the Misc. Appeal No.523 of 2012 before the Hon'ble High Court at Calcutta, which was disposed of on 09.10.2018, thereby setting aside the Order dated 03.07.2018 passed by the ADJ, 7th Court at Alipore in Misc. Appeal No.523 of 2012 as the Order from which the said appeal emanates, that is, Order No.60 dated 25.09.2012 as passed by the Estate Officer, SMP, Kolkata and directed the Estate Officer to dispose the application under Section 114 of the Transfer of Property Act, 1882, filed by the petitioners, within one working month from the date of communication of the said Order to the Estate Officer.
- In compliance to the Order dated 09.10.2018 passed by the Hon'ble High Court in connection to C.O. No.2591 read with CAN 7741 of 2018, the application under section 114 of the Transfer of Property Act, 1882,

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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. 763, 763/R, 763/D Of 2006 Order Sheet No. 134

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

m/s, HOPES METAL INDUSTRIES INDIA LTD

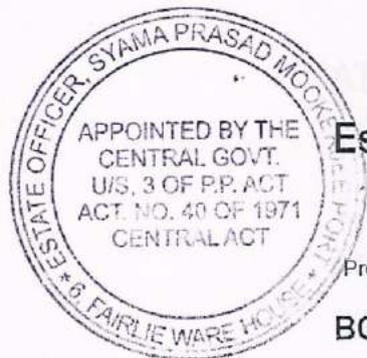
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27-03-2023

High Court, Calcutta, which was pending without any Order of Restraint.

- 6) That after extensive hearing/submissions/arguments made on behalf of both the parties and based on the materials-on-record as submitted by both SMP, Kolkata and O.P., this Ld. Forum initiated Eviction Proceedings against O.P, and brought out nine(9) main issues for adjudication, which are as follows:
- (i) Whether the proceedings under P.P. Act, 1971 is maintainable or not;
 - (ii) Whether the lease is a long term lease or a monthly lease and whether O.P. can claim relief against forfeiture of lease u/s-114 of the Transfer of Property Act, 1882 or not;
 - (iii) Whether O.P. has defaulted in making payment of rental dues to SMP, Kolkata at the time of issuance of the Notice to Quit dated 21.07.2005 or not;
 - (iv) Whether the payments so far tendered by O.P. after issuing Ejectment Notice is the rental amount or occupational/compensation charges;
 - (v) Whether the O.P. has parted with possession of the Public Premises "unauthorizedly" or not;
 - (vi) Whether SMP, Kolkata's Notice to Quit dated 21.07.2005 as issued to O.P. demanding possession from O.P. is valid, lawful or not;
 - (vii) Whether O.P.'s occupation could be termed as "unauthorized occupation" in view of Section 2(g) of P.P. Act, and whether O.P. is liable to pay damages to SMP, Kolkata during the period of its "unauthorized occupation" or not;
 - (viii) Whether the plea taken by O.P. with regard to fixation of "Fair Rent" by the Rent Controller under the West Bengal Premises Tenancy Act, 1987, is valid or not;

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OFFICE OF THE L.D. 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. F63, F63/R, F63/D Of 2006 Order Sheet No. 135

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

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and enjoyment of the Port Property in question or not.

7) 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) Regarding Issue No.1, it was stated that the properties owned and controlled by the Port Authority has been declared as "Public Premises" by the Public Premises (Eviction of unauthorized 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 the unauthorized occupants from the public premises and recovery of the rental dues and/or damages etc. SMP, Kolkata had come up with an application dated 30.06.2006 with a prayer for eviction against O.P. on the ground of termination of the authority to occupy the premises even after the Notice to Quit dated 21.07.2005. So long the property of the Port Authority is coming under the purview of "Public Premises" a 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 Ld. Forum of Law. Hence, the issue was decided in favour of SMP, Kolkata.

(ii) With regard to Issue No.2, this Ld. Forum took the help of the judgement of the Hon'ble Karnataka High Court reported in AIR 2006 Kart 295, where it was decided that where lease was for a period beyond one year and the same was created by an unregistered

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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. 763.763/R.763/D Of 2006 Order Sheet No. 136

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S. HOPES METAL INDUSTRIES INDIA LTD

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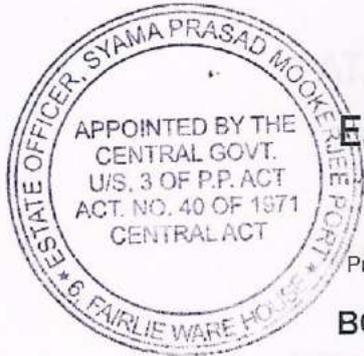
parties enter into a contract then every word stated therein has to be given its due meaning. Further it was seen that O.P. did not produce any records to support that they had approached SMP, Kolkata for execution and registration of the Deed of Lease, which was so essential for the creation of lease hold right and interest for 30 years, w.e.f. 19.08.1990 as per law. Hence, O.P. could not defend its possession as "authorized occupant" without performing the duties and responsibilities as assigned on the basis of the agreement for lease between the parties. The contention of O.P. also could not hold much water as Port Property, being the "Public Premises" governed by the P. P. Act, 1971 defined "unauthorized occupation" as per Section 2(g) of the P.P. Act, 1971. Hence the second issue was also decided against O.P

(iii)

Both the Issues No.3 & 4 were taken up together by this Ld. Forum. The correspondences as raised by SMP, Kolkata, during the course of hearing dated 10.02.2003, 09.04.2003, 03.03.2004 and 12.04.2004 clearly indicates that O.P. was not paying rent along with taxes, which compelled SMP, Kolkata to issue Notice to Quit dated 21.07.2005. It was seen from a letter dated 10.09.2007, addressed to the Land Manager, SMP, Kolkata, where O.P. had admitted that rental dues/charges were due and payable and that they were willing to pay the current rent at the existing rate of interest. Such admission was enough to prove the issue in favour of SMP, Kolkata. In view of Issue No.4, this Ld. Forum had taken into consideration the periodical payments which O.P. tendered after issuance of the Ejectment Notice and which SMP, Kolkata adjusted against the outstanding dues/charges which were also reflected in the Statement of Books

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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. 763, 763/R, 763/D Of 2006 Order Sheet No. 137

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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were being raised as Bills of Compensation, and not as Rent Bills. Therefore, any payments made by O.P. are the compensation charges/occupational charges for unauthorized occupation of the said premises by O.P. As such this issue was also decided in favour of SMP, Kolkata.

(iv) With regard to Issue No.5, it was the specific case of SMP, Kolkata that O.P. had parted with the possession of the Public Premises to rank outsiders in clear violation of the terms and conditions of the lease in question. In support of SMP, Kolkata's allegations, they also had produced the Calcutta Telephone's (BSNL) Web Directory which shows certain names and organizations that were operating from the subject premises involved in the instant proceeding being Transport Depot Road on the Trustees' Land under Plate No. D-343/4/B. This clearly left with no hesitation to decide the issue in favour of SMP, Kolkata.

(v) Both the Issues 6 & 7 were dealt together. After going through the submissions/arguments made by both the parties, tilted this Ld. Forum to arrive and say that the properties of the Port Trust are coming under the purview of "Public Premises" as defined under the Act. As per Section 2(g) of the Act, the "unauthorized occupation" in relation to any public premises, means the occupation of any person of the public premises without authority and also includes the continuance in occupation by any person of the public premises after the authority under which he was allowed to occupy the premises had expired. The lease granted to O.P. was

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Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 763, 763/R, 763/D of 2006 Order Sheet No. 138

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

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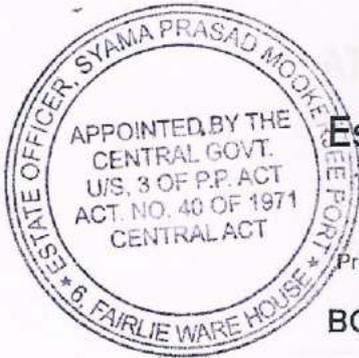
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public premises. In the course of hearing, the representatives of SMP, Kolkata, submitted that Port Authority had never consented in continuing O.P.'s occupation into the said public premises. Hence the Notice to Quit dated 21.07.2005, without doubt, stated O.P. as an "unauthorized occupant", and this Ld. Forum had also pronounced that Port Authority had a legitimate claim to get its revenue as per the Schedule of Rent Charges and O.P cannot claim continuance of its occupation without making payments of requisite charges as mentioned in the Schedule of Rent Charges. Citing a judgment by the Apex Court reported in JT 2006(4) SC 277 (Sarup Singh Gupta -vs- Jagdish Singh & Ors.) it was observed that in the event of termination of lease the practice followed by the Courts is to permit the landlord to receive each month by way of compensation for use and occupation of the premises, with an amount equal to the monthly rent payable by the tenant. Further the claim of damages by SMP, Kolkata is also based on sound reasoning, and O.P. being an "unauthorized occupant" is bound to deliver up vacant and peaceful possession of the Public Premises after expiry of the period as mentioned in the Notice to Quit dated 21.07.2005. As such, the issues were decided in favour of SMP, Kolkata.

(vi) In regard to Issue No.8, this Ld. Forum stated that the Rent Control Act is applicable to "premises" which includes buildings, part of the building, gardens, any furniture supplied by the landlord, any hut, part of the hut, etc., and never deals with fair rent in respect of land. In the instant matter M/s. Hopes Metal Industries India Ltd. was a lessee in respect of land measuring 10115.465 sq. mtrs at Transport Depot Road, and the land was

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dispute, which was again specifically excluded under the Rent Control Act. Moreover, fixation of rent charges in respect of the Port Properties was the subject matter of consideration before the Hon'ble Apex Court of India. The Port Trust Authority from time to time by notification in the Official Gazette fixed the scale of rates on which lands and structures belonging to Port Authority to be let out. In view of the circumstances, this Ld. Forum also put this point in favour of the Port Authority as no merit to the contentions of O.P. regarding fixation of "Fair Rent" by the Rent Controller under the Rent Control Act could be established, and no bar could be imposed on SMP, Kolkata for receiving the rental dues from O.P. as demanded.

(vii) In regard to Issue No.9 regarding time barred claim under the Limitation Act requires serious consideration of the fact and law as well. This Ld. Forum took the references of multiple cases, among them the noted one, i.e. M.P.Steel Corporation -vs.- Commissioner Of Central Excise reported in (2015) 7 SCC 58, had gone to the root of the question regarding applicability of the Limitation Act before the quasi-judicial proceedings. It had taken note of Section 29 of the Limitation Act, 1963, read with Section 25 of the Indian Contract Act, 1872, which definitely comes to play against O.P.'s plea for "time barred" claim under Limitation Act, 1963. In the course of hearing O.P. acknowledged its relationship as debtor and Section 25 of the Contract Act, 1872, debars O.P. to take the plea of "barred by limitation" in the facts and circumstances of the case. Hence, the issue was decided in favour of 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
[Signature] 25/03/23
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. 763.763/R.763/D of 2006 Order Sheet No. 140

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S. HOPES METAL INDUSTRIES INDIA LTD

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Act, Vide Order No.84 dated 06.11.2019, based on the following reasons/grounds:

- (i) That this Ld. Forum of Law is well within its jurisdiction to adjudicate upon the matters relating to eviction and recovery of arrears of rental dues/damages etc. as prayed for on behalf of SMP, Kolkata and the Notice/s issued by this Forum are in conformity with the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971.
- (ii) That in gross violation of the terms and conditions of the subject monthly lease, O.P. has defaulted in making payment the rental dues and taxes as payable to SMP, Kolkata.
- (iii) That O.P. have unauthorizedly parted with the possession of the Public Premises and failed to vacate the premises upon determination of the period as mentioned in the Notice to Quit dated 21.07.2005 as issued by the Port Authority.
- (iv) That O.P. are under obligation to vacate the premises on demand from the Port Authority and O.P.'s act of inducting unauthorized concerned/organization is not at all supported by Law.
- (v) That SMP, Kolkata's Notice to Quit dated 21.07.2005 demanding possession of the Port Property from O.P. is very much valid, lawful and enforceable in the facts and circumstances of the case.
- (vi) That while O.P. was in possession and enjoyment of the Port Property and while O.P. itself acknowledged the jural relationship as debtor to SMP, Kolkata, O.P. cannot take the shield of "time barred claim" under Limitation Act.
- (vii) That O.P. cannot claim relief against forfeiture of the lease in question, in the facts and circumstances of the case.
- (viii) That no case had been made out on behalf of O.P. as to how its occupation in the Public

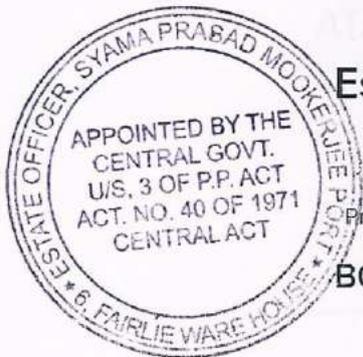
By Order of:

THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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

[Signature] 28/03/23
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. 763, 763/R, 763/D Of 2006 Order Sheet No. 141

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/S. HOPES METAL INDUSTRIES ~~INDUSTRIES~~ INDIA LTD

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27.03.2023

to Quit dated 21.07.2005, demanding possession by the Port Authority.

- (ix) That O.P. had failed to bear any witness or adduce any evidence in support of their contention regarding "authorized occupation" and O.P.'s occupation had been "unauthorized" in view of Section 2(g) of P.P. Act, 1971.
- (x) That O.P.'s occupation has become "unauthorized" in view of Section 2(g) of the P.P. Act, 1971, and O.P. is liable to pay damages for unauthorized use and enjoyment of the Port Property in question upto the date of handing over of clear, vacant, and unencumbered possession to the Port Authority.

9) Thereafter, SMP, Kolkata came up before this Ld. Forum and vide application No.Lnd.4367/VI/22 dated 30.05.2022, representatives of SMP, Kolkata stated that as per Eviction Order No.84 dated 06.11.2029, possession were taken over from O.P. with the help of Police Assistance, on 24.05.2022. Thereafter, considering the submissions and documents as submitted by SMP, Kolkata, in terms of my Order No.98 dated 01.06.2022, and vide Order No.99 dated 25.08.2022, 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, 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 was made aware 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

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Head Assistant
28/03/23
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. 763, 763/R-763/D of 2006 Order Sheet No. 142

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

M/s. HOPES METAL INDUSTRIES INDIA LTD

101

27.03.2023

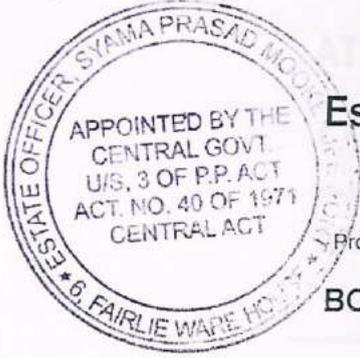
Kolkata that O.P. was asked to pay damages/compensation upto 24.05.2022, as because the subject premises was finally taken over by SMP, Kolkata on 24.05.2022 by the Eviction Order No.78 dated 12/09/2019 as passed by this Ld. Forum. O.P. was also called upon to appear before the Forum in person or through 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. Hopes Metal Industries (India) Ltd., P-23, Transport Depot Road, Kolkata-700 088, AND ASLO P-3, Transport Depot 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 30.08.2022.

10) Thereafter vide Order No.99 dated 25.08.2022, u/s-7 of the PP Act, 1971, Notice was issued with a direction upon O.P. to appear before this Forum for any submission/hearing/production of documents/evidence etc., but neither any response was filed on behalf of O.P nor any positive gesture was shown on the part of O.P. for appearance before this Ld. Forum for their hearing, submission, etc. on the schedule date of hearing. As such I have no bar to accept the claim of SMP, Kolkata on account of compensation charges/damages 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.21,05,29,794.00 (Rupees Twenty-One Crore Five Lakh Twenty-Nine Thousand Seven Hundred and Ninety-Four and zero paise only) for Plate No. D-343/4/B, being total amount including Principal Compensation @ 3 X SoR and accrued interest as

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[Signature] 28/03/23
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. 763, 763/R, 763/D of 2006 Order Sheet No. 143

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS

m/s, HOPES METAL INDUSTRIES INDIA LTD

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(both days inclusive) in respect of the said premises are due and recoverable from O.P by the Port Authority on account of damages and compensation @ 3xSoR and O.P. have to pay such dues to SMP, Kolkata forthwith. Considering the huge amount of compensation charges/damages etc., I find it prudent to allow time till **14th April, 2023** for such payment. Such dues would attract compound interest @ of 7.50% 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 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 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.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
[Signature] 27/03/23

Head Assistant
OFFICE OF THE LD/ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

[Signature]
27/03/2023
(NARGIS YEASMEEN)
ESTATE OFFICER