

1.

EASTERN ZONAL BENCH, KOLKATA, WEST BENGAL
FINANCE CENTRE, 3RD FLOOR, NEW TOWN
MEMORANDUM OF APPLICATION

Original Application No. 104 of 2023/EZ

IN THE MATTER OF:

Subhas Dutta

...Applicant

----VS---

State of West Bengal & Ors

...Respondents

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Paushali Banerjee
Paushali Banerjee

Advocate

7A, Kiron Shankar Roy Road, Kolkata-700001



- 2 -

SL. NO. 32 20.12.2024

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONAL BENCH, KOLKATA, WEST BENGAL
FINANCE CENTRE, 3RD FLOOR, NEW TOWN
MEMORANDUM OF APPLICATION

Original Application No. 104 of 2023/EZ

IN THE MATTER OF:

Subhas Dutta

....Applicant

----VS---

State of West Bengal & Ors

....Respondents

Affidavit on behalf of Syama Prasad Mookerjee Port, Kolkata:

I, Avishek Raut, son of Pradip Kiran Raut, aged about 37 years, by occupation-service, working for gain at Syama Prasad Mookerjee Port Kolkata , do solemnly affirm and say as follows:

1. I state that I am the resolution officer, legal, of, Syama Prasad Mookerjee Port Kolkata

(hereinafter referred to as SMPK) and I have read and understood the Original



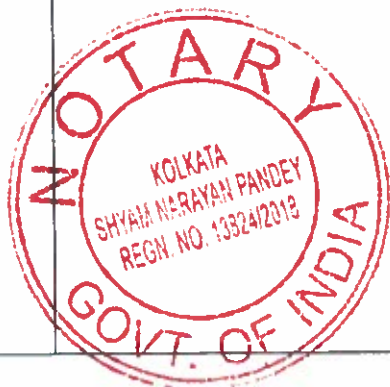
application affirmed by Subhas Dutta. I have been duly authorized by the respondent no.4 to affirm this Affidavit on its behalf and as such I am competent to do so.

2. That it is stated that SMPK is the owner of certain land parcels opposite to the Eastern Railway, Howrah station, Howrah. The area stretches from Riverfront areas of Chandmari Ghat opposite to Howrah railway Station. In and around, the riverfront areas of Chandmarighat opposite to Howrah railway station zone, land parcels/public premises of SMPK approximately msg. about 1766 Sq.mts, were previously allotted to different parties/tenants since 1940. But at present, tenancies of those land parcels/public premises are mostly terminated and Eviction orders were obtained under the provisions of S.2(g) & S.5 of the Public Premises (Eviction of Unauthorised Occupants), Act, 1971.
3. That it is stated states that it is not possible to protect the river banks and river fronts from erosion and decay due to the unauthorised occupants encroaching the river bank, the respective details of encroachment and the status is stated herein below:

Sl.No	Name of the Hotel Unit	Details of occupied SMPK premises (Area & Plate No.)	Name of the erstwhile SMPK tenancy/ Rank outsider	Status



1	M/s. Abhishek Hotel	50.91 Sq.mts HL-24/1 & HL-24/1/1	Udai Bhan Singh	Eviction order passed by Ld. Estate Officer on 10.11.2005 in Proceeding No.348/1999.
2	M/s. Abhishek Hotel	28.15 Sq.mts HL-22 & HL-22/1	Abilakh Singh	Eviction order passed by Ld. Estate Officer on 29.10.2007 in Proceedings No.858 & 865 of 2007. No court case is pending.
3	M/s. Islamia Hotel	20.067 Sq.mts HL-21 & HL-21/1	Estate Karim Bux Khan	Eviction order passed by Ld. Estate Officer on 27.07.2007 in Proceedings No.784 & 785 of 2006. T.S No.151/2021 filed by rank outsider/ unauthorised



				occupant is pending before Howrah Court without any stay order.
4	M/s. Islamia Hotel	23.783 Sq.mts HL-20/A & HL-20/B	Janab Abdul Hosain Md Shabbir Khan	Eviction order passed by Ld. Estate Officer on 13.07.2007 in Proceedings No.832 & 833 of 2006. Misc. Appeal No(s).212 & 213 of 2007 filed by rank outsider are pending before Ld. Howrah Court without any stay order.
14	M/s. Dutta Cabin	77.02 Sq.mts HL-25/1,	Ashit Kumar Dutta &Ors	Eviction order passed by Ld. Estate Officer on



		HL-25/3, HL-25/3/1		12.10.2010 in Proceeding No.640 of 2004. Misc. Appeal No.291/2010 filed by unauthorised occupant is pending before Howrah Court with stay order.
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Details of unauthorised occupant :-

M/s. Hooghly Nadi Jalapath Paribahan Samabay Samity Limited

Details of occupied SMPK premises under Plate No(s). with Area	Details of Eviction Order	Status
SB-536 (481.61 Sq.mts) JS-29 (184.74 Sq.mts) SB-538 (5 Sq.mts) SB-539 (5 Sq.mts) SB-556 (389.91 Sq.mts) SB-537 (5.90 Sq.mts)	Eviction Order passed by Ld. Estate Officer on 19.04.2018 in Proceedings No.1627 of 2018.	Unauthorised



4. That it is stated that all the hotels units are occupying the SMPK premises illegally and they ought to be removed under earlier Order dated 08.04.2008 delivered by the Ld. Registrar, Pollution Control Appellate Authority (West Bengal) in Appeal No(s).16 to 23 of 2007 filed by shop owners/stalls at Chandmarighat, Howrah. For enforcing such Order SMPK is pursuing since long with the State Authorities viz. Howrah Municipal corporation & Howrah Police. But so far, no assistance has yet been rendered in removing these illegal units/occupants. However on 22.12.2023 a joint inspection was conducted with the Howrah police authorities and other government entities regarding removal of the unauthorised hotel units but pursuant thereto response is still awaited from the Howrah police authorities regarding the above issue of removal of unauthorised hotel units at Chandmarighat Howrah. In fact, SMPK has no instrumentality to enforce the Orders passed by Pollution Control Board & Hon'ble NGT, unless police help is provided. The orders of eviction are annexed herewith and marked collectively as **Annexure A**.

5. That I state that vide order dated 02/09/2024 this Hon'ble Tribunal recorded in its order that the eviction orders as stated in the Affidavit of Port Trust affirmed on 5/10/23 have not been placed before the Hon'ble Tribunal. Further this Hon'ble Tribunal by order dated 22.11.2024 has directed the respondent no. 4 to file Affidavit with regard to the observations made in paragraph no.13 of the previous order of this Tribunal dated 02.09.2024. The respondent no.4 is therefore filing this Affidavit in compliance of order dated 2/09/24 annexing the eviction orders with this Affidavit marked as Annexure A.



6. That it is stated that the communications annexed with the Affidavit of the Port affirmed on 5/10/23 also show that SMPK is continuously pursuing with the concerned State authorities for removal of the hotel units from the Chandmari Ghat, Howrah opposite Howrah Railway Station Zone, but till date no eviction drive is conducted by any respondent authorities.

7. That the statements made in paragraphs 1 & 3 are true to my knowledge and those made in paragraph 2,4, 5 & 6 are my humble submissions before this Hon'ble Court.

Prepared in my office

Identified by *Paushali Banerjee*
[Advocate]

Avishek Raut
AVISHEK RAUT
Resolution Officer-Legal
Estate Division
Chama Prasad Mookerjee Port, Kolkata

The deponent is known to me

Sanjib Bera
Clerk to Mrs. *Paushali Banerjee*
Advocate

Solemnly Affirm & Declare
Before Me on Identification
of Ld. Advocate

Shyam Narayan Pandey
SHYAM NARAYAN PANDEY
NOTARY, GOVT. OF INDIA
REGN. NO. 13824/2018

20.12.2024



20 DEC. 2024

-9-

Annexure - 'A'
(collectively)

3486

4000

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

THE ESTATE OFFICER, 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
15, STRAND ROAD
(4th Floor)
KOLKATA - 700 001

EE-II
Pr arrange
for
Caveat.
Ca
16/11

Court Room At the 2nd Floor
of Kolkata Port Trust's
Head Office, Old Buildings
15, Strand Road, Kolkata - 700 001

REASONED ORDER NO. 23 14 OF 10.11.2005
PROCEEDINGS NO. 348 OF 1999

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
- Vs -

ESTATE UDAI BHAN SINGH

F O R M - "II"

8422 16/11

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 Shri/Smt./Km/M/s..... Estate Udaï Bhan Singh, 5, Mukhram Kanoria Road,
Howrah.....

KIKIZ
Jan 13 13
inst. no. 1
17/11/05

is/are in unauthorised occupation of the Public Premises specified in the Schedule below :

REASONS

THAT YOU HAVE FAILED AND NEGLECTED TO PAY THE RENTAL DUES/ADMITTED
AMOUNT OF CHARGES AS PAYABLE TO KOLKATA PORT TRUST (KOPT) FOR
OCCUPATION INTO THE PUBLIC PREMISES IN QUESTION. THAT YOU HAVE
FAILED AND NEGLECTED TO PAY THE CHARGES TO KOPT IN TERMS OF THE
ORDER PASSED BY THIS FORUM OF LAW REGARDING MONTHLY INSTALMENT
TO BE PAID TO KOPT IN TERMS OF THE ORDER DATED 28.11.2000. THAT
YOU HAVE FAILED TO PRODUCE ANY DOCUMENT OR ADUCE ANY EVIDENCE IN
SUPPORT OF YOUR OCCUPATION INTO THE PORT PROPERTY. THAT YOU HAVE
CARRIED OUT UNAUTHORISED RE CONSTRUCTION ON THE PUBLIC PREMISES
DURING PENDENCE OF THE PROCEEDINGS AND REMIRED WITH POSSESSION OF
THE PUBLIC PREMISES WITHOUT HAVING ANY AUTHORITY UNDER LAW. THAT
THE EJECTION NOTICES AS SERVED UPON YOU BY THE KOPT ARE VALID
LAWFUL AND BINDING UPON THE PARTIES. THAT YOU ARE LIABLE TO PAY
DAMAGES FOR UNAUTHORISED USE AND OCCUPATION OF THE PUBLIC PREMISES
ON AND FROM 1.7.1996 UPTO THE DATE OF DELIVERING VACANT AND PEACEFUL
AND UNENCUMBERED POSSESSION OF THE PUBLIC PREMISES TO KOPT. IN A
COPY OF THE ORDER DATED 10.11.2005 IS ENCLOSED WHICH ALSO FORMS A
PART OF THE REASONS.

L. S. (H)
For immediate
compliance pl.
A/C
17/11/05

Signature



PLEASE SEE ON REVERSE

408

NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby order the said Shri / Smt./ Km / M/s. Estate Uday Bhan Singh, 5, Mukhram Kanoria Road, Howrah,

and all person 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 Shri / Smt./ Km./ M/s. Estate Uday Bhan Singh, 5, Mukhram Kanoria Road, Howrah

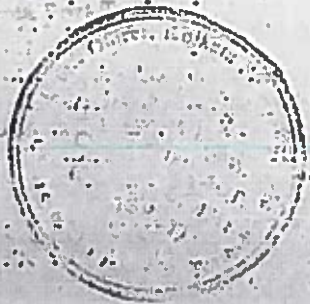
and all other persons concerned are liable to be evicted from the said premises, if need be, by the use of such force as may be necessary.

SECTION COPY BY THE
PASSED BY THE
MAY 14 2005

SCHEDULE

All that the piece and parcel of land msg. 34.281 sq.m. and msg. 16.629 sq.m. for Chajja encroachment or thereabouts is situate at Chandmari Ghat, Howrah. Thana - Golabari, Dist. and Registration District - Howrah. It is bounded on the north by - Trustees space leased to Shri Abilalh Singh, on the south by Trustees open space used as passage, on the east by River Hooghly, on the west by Trustees' open space licensed to him for Chajja encroachment. Trustees means Board of Trustees of the Port of Calcutta.

14/11/05



Sharma

Signature & Seal of the Estate Officer.

Dated : 14.11.2005

COPY FORWARDED TO THE LAND MANAGER, KOLKATA PORT TRUST / LABOUR ADVISER & INDUSTRIAL RELATIONS OFFICER, KOLKATA PORT TRUST FOR INFORMATION.

copy to Legal Adviser. 2/c.

Estate Officer, Kolkata Port Trust

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

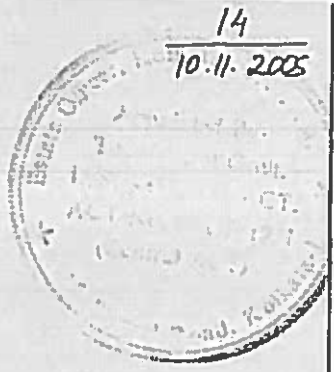
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Proceedings No. 348 Of 1999 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Shri Udai Bhan Singh (Estate Udai Bhan Singh)



14
10.11.2005

Present: Shri P.K. Majumder, Asstt. Land Manager, Shri S. De, Asstt. Land Manager (Legal) and Shri S. Nandy, Land Inspector on behalf of Kolkata Port Trust (KoPT).

Shri Promod Kumar Singh with Shri Sumath Kumar Chowdhury, Advocate on behalf of Estate Udai Bhan Singh.

Eviction proceedings were initiated against OP on 9.9.2000 by way of serving show cause notice under section 4 of the Act on the ground of non-payment of rent, unauthorized construction on the leased property and unauthorized parting with possession of the public premises in question. The tenancy under lease/licence was determined by Kolkata Port Trust by due service of ejection notices dated 9.5.96 and 14.6.96 respectively for the land and chajja properties in question. In reply to the show cause notice Shri Promod Kumar Singh on behalf of Udai Bhan Singh prayed for three months time to pay Rs. 50,000/- and the balance in 60 easy instalments on 3rd November, 2000. On consideration of this prayer, this Forum of Law passed an interim order 28.11.2000 directing OP to pay Rs. 10,000/- per month until further order and directed KoPT to accept pay order for Rs. 46,000/- tendered by OP. It was also observed that cause of action on the part of KoPT has been substantially satisfied excepting portion of non-payment of dues as KoPT representative on examination stated that there was no unauthorized construction and no authorized sub-letting/sub-tenant.

OP defaulted in complying with the interim order passed on 28.11.2000 and this was brought to the notice of this Forum of Law by KoPT on different occasions. Summons were accordingly issued to OP to explain his conduct by filing written statement/objection/production of documents/during hearing on 11.8.2005. On the aforesaid date of hearing, OP accepted that he has defaulted in complying with the order passed on 28.11.2000 and prayed for time for liquidating the accumulated dues/charges. During the hearing, a prayer was also submitted by Shri Sankar Adak through his Advocate Shri Arup Kumar Mondal stating that he has been running a hotel from the premises in question since 2000 as per agreement of sub-lease and accordingly to implead him as necessary party in the eviction proceedings. However, the prayer of Shri Sankar Adak was not supported by any documentary evidence regarding his status in the property and was also refuted by OP. This Forum of Law directed OP on 11.8.2005 to clear the outstanding rental dues and mesne profit within two weeks.

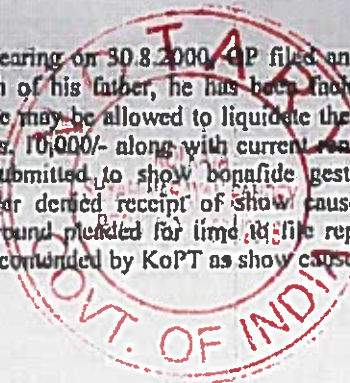
At the time of further hearing on 30.8.2000, OP filed an application stating that on the death of his father, he has been facing financial problem and therefore, he may be allowed to liquidate the arrear dues in equal instalment of Rs. 10,000/- along with current rent. Pay order for Rs. 49,000/- was submitted to show bonafide gesture of OP. Advocate of OP however denied receipt of show cause notice or summons and on that ground pleaded for time to file reply to show cause. This was strongly contended by KoPT as show cause notice was

Copy of this order by the Board of Trustees of the Port of Kolkata

14
10.11.2005

Handwritten signature and date: 10.11.2005

Handwritten signature



- cont -



Estate Officer, Kolkata Port Trust

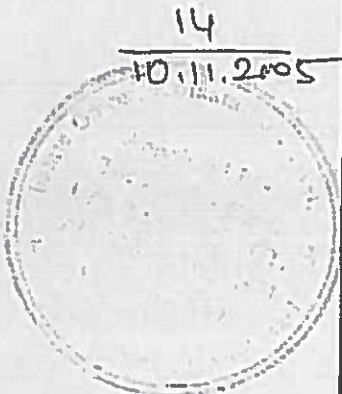
Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 348 Of 1999 Order Sheet No. 11

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA
V8

Shri Udai Bhan Singh (Estate Udai Bhan Singh)



14
10.11.2005

Continued from page
duly received on 18.9.2000 and OP entered appearance before this Forum of Law on 3.11.2000 and 28.11.2000 and these facts were established from record. Though the stand taken by OP was indicative of dilatory tactics, in all fairness further time for filing reply to show cause notice was given. Further, joint inspection with KoPT and OP on 13.9.2005 was directed to ascertain facts regarding unauthorized construction/sub-letting. The prayer for tendering Rs. 49,000/- towards partial payment and instalment payment of the balance within one year was not allowed as OP had on earlier occasion failed to meet the commitment of Instalment payment. Accordingly, this Forum of Law directed OP on 30.8.2005 to clear outstanding dues/charges by 20th September, 2005.

On 09.09.2005, Promod Kumar Singh filed reply to show cause furnishing the following reasons for non-compliance with the order of this Forum of Law dated 28.11.2000 :-

COPIES COPY OF THE
ORDER BY THE EST. O.
KOLKATA PORT TRUST

- i) The structure standing on the disputed land is permanent in nature and as such, the licence granted by KoPT is irrevocable and OP cannot be said as unauthorized occupant.
- ii) Notice served upon Udai Bhan Singh is illegal, vague, indefinite, mala fide and not binding. Further, the proceedings in question is abated on the death of Udai Bhan Singh on 19.2.2001 at his village house at Varanasi and the authority failed to file application for substitution in time. The instant objection has been filed by Shri Promod Kumar Singh who appeared and contested the proceedings as representative of his father Udai Bhan Singh.
- iii) Shri Promod Kumar Singh is the sole proprietor of the business being run from the disputed plot since the death of his father and no other legal heir are necessary party to this proceeding.
- iv) The original OP, Udai Bhan Singh was aged and suffering from ill health and he died two and a half months after the Estate Office passed order for instalment payment of Rs. 10,000/- per month on 28.11.2000. In the circumstances, he could not comply with the order of the Forum of Law. The instant petitioner despite financial problem offered to pay Rs. 49,999/- by bank draft to show his bonafide but the same was not accepted.
- v) Allegations of unauthorized construction and sub-letting are not true and correct.

ESTATE OFFICER
KOLKATA PORT TRUST

Assistant
Estate Officer
Kolkata Port Trust

llh





Estate Officer, Kolkata Port Trust

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 THE PORT OF KOLKATA

VB

405

Shri Udai Bhan Singh (Estate Udai Bhan Singh)

14
10.11.2005



vi) Service of show cause notice upon dead person is illegal and no proceeding can be continued on the basis of such notice.

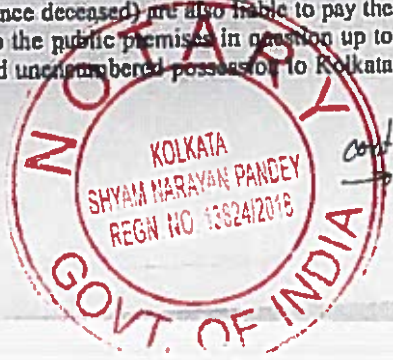
During hearing on 10th November, 2005, KoPT contested all the above points of Promod Kumar Singh who has been representing Udai Bhan Singh since long. KoPT contends that it was the responsibility of the person representing OP to inform about the death of OP to this Forum of Law for effective adjudication of the matter. According to KoPT, construction of permanent structure on the disputed premises, whether on licence or monthly lease is itself unauthorized as no evidence was produced regarding KoPT's approval of such construction. Further, intimation of death of original lessee, Udai Bhan Singh was given only recently after issuance of summons by this Forum of Law in July, 2005 and not during the long period of non-compliance with the order since 28.11.2000. Shri Promod Kumar Singh, son of deceased OP carrying on business as sole proprietor from the disputed land as per his own admission is liable to pay the dues in respect of the land. Further, joint inspection of the premises on 13th September, 2005 has revealed unauthorized structures in areas measuring 23.969 sq.mtrs. and 16 629 sq.mtrs. and also unauthorized use of land measuring 25.405 sq mtrs. in adjacent plot by way of construction of a permanent structure with asbestos roofing. In addition, they have also encroached upon Trustees' vacant land msg. 6.82 sq.m. on the river bank and Trustees' vacant land msg. 7.55 sq.m. in front of the steps of the bathing ghat. KoPT also states that there is no illegality in the instant proceedings on the ground stated by Shri Promod Kumar Singh as show cause notice was served long before death of Udai Bhan Singh on 19.2.2001 and he entered appearance in this Forum of Law through his son Shri Promod Kumar Singh on various dates, 29.9.2000, 17.10.2000, 3.11.2000 and 28.11.2000.

Considered the submissions on behalf of OP (Estate Udai Bhan Singh) and KoPT, materials produced in the course of hearing and records of the case. OP has not only failed to comply with the liberal order passed by this Forum of Law on 28.11.2000 to pay the dues/charges by monthly instalment of Rs. 10,000/- but has also repeatedly violated the orders passed subsequently on 11.8.2005, 30.8.2005 and 19.10.2005. Though it is denied on behalf of OP (Udai Bhan Singh) that there is no unauthorized parting with possession and unauthorized construction, the ground reality established during inspection reveals a contrary picture. In view of repeated failure on the part of OP to abide by the directions of this Forum of Law, it is hereby ordered that Estate Udai Bhan Singh and anybody asserting any right through late Udai Bhan Singh be evicted from the premises in question. It is made clear that the heirs of Udai Bhan Singh (since deceased) are also liable to pay the dues/charges for occupation into the public premises in question up to the date of delivering vacant and unencumbered possession to Kolkata Port Trust.

15 OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

[Signature]
Head Assistant
Office of the Estate Officer
Kolkata Port Trust

[Signature]





Estate Officer, Kolkata Port Trust

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

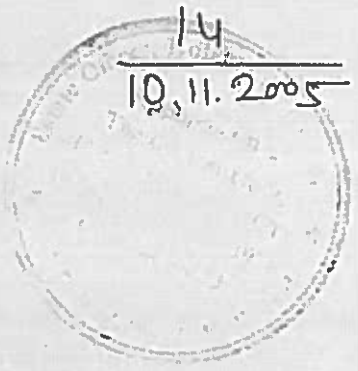
Proceedings No. 348 Of 1999 Order Sheet No. 18

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

404

Shri Uday Bhan Singh

Cont. to response... (Estate Uday Bhan Singh)

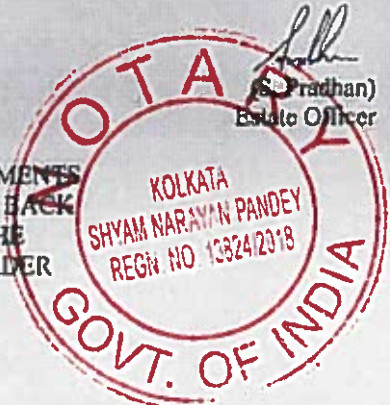


ACCORDINGLY, Department is directed to draw up formal order of eviction U/S 5 of the Act and Rules made thereunder giving 15 days time to Estate Uday Bhan Singh to vacate the public premises on the following reasons/grounds :-

- a) That the OP has violated the conditions of tenancy as granted by Kolkata Port Trust.
- b) That the OP has failed and neglected to pay the rental dues/charges for occupation into the port properties in question after admission of the same.
- c) That the OP has carried out unauthorized construction on the public premises without having any authority under law.
- d) That the notice for revocation of licence dated 14th June, 1996 and ejection notice date 9th May, 1996 as served upon the OP by the Port Authorities are valid, lawful and binding upon the parties.
- e) That the OP has lost its authority to occupy the public premises in question after expiry of the period as mentioned in the said notice for revocation of licence and ejection notice that is to say, on and from 1st July, 1996 and the OP is liable to pay damages for unauthorized use and occupation of the public premises up to the date of recovery of possession by the Port Authority.

It is also made clear that the Port Authority is entitled to claim damages for unauthorized use and occupation of the port property on behalf of OP up to the date of recovery of possession in accordance with law. OP means Estate Uday Bhan Singh.

GIVEN UNDER MY HAND AND SEAL



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

OFFICE OF THE ESTATE OFFICER, KOLKATA PORT TRUST

7/11/05

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

36
36

THE ESTATE OFFICER, 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

15, STRAND ROAD (4TH FLOOR) KOLKATA-700 001

Court Room At the 2nd Floor
of Kolkata Port Trust's
Head Office, Old Buildings
15, Strand Road, Kolkata-700 001

REASONED ORDER NO. 7 OF 29.10.07

PROCEEDINGS NO. 858 OF 2007

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

- Vs -

ABILAKH SINGH.

FORM "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 Shri / Smt. / Km / M/s. Abilakh Singh, Chanimeri Ghat, Howrah-1,

is / are in unauthorised occupation of the Public Premises specified in the Schedule below:

REASONS

THAT YOU HAVE DEFAULTED IN MAKING PAYMENT OF DUES/~~LICENCE FEES~~
TO KOLKATA PORT TRUST IN GROSS VIOLATION OF THE CONDITION OF
GRANT OF LICENCE. THAT YOU HAVE PARTED WITH POSSESSION OF THE
PUBLIC PREMISES UNAUTHORISEDLY TO M/S. ABHISEKH HOTEL AND
RESTAURANT, THAT THE PAYMENT AGAINST BILL FOR COMPENSATION AS
DEMANDED BY THE PORT AUTHORITY DOES NOT CREATE ANY RIGHT TO
HOLD THE PROPERTY AS THE BILL FOR COMPENSATION IS MEANT FOR
DEMAND FOR COMPENSATION FOR UNAUTHORISED USE AND OCCUPATION OF
THE PORT PROPERTY IN QUESTION. THAT THE CLAIM OF SHRI PRAMOD
KUMAR SINGH FOR REGULARISATION OF TENANCY IN HIS FAVOUR IN PLACE
OF YOU IS NOT TENABLE. THAT YOU HAVE FAILED TO BRING ANY WITNESS
OR ADDUCE ANY EVIDENCE IN SUPPORT OF "AUTHORISED OCCUPATION" IN
SPITE OF DUE NOTICE TO ALL CONCERNED INTERESTED INTO THE PROPERTY
IN QUESTION. THAT THE NOTICE TO QUIT/REVOCATION OF LICENCE DATED
2.3.2006 AS SERVED UPON YOU IS VALID, LAWFUL AND BINDING UPON
THE PARTIES AND YOU ARE LIABLE TO PAY DAMAGES FOR UNAUTHORISED
USE AND OCCUPATION OF THE PUBLIC PREMISES IN QUESTION UP TO THE
DATE OF HANDING OVER OF CLEAR, VACANT AND UNENCUMBERED POSSESSION
TO THE PORT AUTHORITY. A CERTIFIED COPY OF THE ORDER DATED
29.10.2007 IS ATTACHED HEREWITH 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 Unauthorised Occupants) Act 1971, I hereby order the said Shri / Smt. / Km / M/s. Abilakh Singh, Chandmari Ghat, Howrah-1,

and all person 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 Shri / Smt / Km. / M/s. Abilakh Singh, Chandmari Ghat, Howrah-1.

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

The piece of parcel of land with P.C. Coonty msg. 17.652 sq.m. or thereabouts is situated at Chandmari Ghat Terrace, Howrah, Thana: Golabari Registration District: Howrah. It is bounded on the north by the trustees' land occupied by Estate Karim Bux Khan on the east by the river Hooghly on the south by the Trustees' land occupied by Estate R Udai Bhan Singh and on the west by the Trustees' Ghajja occupied by Abilakh Singh. Trustees means the Board of Trustees for the Port of Kolkata.

Dated 7.11.2017

Signature & Seal of the
Estate Officer.

COPY FORWARDED TO THE LAND MANAGER, KOLKATA PORT TRUST / LEGAL ADVISER & INDUSTRIAL RELATIONS OFFICER / LEGAL ADVISER KOLKATA PORT TRUST FOR INFORMATION



-17-

34

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

ESTATE OFFICER, 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
15, STRAND ROAD (4TH FLOOR) KOLKATA-700001

Form "E"

PROCEEDINGS NO. 858/R OF 2007

ORDER NO. 7 DATED 29.10.07

To
Shri/Smt./Km/Ms.
Abilakh Singh,
Chandmari Ghat,
Howrah-1.

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

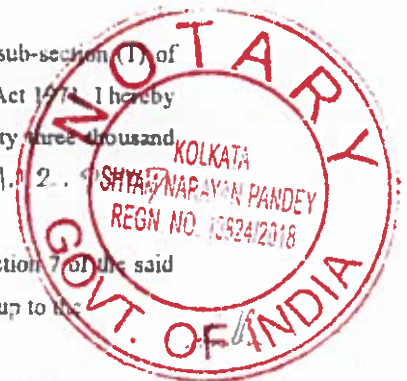
AND WHEREAS, by written notice dated 8.3.2007 you are/were called upon to show cause on/or before 11.4.2007 why an order requiring you to pay a sum of Rs.2,93,905.62 (Rupees two lac ninety three thousand nine hundred five and paise sixty two only.) being the rent payable together with simple interest in respect of the said premises should not be made;

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

AND WHEREAS you have not made any objections or produced any evidence before the said date;

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. 2,93,905.62 (Rupees two lac ninety three thousand nine hundred five and paise sixty two only.) Kolkata Port Trust by 31.12.07

IN exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest @ 15% per annum up to the



PLEASE SEE ON REVERSE


18.9.1996 and thereafter at the rate of 18% per annum as per KoPT's rule till its final payment in accordance with Kolkata Port Trust Notification Published in Calcutta Gazetted dated 19.9.1996.

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

The piece of parcel of land with P.C.Goomty msg. 17,652 sq.m. or thereabouts is situated at Chandmari Ghat Terrace, Howrah, Thana: Golabari Registration District: Howrah. It is bounded on the north by the trustees' land occupied by Estate Karim Bux Khan on the east by the river Hooghly on the south by the Trustees' land occupied by Estate Udai Bhan Singh and on the west by the Trustees' Chajja occupied by Abilakh Singh. Trustees means the Board of Trustees for the Port of Kolkata.

Dated: 7.11.2007


Signature and seal of the
Estate Officer.



Estate Officer, Kolkata Port Trust

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

Proceedings No. B.S.B. 858/R of 2007 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Abilakh Singh

FINAL ORDER

7
20.10.07

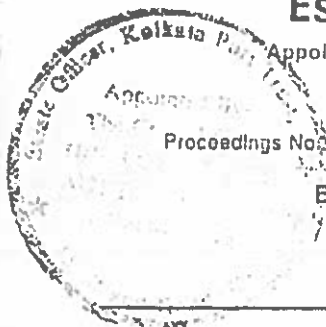
The matter is taken up today for delivering final order. The factual aspect involved is required to be stated in a nutshell in order to link up the chain of events leading to this matter. It is the case of Kolkata Port Trust (KoPT), the applicant herein, that Abilakh Singh, O.P. herein, was granted monthly term lease in respect of land msg. 17.652 sq.m. with P.C. goomty situated at Chandmari Ghat Terrace, Howrah, Thana: Golabari under Plate No.HL-22 with certain terms and conditions and O.P. defaulted in making payment of rental dues and parted with possession of the public premises without having any authority under law. This Forum of Law, after formation of its opinion to proceed against O.P. under relevant provisions of the Act issued notices under Section 4 (for order of eviction) and Section 7 (for rental dues) both dated 9.3.2007 calling upon OP to show cause on or before 11.4.2007 to establish its legal authority to occupy the public premises in question etc. On 11.4.2007, one Pramod Kumar Singh, declaring himself to be grandson of O.P. appeared and submitted that he intended to liquidate the entire dues/charges payable to Port Authority as per KoPT's claim without raising any dispute though he denied the allegation of KoPT regarding parting with possession of the premises. On 11.5.2007 the said Pramod Kumar Singh was represented by his Advocate. It was stated in course of hearing that O.P. died long back and Pramod Kumar Singh was his grandson and legal heir of O.P. and running business of Refreshment Stall/Hotel over the land. The representative of Kolkata

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Estate Officer, Kolkata Port Trust

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

Proceedings No. 58, 809/R of 2007 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

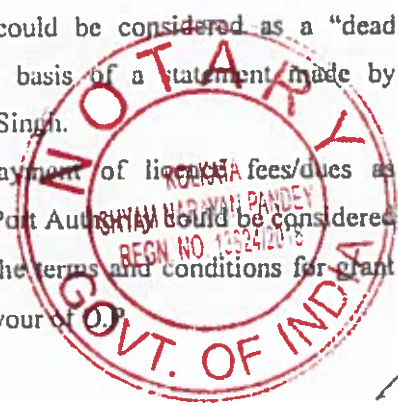
Abilakh Singh

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29/10/07

Port Trust stated that there was no information relating to death of Abilakh Singh, O.P. herein and one Shankar Adak was running the hotel business in the name and style of M/s. Abhishek Hotel and Restaurant. A petition was filed by Pramod Kumar Singh with inter alia a prayer to allow him, as present occupant, to defend the instant proceedings and pay arrear dues/compensation charges etc. by easy instalment. No evidence regarding death of O.P. and inheritance of the business by Pramod Kumar Singh was produced despite specific direction. After careful consideration of the submissions/arguments made on behalf of KoPT and Pramod Kumar Singh and after due consideration of the petition verified by Shri Singh dated 22.6.2007 following issues have come up before me for adjudication.

1. Whether the prayer of Pramod Kumar Singh as contained in the petition as filed on 22.6.2007 is tenable.
2. Whether Pramod Kumar Singh can claim any right to hold the premises.
3. Whether O.P. could be considered as a "dead person" on the basis of a statement made by Pramod Kumar Singh.
4. Whether non-payment of licence fees/dues as claimed by the Port Authority could be considered as a breach of the terms and conditions for grant of tenancy in favour of O.P.

20-13/11/07

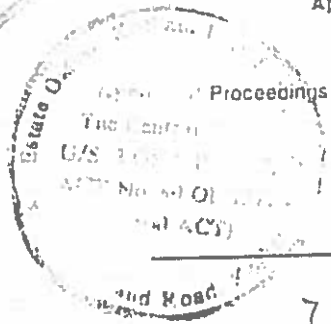


shall

Estate Officer, Kolkata Port Trust

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

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Proceedings No. 558, 502/12 Of 2007 Order Sheet No. 12

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Abhilash Singh

7
29.10.07

5. Whether O.P. has parted with possession of the public premises to M/s. Abhisekh Hotel and Restaurant unauthorizedly.
6. Whether the ejectment notice as served upon O.P. dated 2.3.2006 is valid and legally enforceable.

Issues No.1 to 3 are taken up together for the sake of convenience. It is evident from the petition verified by Pramod Kumar Singh as filed on 22.6.2007 that he is running a business in the name and style of Abhisekh Hotel and Restaurant and that he is claiming his right as grandson and legal heir of Abilakh Singh for running such business. It is also seen that Shri Singh is praying for regularization of tenancy in his favour being the present occupant of the premises in question on payment of all outstanding dues as per demand of Kolkata Port Trust. Two things emerge from the submission of Shri Singh. First, that he is claiming his right through O.P. and second that Shri Singh is the present occupant of the premises. Now the question arises as to how Shri Singh can claim legal authority to occupy the public premises when there is no proof of death of O.P. Even for the sake of argument if it is accepted that O.P. is a dead person as stated by Shri Singh how the property being the public premises devolves upon him only. In course of hearing KoPT denies that O.P. took permission from the Port Authority to run the business of Hotel and Restaurant in the name and style of Abhisekh Hotel and Restaurant. There is no evidence on record that the business of M/s. Abhisekh Hotel and Restaurant under the proprietorship of

Stamp: 13/11/07

Stamp: 13/11/07



Estate Officer, Kolkata Port Trust

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

Proceedings No. 808.25610 of 2007 Order Sheet No. 13

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Abhilash Singh

7
29.10.07

Shri Pramod Kumar Singh has been accepted by the Port Authority in place of O.P. as the authorized tenant at any point of time. It leaves no room for doubt that Shri Singh's occupation has not yet been regularized as per admission/avermnt made by him. In case of death of O.P. as stated by Shri Singh, all the legal heirs of Abilakh Singh would be responsible for payment of all the ducs/charges as payable to KoPT as per law and Shri Pramod Kumar Singh cannot be substituted in place of O.P. unless there is material to prove his entitlement to the estate of Abilakh Singh. In my notice u/s.4 of the Act anybody interested into the property in question was asked to produce evidence in support of any contention they intend to place before me for adjudication in order to determine the question of holding the property. As such, Pramod Kumar Singh's application has been considered. But in view of the written and verbal averments made by Shri Pramod Kumar Singh, his claim to the property on the strength of his being grandson of OP is not tenable. While Pramod Kumar Singh has submitted that he is the grandson of OP, namely Shri Abhilakh Singh, the documents furnished by him reveal that he is the son of late Udai Bhan Singh, the ex-lessee of an adjacent plot. From the Partnership Deed furnished by Shri Pramod Kumar Singh to establish his right to run the aforementioned hotel, it is seen that late Udai Bhan Singh was the son of late Chakori Singh. It is thus evident from the documents furnished by Shri Pramod Kumar Singh that he is not the grandson of Sri Abhilakh Singh, the OP herein and can therefore not claim any right to be in

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NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 13324/2013
GOVT. OF INDIA

all

Estate Officer, Kolkata Port Trust

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

Proceedings No. 102/2007 of 102/07 Order Sheet No. 14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Abhisekh Singh

7
29.10.07

occupation of the premises. I have, therefore, considered his petition, representation and submissions as those of the present occupant of the premises and not as submissions made on behalf of OP. In course of hearing the representative of Port Trust states that O.P. has unauthorizedly parted with possession of the public premises to M/s. Abhisekh Hotel and Restaurant. There is no material to consider that KoPT permitted M/s. Abhisekh Hotel and Restaurant to function from the public premises in question in place of O.P. As such, there is no justification to interfere with the right of Port Authority as the landlord of the premises in dealing with the matter. I must reiterate that Pramod Kumar Singh by his own averment for regularization of tenancy in his favour undoubtedly accepted that the occupation is irregular and unauthorized and as such he cannot claim to be an "authorized occupation" in the facts and circumstances of the case. In the circumstances, the petition of Shri Pramod Kumar Singh is disposed with the observation that he has no locus standi and has no ground to claim his right to be in occupation of the premises or run any business from there.

Regarding Issues No. 4, 5 & 6, I find that nobody has appeared or made any written/verbal submissions on behalf of O.P. The reply to show cause notice as given by Shri Pramod Kumar Singh on behalf of OP cannot be accepted as OP's submission in view of failure of Shri Singh to produce any evidence regarding his family link with OP. From the documents submitted by Shri Pramod Kumar

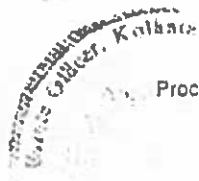
NOTARY
KOLKATA
SHYAM NATH PANDEY
REGN NO 15824/07
GOVT. OF INDIA

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Estate Officer, Kolkata Port Trust

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

28



Proceedings No. SSS. 509/A of 2007 Order Sheet No. 15

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

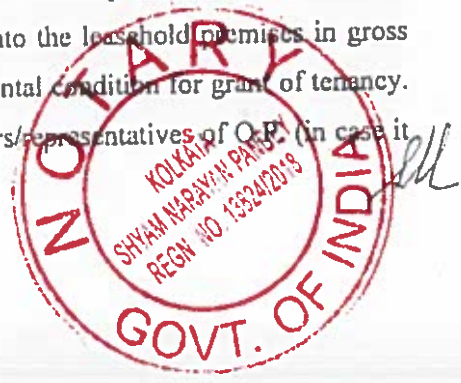
VS

Abhisekh Singh

29.10.07

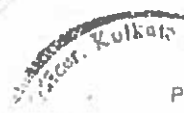
Singh, it is clear that Abhisekh Hotel and Restaurant has been functioning from the premises for a long time on the strength of partnership deed made in 1990 and on obtaining trade licence, certificate of enrolment, etc. from the concerned local authorities. The complicity of Shri Abhilakh Singh, the OP herein, in allowing the functioning of Abhisekh Hotel and Restaurant from the premises could not be verified. In this connection, my attention is drawn to the description of the premises as given by KoPT in the Schedule attached to the eviction prayer. According to KoPT, the property is bound on the east by Trustees' land occupied by Shri Abhilakh Singh and on the south, by Trustees' chajja occupied by Estate Udai Bhan Singh. From the petition of Shri Pramod Kumar Singh, it is seen that the hotel is running on amalgamated leasehold property and licensed chajja encroachment of premises being Plate Nos. HL-22, HL-24, HL-22/1 and HL-24/1 at Chandmari Ghat. No authorization from KoPT has been produced to establish the rights of the lessees of the aforementioned premises to amalgamate the above KoPT properties and run a common business from there. Shri Pramod Kumar Singh, the son of late Udai Bhan Singh, the erstwhile tenant of the adjacent plot has practically moved into the premises in question without any approval from KoPT, the landlord. O.P. has not only failed to discharge its liability towards payment of rental dues to the Port Authority but also has failed to prevent encroachment into the leasehold premises in gross violation to the fundamental condition for grant of tenancy. As per law the legal heirs/representatives of O.P. (in case it

13/11/07



Estate Officer, Kolkata Port Trust

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



Proceedings No. 535, S.O. 18 of 2007 Order Sheet No. 16

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Abhisekh Singh

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29.10.07

NOTARY PUBLIC
KOLKATA

NOTARY PUBLIC
KOLKATA

is accepted that O.P. is dead as per statement made by Shri Singh) are responsible and bound to liquidate the amount payable to the Port Authority towards rental dues. In the absence of any documentary evidence of death of OP, liability for payment of arrear rental dues, damages and interest rests on OP. The existence of M/s. Abhisekh Hotel and Restaurant in the premises allotted to OP has already been established through a site inspection and averments made by the present occupant. Non-payment of dues is established from records of KoPT and lack of any denial on behalf of OP on this matter. In the circumstances, the breaches brought out by KoPT regarding non-payment of dues and unauthorised parting with possession are duly established. Failure of OP to hand over possession of the premises after issue of ejection notice by KoPT has made him an unauthorised occupant and the said ejection notice served on 2.3.06 is valid and enforceable. As such the issues are decided against O.P.

In view of the discussion above, I am left with no other alternative but to issue order of eviction against O.P. on the following reasons/grounds.

- A. That O.P. has defaulted in making payment of dues/licence-fees to Kolkata Port Trust in gross violation of the condition of grant of licence.
- B. That O.P. has parted with possession of the public premises unauthorisedly to M/s. Abhisekh Hotel and Restaurant.

13/11/07



all

Estate Officer, Kolkata Port Trust

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

Proceedings No. 858, SSE/R of 2007 Order Sheet No. 17

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Abilash Singh

7
29.10.07

- C. That the payment against bill for compensation as demanded by the Port Authority does not create any right to hold the property as the bill for compensation is meant for demand for compensation for unauthorized use and occupation of the Port property in question.
- D. That the claim of Shri Pramod Kumar Singh for regularization of tenancy in his favour in place of O.P. is not tenable .
- E. That O.P. has failed to bear any witness or adduce any evidence in support of "authorized occupation" in spite of due notice to all concerned interested into the property in question.
- F. That the notice to quit/revocation of licence dated 2.3.2006 as served upon O.P. is valid, lawful and binding upon the parties and O.P. is liable to pay damages for unauthorized use and occupation of the public premises in question up to the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

ACCORDINGLY, Department is directed to draw up formal order of eviction u/s.5 of the Act as per Rule made there under, giving 15 days time to O.P. and any person/s whoever may be in occupation 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 and the Port Authority is entitled to claim damages for unauthorized use and occupation of the property against O.P. in accordance

13/11/07



Estate Officer, Kolkata Port Trust

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

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Proceedings No. SCE. 555/R of 2007 Order Sheet No. 18

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Abdullah Sheikh

31

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29.10.07

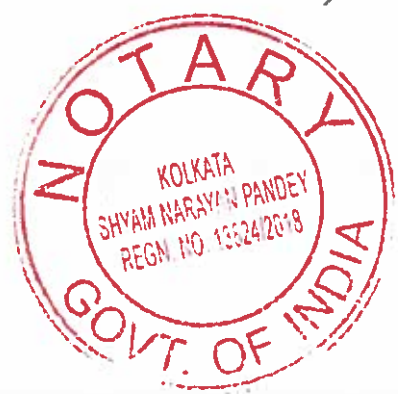
with Law up to the date of recovery of possession of the same. In my opinion KoPT's claim for damages may be payable as it is gathered in course of hearing that the charges so claimed by KoPT is on the basis of the Schedule of Rent Charges published under the Authority of Law as per provisions of the Major Port Trust Act 1963. I make it clear that Kolkata Port Trust is entitled to claim damages against O.P. for unauthorized use and occupation of the public premises up to the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law. KoPT is accordingly directed to submit a statement containing details of its calculation of damages together with the basis on which such charges are claimed from O.P. for the purpose of assessment of damages as per Rule made under the Act.

I am also satisfied that a sum of Rs. 2,93,905.62 for the period 1.8.1985 to 14.3.2006 is due and recoverable from O.P. on account of arrear rental dues. It is hereby ordered that the arrear rental dues as aforesaid shall be payable by O.P. to KoPT with accrued interest at the rate of 15% per annum from the date of incurrance of liability up to 18.9.1996 and thereafter at the rate of 18% per annum as per KoPT's rule till its final payment.

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13/11/07



Estate Officer, Kolkata Port Trust

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

Proceedings No. 555.558/R of 2007 Order Sheet No. 19

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Abul Kalam

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29.10.07

Accordingly, Department is also directed to draw up formal order u/s.7 of the Act as per Rule. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

S. Pradhan
(S. PRADHAN)
ESTATE OFFICER.

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



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

capt. offic

THE ESTATE OFFICER, 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

36

OFFICE OF THE ESTATE OFFICER
15, STRAND ROAD (4TH FLOOR) KOLKATA-700 001



Court Room At the 2nd Floor
of Kolkata Port Trust's
Head Office, Old Buildings
15, Strand Road, Kolkata-700 001

REASONED ORDER NO. 7 OF 29.10.2007

PROCEEDINGS NO. 865 OF 2007

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

- Vs -

ABILAKH SINGH

FORM "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 Shri / Smt. / Km / M/s. Abilakh Singh, Chandnari Ghat, Howrah-1.

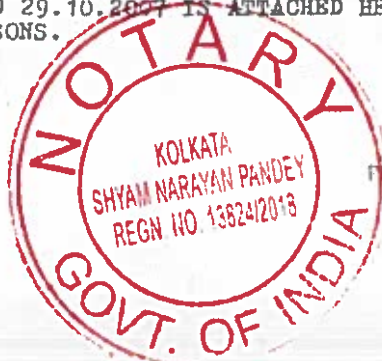
is / are in unauthorised occupation of the Public Premises specified in the Schedule below :

REASONS

THAT YOU HAVE DEFAULTED IN MAKING PAYMENT OF DUES/LICENCE FEES TO
KOLKATA PORT TRUST IN GROSS VIOLATION OF THE CONDITION OF GRANT
OF LICENCE. THAT YOU HAVE PARTED WITH POSSESSION OF THE PUBLIC
PREMISES UNAUTHORISEDLY TO M/S. ABHISEKH HOTEL AND RESTAURANT.
THAT THE PAYMENT AGAINST BILL FOR COMPENSATION AS DEMANDED BY THE
PORT AUTHORITY DOES NOT CREATE ANY RIGHT TO HOLD THE PROPERTY AS THE
BILL FOR COMPENSATION IS MEANT FOR DEMAND FOR COMPENSATION FOR
UNAUTHORISED USE AND OCCUPATION OF THE PORT PROPERTY IN QUESTION.
THAT THE CLAIM OF SHRI PRAMOD KUMAR SINGH FOR REGULARISATION OF
TENANCY IN HIS FAVOUR IN PLACE OF YOU IS NOT TENABLE. THAT YOU HAVE
FAILED TO BEAR ANY WITNESS OR ADDUCE ANY EVIDENCE IN SUPPORT OF
" AUTHORIZED OCCUPATION " IN SPITE OF DUE NOTICE TO ALL CONCERNED
INTERESTED INTO THE PROPERTY IN QUESTION. THAT THE NOTICE TO QUIT/
REVOCATION OF LICENCE DATED 2.3.2006 AS SERVED UPON YOU IS VALID,
LAWFUL AND BINDING UPON THE PARTIES AND YOU ARE LIABLE TO PAY
DAMAGES FOR UNAUTHORISED USE AND OCCUPATION OF THE PUBLIC PREMISES
IN QUESTION UP TO THE DATE OF HANDING OVER OF CLEAR, VACANT AND
UNENCUMBERED POSSESSION TO THE PORT AUTHORITY. A CERTIFIED COPY
OF THE ORDER DATED 29.10.2007 IS ATTACHED HEREWITH WHICH ALSO
A PART OF THE REASONS.

13/11/07

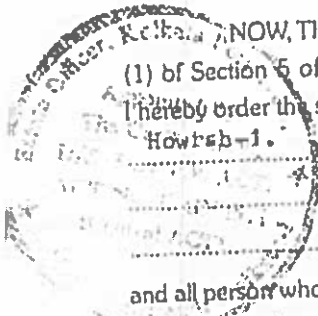
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PLEASE SEE ON REVERSE

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NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby order the said Shri / Smt. / Km / M/s. Abilakh Singh, Chandmari Ghat, Howrah-1.

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 Shri / Smt / Km. / M/s. Abilakh Singh, Chandmari Ghat, Howrah-1.

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

The said piece or parcel for chajja encroachment by fixing sunshed nos. 10.498 sq.m. or thereabouts is situated at Chandmari Ghat, Howrah, Thana: Golabari Registration District: Howrah. It is bounded on the north partly by the trustees' drinking water shed and partly by the trustees' Chajja occupied by Estate Karim Bux Khan on the east by the trustees' land occupied by Abilakh Singh on the south by the Trustees' Chajja occupied by Estate Ujai Bhan Singh and on the west by the Trustees' Drinking Water Shed and partly by Trustees' stair. Trustees' means the Board of Trustees for the Port of Kolkata.



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Handwritten signature of the Estate Officer.

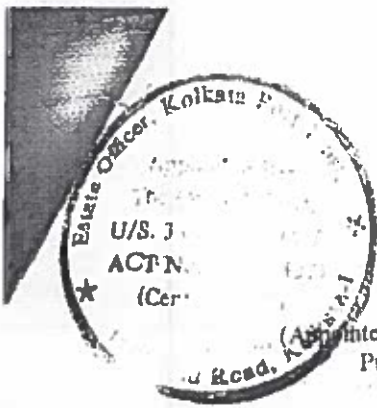
Signature & Seal of the Estate Officer.

Dated: 7/11/07

COPY FORWARDED TO THE LAND MANAGER, KOLKATA PORT TRUST / LABOUR ADVISER & INDUSTRIAL RELATIONS OFFICER / LEGAL ADVISER KOLKATA PORT TRUST FOR INFORMATION

-31-

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

ESTATE OFFICER, 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
15, STRAND ROAD (4TH FLOOR) KOLKATA-700001

Form "E"

PROCEEDINGS NO. 865/R OF 2007

ORDER NO. 7 DATED 29.10.07

no more copy of this order
issued by the Estate Officer
Kolkata Port Trust

To
Shri/Smt /Knr/M/s.
Abilakh Singh,
Chandmari Ghat,
Howrah-1.

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

AND WHEREAS, by written notice dated 15.3.2007 you are/were called upon to show cause on/or before 11.4.2007 why an order requiring you to pay a sum of Rs.1,31,026.78 (Rupees one lac thirty one thousand twenty six and paise seventy eight only.) being the rent payable together with simple interest in respect of the said premises should not be made;

no more copy of this order
issued by the Estate Officer
Kolkata Port Trust

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

AND WHEREAS you have not made any objections or produced any evidence before the said date;

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. 1,31,026.78 (Rupees one lac thirty one thousand twenty six and paise seventy eight only.) Kolkata Port Trust

IN exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest @ 15% per annum up to the



PLEASE RETURN TO RESERVE

13/11/07
no more copy of this order
issued by the Estate Officer
Kolkata Port Trust

Smith

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18.9.1996 and thereafter at the rate of 18% per annum as per KoPT's rule till its final payment in accordance with Kolkata Port Trust Notification Published in Calcutta Gazetted dated 19.9.1996.

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.

Handwritten text in Bengali script, partially illegible.

SCHEDULE

The piece or parcel for Chajja encroachment by fixing sunshed msg.10.498 sq.m. or thereabouts is situated at Chandmari Ghat, Howrah, Thana: Golabari Registration District: Howrah. It is bounded on the north partly by the trustees' drinking water shed and partly by the trustees' Chajja occupied by Estate Karim Bux Khan on the east by the trustees' land occupied by Abilakh Singh on the south by the Trustees' Chajja occupied by Estate Udai Bhan Singh and on the west by the Trustees' Drinking Water Shed and partly by Trustees' stair. Trustees' means the Board of Trustees' for the Port of Kolkata.

Handwritten text in Bengali script, partially illegible.

Dated: 7/11/07

Signature and seal of the Estate Officer.

Handwritten signature and date 13/11/07, along with some illegible text.



Estate Officer, Kolkata Port Trust

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

19

Proceedings No. 865, SEC/R of 2007 Order Sheet No. 7

18

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

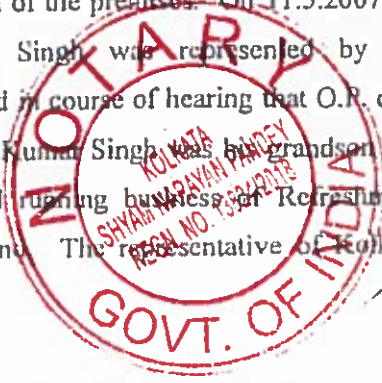
Abilakh Singh

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29.10.07

FINAL ORDER

The matter is taken up today for delivering final order. The factual aspect involved is required to be stated in a nutshell in order to link up the chain of events leading to this matter. It is the case of Kolkata Port Trust (KoPT), the applicant herein, that Abilakh Singh, O.P. herein, was granted licence in respect of chajja encroachment msg. about 10.498 sq.m: or thereabout by fixing sunshed at Chandmari Ghat Terrace, Howrah, Thana: Golabari under Plate No.HL-22/1 with certain terms and conditions and O.P. defaulted in making payment of rental dues and parted with possession of the public premises without having any authority under law. This Forum of Law, after formation of its opinion to proceed against O.P. under relevant provisions of the Act issued notices under Section 4 (for order of eviction) and Section 7 (for rental dues) both dated 9.3.2007 calling upon OP to show cause on or before 11.4.2007 to establish its legal authority to occupy the public premises in question etc. On 11.4.2007, one Pramod Kumar Singh, declaring himself to be grandson of O.P. appeared and submitted that he intended to liquidate the entire dues/charges payable to Port Authority as per KoPT's claim without raising any dispute though he denied the allegation of KoPT regarding parting with possession of the premises. On 11.5.2007 the said Pramod Kumar Singh was represented by his Advocate. It was stated in course of hearing that O.P. died long back and Pramod Kumar Singh was his grandson and legal heir of O.P. and running business of Refreshment Stall/Hotel over the land. The representative of Kolkata

10/11/07
13/11/07

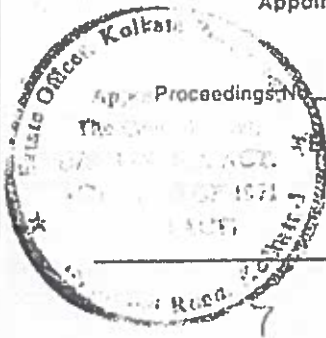


SK

Estate Officer, Kolkata Port Trust

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

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Proceedings No. SES 548/R of 2007 Order Sheet No. 8

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Abilakh Singh

17

27.10.2007

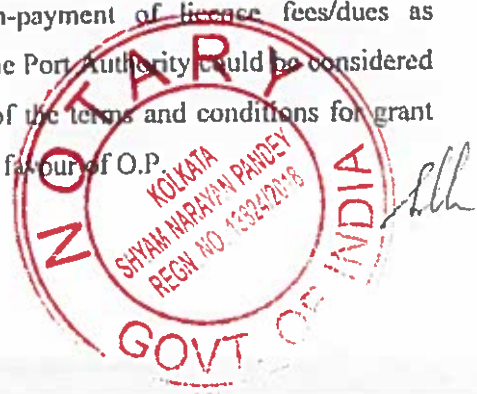
Port Trust stated that there was no information relating to death of Abilakh Singh, O.P. herein and one Shankar Adak was running the hotel business in the name and style of M/s. Abhishek Hotel and Restaurant. A petition was filed by Pramod Kumar Singh with inter alia a prayer to allow him, as present occupant, to defend the instant proceedings and pay arrear dues/compensation charges etc. by easy instalment. No evidence regarding death of O.P. and inheritance of the business by Pramod Kumar Singh was produced despite specific direction. After careful consideration of the submissions/arguments made on behalf of KoPT and Pramod Kumar Singh and after due consideration of the petition verified by Shri Singh dated 22.6.2007 following issues have come up before me for adjudication.

When copy is made by the Estate Officer, Kolkata Port Trust

NOT TO BE USED FOR OTHER PURPOSES

1. Whether the prayer of Pramod Kumar Singh as contained in the petition as filed on 22.6.2007 is tenable.
2. Whether Pramod Kumar Singh can claim any right to hold the premises.
3. Whether O.P. could be considered as a "dead person" on the basis of a statement made by Pramod Kumar Singh.
4. Whether non-payment of licence fees/dues as claimed by the Port Authority could be considered as a breach of the terms and conditions for grant of tenancy in favour of O.P.

13/11/07
Estate Officer, Kolkata Port Trust



Estate Officer, Kolkata Port Trust

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

Proceedings No. 866, 864/R of 2007 Order Sheet No. 7

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Abilakh Singh

16

7
29.10.07

5. Whether O.P. has parted with possession of the public premises to M/s. Abhisekh Hotel and Restaurant unauthorizedly.
6. Whether the ejection notice as served upon O.P. dated 2.3.2006 is valid and legally enforceable.

Issues No.1 to 3 are taken up together for the sake of convenience. It is evident from the petition verified by Pramod Kumar Singh as filed on 22.6.2007 that he is running a business in the name and style of Abhisekh Hotel and Restaurant and that he is claiming his right as grandson and legal heir of Abilakh Singh for running such business. It is also seen that Shri Singh is praying for regularization of tenancy in his favour being the present occupant of the premises in question on payment of all outstanding dues as per demand of Kolkata Port Trust. Two things emerge from the submission of Shri Singh. First, that he is claiming his right through O.P. and second that Shri Singh is the present occupant of the premises. Now the question arises as to how Shri Singh can claim legal authority to occupy the public premises when there is no proof of death of O.P. Even for the sake of argument if it is accepted that O.P. is a dead person as stated by Shri Singh how the property being the public premises devolves upon him only. In course of hearing KoPT denies that O.P. took permission from the Port Authority to run the business of Hotel and Restaurant in the name and style of Abhisekh Hotel and Restaurant. There is no evidence on record that the business of M/s. Abhisekh Hotel and Restaurant under the proprietorship of



ML

13/11/07
[Signature]

Estate Officer, Kolkata Port Trust

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

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Proceedings No. 565, 565/13 of 2007 Order Sheet No. 10

15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Abilakh Singh

7
29.10.07

Shri Pramod Kumar Singh has been accepted by the Port Authority in place of O.P. as the authorized tenant at any point of time. It leaves no room for doubt that Shri Singh's occupation has not yet been regularized as per admission/avermnt made by him. In case of death of O.P. as stated by Shri Singh, all the legal heirs of Abilakh Singh would be responsible for payment of all the dues/charges as payable to KoPT as per law and Shri Pramod Kumar Singh cannot be substituted in place of O.P. unless there is material to prove his entitlement to the estate of Abilakh Singh. In my notice u/s.4 of the Act anybody interested into the property in question was asked to produce evidence in support of any contention they intend to place before me for adjudication in order to determine the question of holding the property. As such, Pramod Kumar Singh's application has been considered. But in view of the written and verbal averments made by Shri Pramod Kumar Singh, his claim to the property on the strength of his being grandson of OP is not tenable. While Pramod Kumar Singh has submitted that he is the grandson of OP, namely Shri Abhilakh Singh, the documents furnished by him reveal that he is the son of late Udai Bhan Singh, the ex-lessee of an adjacent plot. From the Partnership Deed furnished by Shri Pramod Kumar Singh to establish his right to run the aforementioned hotel, it is seen that late Udai Bhan Singh was the son of late Chakori Singh. It is thus evident from the documents furnished by Shri Pramod Kumar Singh that he is not the grandson of Shri Abhilakh Singh, the OP herein and can therefore claim any right to be in

Calcutta Port Trust

13/11/07



[Signature]

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Estate Officer, Kolkata Port Trust

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

Proceedings No. 865, 865/R Of 2007 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Abhisekh Singh

7
29.10.07

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occupation of the premises. I have, therefore, considered his petition, representation and submissions as those of the present occupant of the premises and not as submissions made on behalf of OP. In course of hearing the representative of Port Trust states that O.P. has unauthorizedly parted with possession of the public premises to M/s. Abhisekh Hotel and Restaurant. There is no material to consider that KoPT permitted M/s. Abhisekh Hotel and Restaurant to function from the public premises in question in place of O.P. As such, there is no justification to interfere with the right of Port Authority as the landlord of the premises in dealing with the matter. I must reiterate that Pramod Kumar Singh by his own averment for regularization of tenancy in his favour undoubtedly accepted that the occupation is irregular and unauthorized and as such he cannot claim to be an "authorized occupation" in the facts and circumstances of the case. In the circumstances, the petition of Shri Pramod Kumar Singh is disposed with the observation that he has no locus standi and has no ground to claim his right to be in occupation of the premises or run any business from there.

Regarding Issues No. 4, 5 & 6, I find that nobody has appeared or made any written/verbal submissions on behalf of O.P. The reply to show cause notice as given by Shri Pramod Kumar Singh on behalf of OP cannot be accepted as OP's submission in view of failure of Shri Singh to produce any evidence regarding his family link with OP. From the documents submitted by Shri Pramod Kumar

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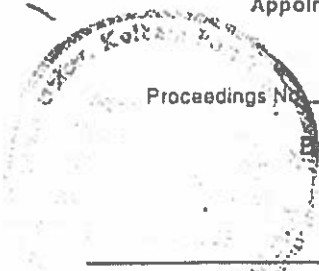
NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 13824/2013
INDIA

[Handwritten signature]

Estate Officer, Kolkata Port Trust

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

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Proceedings No. SEC, 5451A of 2007 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

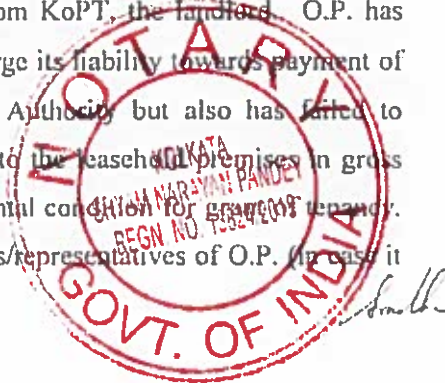
Abhilakh Singh

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20.10.07

Singh, it is clear that Abhisekh Hotel and Restaurant has been functioning from the premises for a long time on the strength of partnership deed made in 1990 and on obtaining trade licence, certificate of enrolment, etc. from the concerned local authorities. The complicity of Shri Abhilakh Singh, the OP herein, in allowing the functioning of Abhisekh Hotel and Restaurant from the premises could not be verified. In this connection, my attention is drawn to the description of the premises as given by KoPT in the Schedule attached to the eviction prayer. According to KoPT, the property is bound on the east by Trustees' land occupied by Shri Abhilakh Singh and on the south, by Trustees' chajja occupied by Estate Udai Bhan Singh. From the petition of Shri Pramod Kumar Singh, it is seen that the hotel is running on amalgamated leasehold property and licensed chajja encroachment of premises being Plate Nos. HL-22, HL-24, HL-22/1 and HL-24/1 at Chandmari Ghat. No authorization from KoPT has been produced to establish the rights of the lessees of the aforementioned premises to amalgamate the above KoPT properties and run a common business from there. Shri Pramod Kumar Singh, the son of late Udai Bhan Singh, the erstwhile tenant of the adjacent plot has practically moved into the premises in question without any approval from KoPT, the landlord. O.P. has not only failed to discharge its liability towards payment of rental dues to the Port Authority, but also has failed to prevent encroachment into the leasehold premises in gross violation to the fundamental condition for grant of tenancy. As per law the legal heirs/representatives of O.P. (in case it



13/11/07



Estate Officer, Kolkata Port Trust

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

Proceedings No. 865, 865/12 Of 2007 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Abhisekh Sinha

7
29.10.07

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is accepted that O.P. is dead as per statement made by Shri Singh) are responsible and bound to liquidate the amount payable to the Port Authority towards rental dues. In the absence of any documentary evidence of death of OP, liability for payment of arrear rental dues, damages and interest rests on OP. The existence of M/s. Abhisekh Hotel and Restaurant in the premises allotted to OP has already been established through a site inspection and averments made by the present occupant. Non-payment of dues is established from records of KoPT and lack of any denial on behalf of OP on this matter. In the circumstances, the breaches brought out by KoPT regarding non-payment of dues and unauthorised parting with possession are duly established. Failure of OP to hand over possession of the premises after issue of ejection notice by KoPT has made him an unauthorised occupant and the said ejection notice served on 2.3.06 is valid and enforceable. As such the issues are decided against O.P.

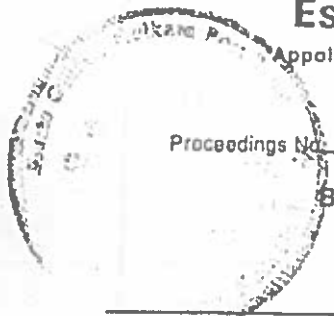
In view of the discussion above, I am left with no other alternative but to issue order of eviction against O.P. on the following reasons/grounds.

- A. That O.P. has defaulted in making payment of dues/licence fees to Kolkata Port Trust in gross violation of the condition of grant of licence.
- B. That O.P. has parted with possession of the public premises unauthorisedly to M/s. Abhisekh Hotel and Restaurant

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Estate Officer, Kolkata Port Trust

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

Proceedings No. 879/2006 Of 2006 Order Sheet No. 14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Abilash Sinha

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29.10.07

- C. That the payment against bill for compensation as demanded by the Port Authority does not create any right to hold the property as the bill for compensation is meant for demand for compensation for unauthorized use and occupation of the Port property in question.
- D. That the claim of Shri Pramod Kumar Singh for regularization of tenancy in his favour in place of O.P. is not tenable.
- E. That O.P. has failed to bear any witness or adduce any evidence in support of "authorized occupation" in spite of due notice to all concerned interested into the property in question.
- F. That the notice to quit/revocation of licence dated 2.3.2006 as served upon O.P. is valid, lawful and binding upon the parties and O.P. is liable to pay damages for unauthorized use and occupation of the public premises in question up to the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

ACCORDINGLY, Department is directed to draw up formal order of eviction u/s.5 of the Act as per Rule made there under, giving 15 days time to O.P. and any person/s whoever may be in occupation 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 and the Port Authority is entitled to claim damages for unauthorized use and occupation of the property against O.P. in accordance

13/11/07



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B

Estate Officer, Kolkata Port Trust

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

Proceedings No. 865. 865/R of 2007 Order Sheet No. 15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Abirakhi Singh

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29.10.07

RECEIVED COPY OF THE ORDER
DATED 14.10.07 BY THE
ESTATE OFFICER

with Law up to the date of recovery of possession of the same. In my opinion KoPT's claim for damages may be payable as it is gathered in course of hearing that the charges so claimed by KoPT is on the basis of the Schedule of Rent Charges published under the Authority of Law as per provisions of the Major Port Trust Act 1963. I make it clear that Kolkata Port Trust is entitled to claim damages against O.P. for unauthorized use and occupation of the public premises upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law. KoPT is accordingly directed to submit a statement comprising details of its calculation of damages indicating therein the details of the rate of such charges together with the basis on which such charges are claimed against O.P. for my consideration for the purpose of assessment of damages as per Rule made under the Act.

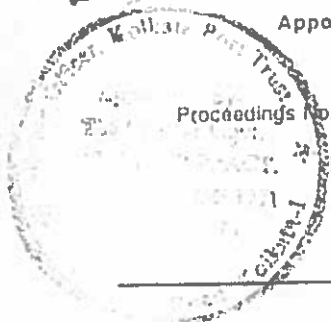
I am also satisfied that a sum of Rs. 1,31,026.78 for the period December, 1974 to 14.3.2006 is due and recoverable from O.P. on account of arrear rental dues in respect of proceedings No.558/R of 2007. It is hereby ordered that the arrear rental dues as aforesaid shall be payable by O.P. to KoPT with accrued interest from the date of incurrance of their liability at the rate of 15% per annum up to 18.9.1996 and thereafter at the rate of 18% per annum as per KoPT's rule till its final payment.

AR/CA
13/11/07



Estate Officer, Kolkata Port Trust

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



Proceedings No. 865, S.C. 5/R of 2007 Order Sheet No. 16

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Abirajit Singh

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29.10.07

Accordingly, Department is also directed to draw up formal order u/s.7 of the Act as per Rule. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

S. Pradhan
(S. PRADHAN)
ESTATE OFFICER.

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

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

cept

THE ESTATE OFFICER, KOLKATA PORT TRUST
appointed by the Central Govt. Under Section 3 of Act 40 of 1971 - Central Act) ~~XXXXXX~~
Public Premises (Eviction of Unauthorised Occupants) Act 1971

OFFICE OF THE ESTATE OFFICER
15, STRAND ROAD
(4th Floor)
KOLKATA - 700 001

13/8/07 *7/8/07*

Court Room At the 2nd Floor
of Kolkata Port Trust's
Head Office, Old Buildings
15, Strand Road, Kolkata - 700 001

REASONED ORDER NO. 10 OF 27.7.2007
PROCEEDINGS NO. 784 OF 2006

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
- Vs -
ESTATE KARIM BUX KHAN

*certified copy as per order
issued by the Estate Officer
Kolkata Port Trust*

F O R M - "B"

ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC PREMISES
(EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971

EE
7/8

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below
that Shri/Smt./Kin/M/s. Estate Karim Bux Khan, Chandwari Ghat Terrace,
Howrah.

is/are in unauthorised occupation of the Public Premises specified in the Schedule below :

R E A S O N S

THAT YOU HAVE FAILED MISERABLY TO PAY THE OUTSTANDING RENTAL DUES/CHARGES TO KoPT IN SPITE OF SUFFICIENT CHANCES. THAT YOU HAVE FAILED TO SUBMIT YOUR REPLY TO THE SHOW CAUSE AND HAVE FAILED TO DEAR ANY WITNESS OR ADDUCE ANY EVIDENCE IN SUPPORT OF YOUR AUTHORISED POSSESSION INTO THE PUBLIC PREMISES IN QUESTION. THAT IN FACT NO EVIDENCE HAS BEEN LAID ON BEHALF OF YOU TO CONSIDER THE MATTER OF AUATHORISED OCCUPATION FOR EJOYMENT OF THE PORT PROPERTY IN QUESTION IN SPITE OF GOOD NUMBER OF CHANCES. THAT YOU NEVER DENIED THE VALIDITY OF SERVICE OF NOTICE DATED 17.8.2005 BY THE PORT AUTHORITY AND AS SUCH THE SAME IS VALID, LEGAL AND BINDING UPON YOU. THAT YOU ARE IN WRONGFUL OCCUPATION OF THE PUBLIC PREMISES AFTER EXPIRY OF THE PERIOD AS MENTIONED IN THE SAID NOTICE DATED 17.8.2005 AND LLABLE TO PAY DAMAGES FOR UNAUTHORISED USE AND OCCUPATION OF THE PORT PROPERTY IN QUESTION ON AND FROM 1.9.2005 UP TO THE DATE OF DELIVERING VACANT, PEACEFUL AND UNENCUMBERED POSSESSION TO KoPT. A CERTIFIED COPY OF THE ORDER DATED 27.7.2007 IS ATTACHED HERETO WHICH ALSO FORMS A PART OF THE REASON.

LACI/C
*my kindly
arrange to
file correct
w.r.t. this order
at appropriate
courts.*

*U/8/16/07
CE-II*

*Sent through
Pan Bux Khan
Advt.
said
all*

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06/8/07
L.S.(H)
F. P. a. pl.
13.8.07

Advt-II
from a. pl.
9/8/07

R/C
20/8/07



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-2-



NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby order the said Shri / Smt./ Km / M/s. Estate Karim Bux Khan, Chandmari Ghat Terrace, Howrah.

and all person 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 Shri / Smt./ Km./ M/s. Estate Karim Bux Khan, Chandmari Ghat Terrace, Howrah.

*certified copy of the original
issued by the Estate Officer
Kolkata Port Trust*

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

All that piece or parcel of Chaja encroachment by fixing sunshed msg. about 5.202 sq.m. or thereabouts is situate at Chandmari Ghat, Thana-Golabari, Dist. & Regn. Dist. Howrah. It is bounded on the north by the Chaja licenced to Janab Abdul Hossain and Sabir Khan on the east by the land leased to you on the south by the Chaja licenced to Abhilakh Singh and on the west by the Trustees' Cable House and drinking water shed. Trustees' means the Board of Trustees for the Port of Kolkata.



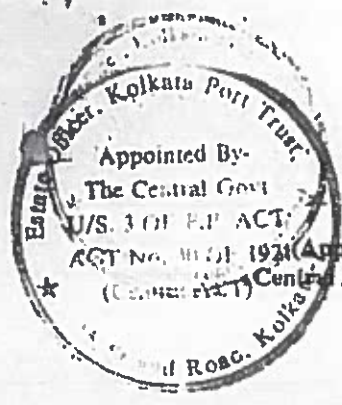
Dated: 06.07.2019

Signature & Seal of the Estate Officer.

COPY FORWARDED TO THE LAND MANAGER, KOLKATA PORT TRUST / LABOUR ADVISER & INDUSTRIAL RELATIONS OFFICER, KOLKATA PORT TRUST FOR INFORMATION.

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ESTATE OFFICER, KOLKATA PORT TRUST
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971
Office of the Estate Officer.
15, Strand Road, (4th Floor) Kolkata-700 001.

FORM- " E "

PROCEEDINGS NO. 784/R OF 2006
ORDER NO. 10 DATED: 27.7.2007

To
Estate Karim Bux Khan,
Chandmari Ghat Terrace,
Howrah.

Approved copy of the order issued by the Estate Officer, Kolkata Port Trust

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

AND WHEREAS, by written notice dated 19.4.2006 you were called upon to show cause on/or before 23.5.2006 why an order requiring you to pay a sum of Rs.46,321.95 (Rupees Forty six thousand three hundred twenty one and paisa ninety five only.) being the rent payable together with simple interest in respect of the said premises should not be made;

AND WHEREAS you have not made any objections or produced any evidence before the said date;

NOW, THEREFORE, in exercise of the powers conferred 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. 46,321.95 (Rupees Forty six thousand three hundred twenty one and paisa ninety five only.) to Kolkata Port Trust by 30.9.2007.

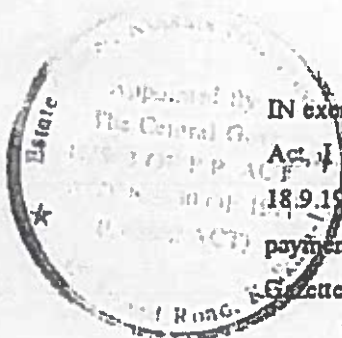
hath

ORDER BY
ESTATE OFFICER
KOLKATA PORT TRUST

06/8/07
Office of the Estate Officer,
Kolkata, Kolkata Port Trust



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IN exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest @ 15% per annum upto 18.9.1996 and thereafter @ 18% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Calcutta Gazette.

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.

Original copy of this order issued by the Estate Officer, Kolkata Port Trust

SCHEDULE

All that piece or parcel of Chaja encroachment by fixing sunshed msg. about 5.202 sq.m. or thereabouts is situate at Chandmari Ghat, Thana-Golabari, Dist. & Regn. Dist. Howrah. It is bounded on the north by the Chaja licenced to Janab Abdul Hossain and Sabir Khan on the east by the land leased to you on the south by the Chaja licenced to Abhilakh Singh and on the west by the Trustees' Cable House and drinking water shed. Trustees' means the Board of Trustees for the Port of Kolkata.

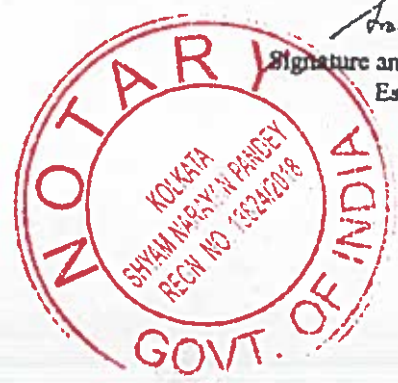
OFFICE OF THE ESTATE OFFICER, KOLKATA PORT TRUST

Dated: 21.7.87

2
06/11/87
Office of the E.O.
Kolkata Port Trust

Signature

Signature and seal of the Estate Officer.



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Estate Officer, Kolkata Port Trust

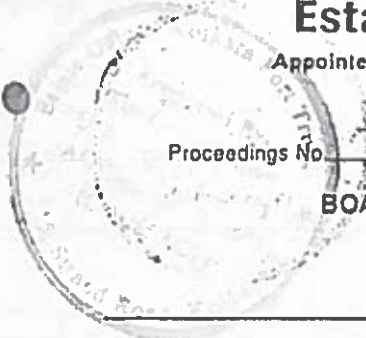
Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 784, 785/08 of 2006 Order Sheet No. 8

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Estate Karim Bux Khan

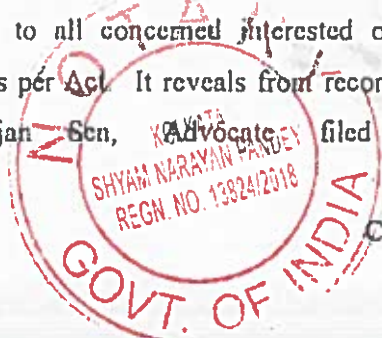


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27.7.2007

FINAL ORDER

The matter is taken up today for final disposal. It is the case of Kolkata Port Trust (KoPT), the Applicant herein that land msg. 5.202 sq.m. (Chhaja encroachment by fixing sunshade) situated at Chandmari Ghat, P.S. Golabari, Dist: Hooghly comprising under Plate No HL-21/1 was allotted to Karim Bux Khan (since deceased) on monthly licence basis with certain terms and conditions and the representatives of the Estate Karim Bux Khan have failed and neglected to pay the rental dues to KoPT to discharge the monthly liability (licence fees) for enjoyment of the Port property, being the public premises in question. It is also the case of KoPT that the O.P. has lost all its authority to occupy the public premises after service of notice for revocation of licence dated 17.8.2005 as served upon O.P. by the Port Authority and anybody asserting any right through the Estate Karim Bux Khan is liable to be evicted as they are in wrongful occupation of the public premises. This Forum of Law formed its opinion to proceed against O.P. and issued notice u/s.4 and 7 of the Act both dated 19.4.2006 for recovery of possession and rental dues. It is seen that the notice was duly received by Md. Islam on 9.5.2006 (expressing himself as son of Karim Bux Khan) and the notice u/s.4 was duly affixed on the property on 9.5.2006 as per report of the Process Server dated 10.5.2006. As such, I am satisfied with the service of notice to all concerned interested on the property in question as per Act. It reveals from record that Shri Shankar Ranjan Sen, Advocate filed his



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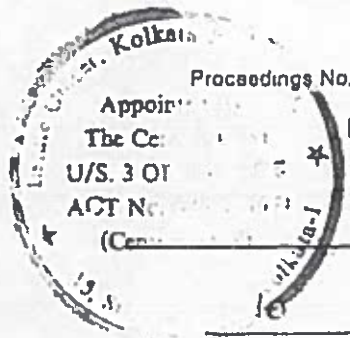
Handwritten notes and signatures, including the date 06/8/07.

48-

320

Estate Officer, Kolkata Port Trust

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



Proceedings No. 784 of 2006 Order Sheet No. 9

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Estate Karim Bux Khan

27.7.2007

RECEIVED BY THE GROUP
OFFICE OF THE
ESTATE OFFICER
KOLKATA PORT TRUST

RECEIVED BY
THE ESTATE OFFICER
KOLKATA PORT TRUST

27.7.2007
OFFICE OF THE
ESTATE OFFICER
KOLKATA PORT TRUST

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filed his VAKALATNAMA in respect of both the proceedings No. 784 & 785 involving the same parties in dispute and appeared on 23.5.2006 on behalf of O.P. and expressed the eagerness of O.P. to liquidate the outstanding dues/charges by instalments. It is evident from record that the O.P. was represented by Shri Shankar Ranjan Sen, Advocate on 14.6.2006 and thereafter by Shri Niladri Saha, Advocate on 18.7.2006, Shri Supriya Ranjan Ghosh, Advocate on 28.7.2006 and Shri A. Chakraborty, Advocate on 11.1.2007. On 28.7.2006 Shri Supriya Ranjan Ghosh, Advocate, appearing for O.P. submits unsigned reply to the Show Cause Notices (which were not acceptable) though the same is forming a part of the record. The Advocates for O.P. all along states and submits that the O.P. is eager to clear up all the dues/charges of KoPT though nothing has been shown to prove the honest gesture on the part of O.P. to liquidate the dues/charges of Kolkata Port Trust for use and enjoyment of the Port property in question in spite of repeated adjournment granted at the instance of O.P. In fact the O.P. has failed to submit the reply to the Show Cause Notices in spite of a good number of chances to establish its authority to occupy the public premises. Such being the case I do not find any alternative but to issue the order of eviction against O.P. on the following reasons/grounds:-

1. That the O.P. has failed miserably to pay the outstanding rental dues/charges to KoPT in spite of sufficient chances

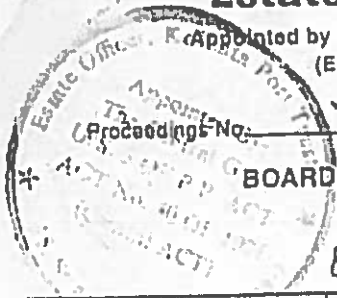


Contd..

-49-

Estate Officer, Kolkata Port Trust

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



Proceedings No. 784 of 2006 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Estate Karim Bux Khan

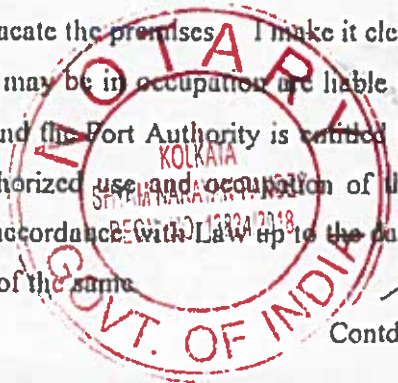
317

10
27.7.2007

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2. That the O.P. has failed to submit its reply to the Show Cause and has failed to bear any witness or adduce any evidence in support of its authorized possession into the public premises in question.
3. That in fact no evidence has been laid on behalf of O.P. to consider the matter of authorized occupation for enjoyment of the Port property in question in spite of good number of chances.
4. That the O.P. never denied the validity of service of notice for revocation of licence dated 17.8.2005 by the Port Authority and as such the same is valid, legal and binding upon the parties.
5. That the O.P. is in wrongful occupation of the public premises after expiry of the period as mentioned in the said notice dated 17.8.2005 and liable to pay damages for unauthorized use and occupation of the Port property in question on and from 1.9.2005 upto the date of delivering vacant, peaceful and unencumbered possession to KoPT.

ACCORDINGLY, Department is directed to draw up formal order of eviction u/s 5 of the Act as per Rule made there under, giving 15 days time to O.P. and any person/s whoever may be in occupation 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 and the Port Authority is entitled to claim damages for unauthorized use and occupation of the property against O.P. in accordance with Law up to the date of recovery of possession of the same.



Contd..

Stamp: "Stamp of the Board of Trustees of the Port of Kolkata"

Stamp: "Stamp of the Board of Trustees of the Port of Kolkata"

Handwritten signature and stamp: "Signature of the Estate Officer, Kolkata Port Trust"

Estate Officer, Kolkata Port Trust

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



Proceedings No. 784 of 2006 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Estate Karim Bux Khan

27.7.2007

REPROD COPY ON THE OVER
FORWARDED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

FORWARDED BY
TO THE ESTATE OFFICER
KOLKATA PORT TRUST

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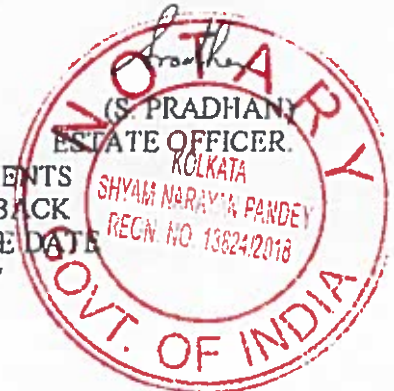
I am satisfied that a sum of Rs.46,321.95 for the period October 1983 to 31.8.2005 is due and recoverable from O.P. on account of arrear rental dues in respect of proceedings No.784/R of 2006. It is hereby ordered that the arrear rental dues as aforesaid shall be payable by O.P. to KoPT with accrued interest from the date of incurrence of their liability at the rate of 15% per annum up to 18.9.1996 and thereafter at the rate of 18% per annum as per KoPT's rule till its final payment. Accordingly, Department is directed to draw up formal order u/s.7 of the Act as per Rule, giving time upto 30.9.2007 to O.P. to pay such arrear rental dues

KoPT is directed to submit a report regarding its claim on account of damages against O.P., indicating therein the details of the computation of such damages with the rate of charges so claimed for the respective period (details of computation with rates applicable for the relevant period) for my consideration in order to assess the damages as per the Act and the Rules made thereunder. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

06/07/07
Y. Pradyuman
Estate Officer
Office of the M. Secy
Kolkata Port Trust

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



315



NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, hereby order the said Shri / Smt./ Km / M/s. **Estate. Karim Sur Khan,**.....
Chandmari Ghat Terrace, Howrah......

and all person 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 Shri / Smt./ Km./ M/s. **Estate. Karim Sur Khan, Chandmari Ghat Terrace, 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

The piece or parcel of land with P.O. County No.5 neg. 14.865 sq.m. or thereabouts is situate at Chandmari Ghat P.S. Golabari, Dist. & Regn. Dist.-Howrah. It is bounded on the north by the Trustees' land leased to Jamal Abdul Hussain and Sabir Khan, on the east by the Trustees' boundary wall beyond which is the river Hooghly, on the south by the Trustees' land leased to Abilakh Singh and on the west by the Trustees' open land used as passage. Trustees' means the Board of Trustees for the Port of Kolkata.

RECEIVED BY
LABOUR ADVISER
KOLKATA PORT TRUST

2
06/20
Date: 21.06.2020



Signature & Seal of the Estate Officer.

COPIES FORWARDED TO THE LAND MANAGER, KOLKATA PORT TRUST / LABOUR ADVISER & INDUSTRIAL RELATIONS OFFICER, KOLKATA PORT TRUST FOR INFORMATION.

315



ESTATE OFFICER, KOLKATA PORT TRUST
ESTATE OFFICER, KOLKATA PORT TRUST
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971
Central Act) Public Premises (Eviction of Unauthorised Occupant) Act 1971
Office of the Estate Officer.
15, Strand Road, (4th Floor) Kolkata-700 001.

FORM-" E "

PROCEEDINGS NO. 785/R OF 2006
ORDER NO. 10 DATED: 27.7.2007

To
Estate Karam Bux Khan,
Chandimari Ghat Terrace,
Howrah.
Certified copy as
passed by the Board
Kolkata Port Trust

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

AND WHEREAS, by written notice dated 19.4.2006 you were called upon to show cause on/or before 23.5.2007 why an order requiring you to pay a sum of Rs.1,48,153.95 (Rupees one lac forty eight thousand one hundred fifty three and paise ninety five only.) being the rent payable together with simple interest in respect of the said premises should not be made;

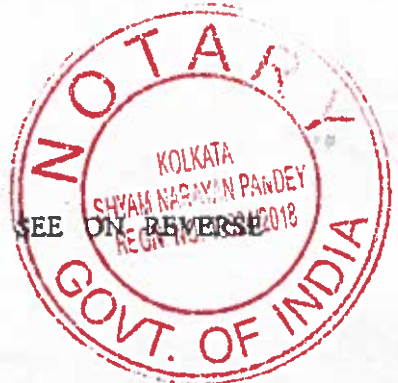
AND WHEREAS you have not made any objections or produced any evidence before the said date;

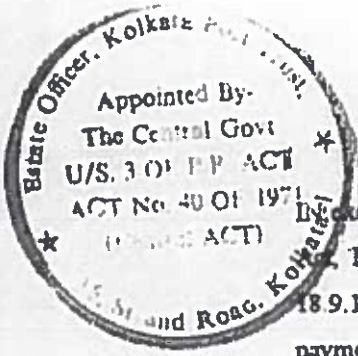
NOW, THEREFORE, in exercise of the powers conferred by Sub-section (1) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby require you to pay the sum of Rs. 1,48,153.95 (Rupees one lac forty eight thousand one hundred fifty three and paise ninety five only.) to Kolkata Port Trust by 30.9.2007.

hall

06/3/07
[Handwritten signature]

PLEASE SEE ON REVERSE





314

I exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest @ 15% per annum upto 18.9.1996 and thereafter @ 18% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Calcutta Gazette.

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.

Original copy of this document
deposited by the Estate Officer,
Kolkata Port Trust

SCHEDULE

The piece or parcel of land with P.C. Goomty No.5 msg. 14.865 sq.m. or thereabouts is situate at Chandmari Ghat P.S. Golabari, Dist. & Regn. Dist.-Howrah. It is bounded on the north by the Trustees' land leased to Janal Abdul Hussain and Sabir Khan, on the east by the Trustees' boundary wall beyond which is the river Hooghly, on the south by the Trustees' land leased to Abilakh Singh and on the west by the Trustees' open land used as passage. Trustees' means the Board of Trustees for the Port of Kolkata.

RECEIVED BY
THE ESTATE OFFICER
KOLKATA PORT TRUST

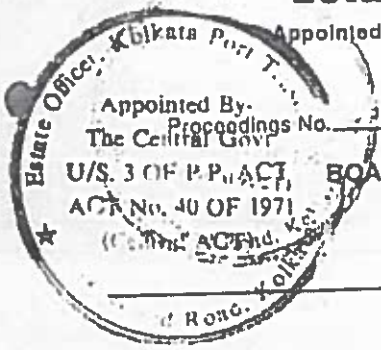
06/08/07
Kolkata Port Trust
Dated: 06.08.07



Signature and seal of the
Estate Officer.

Estate Officer, Kolkata Port Trust

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



785 of 2006 Order Sheet No. 8

BOARD OF TRUSTEES OF THE PORT OF KOLKATA VS

Estate Karim Bux Khan.

313

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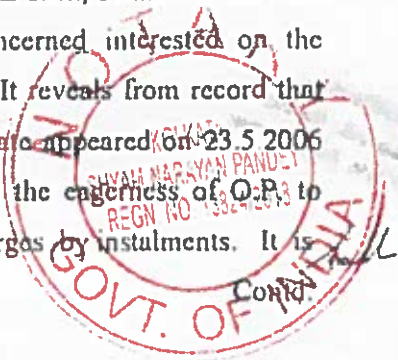
27.7.2007

COPIES OF THIS ORDER
FORWARDED BY THE BOARD OF
TRUSTEES OF THE PORT OF KOLKATA

FINAL ORDER

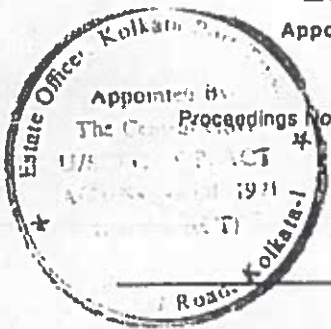
The matter is taken up today for final disposal. It is the case of Kolkata Port Trust (KoPT), the Applicant herein that land msg. 14.865 sq.m. situated at Chandmari Ghat, P.S. Golabari, Dist: Hooghly comprising under Plate No HL-21 was allotted to Karim Bux Khan (since deceased) on monthly term lease basis with certain terms and conditions and the representatives of the Estate Karim Bux Khan have failed and neglected to pay the rental dues to KoPT to discharge the monthly rental liability for enjoyment of the Port property, being the public premises in question. It is also the case of KoPT that the O.P. has lost all its authority to occupy the public premises after service of ejection notice dated 29.6.1999 as served upon O.P. by the Port Authority and anybody asserting any right through the Estate Karim Bux Khan is liable to be evicted as they are in wrongful occupation of the public premises. This Forum of Law formed its opinion to proceed against O.P. and issued notice u/s.4 and 7 of the Act both dated 19.4.2006 for recovery of possession and rental dues. It is seen that the notice was duly received by Md. Islam on 9.5.2006 (expressing himself as son of Karim Bux Khan) and the notice u/s.4 was duly affixed on the property on 9.5.2006 as per report of the Process Server dated 10.5.2006. As such, I am satisfied with the service of notice to all concerned interested on the property in question as per Act. It reveals from record that Shri Shankar Ranjan Sen, Advocate appeared on 23.5.2006 on behalf of O.P. and expressed the eagerness of O.P. to liquidate the outstanding dues/charges by instalments. It is

06/27/07



Estate Officer, Kolkata Port Trust

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



Proceedings No. 785 of 2006 Order Sheet No. 9

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Estate Karim Bux Khan

10
27-7-2007

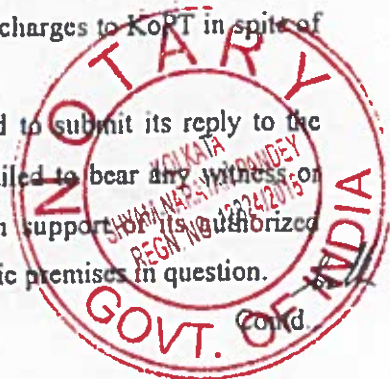
REMOVED COPY OF THE ORDER
ISSUED BY THE ESTATE OFF.
KOLKATA PORT TRUST

REMOVED COPY OF THE ORDER
ISSUED BY THE ESTATE OFF.
KOLKATA PORT TRUST

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It is evident from record that the O.P. was represented by Shri Shankar Ranjan Sen, Advocate on 14.6.2006 and thereafter by Shri Niladri Saha, Advocate on 18.7.2006, Shri Supriya Ranjan Ghosh, Advocate on 28.7.2006 and Shri A. Chakraborty, Advocate on 11.1.2007. On 28.7.2006 Shri Supriya Ranjan Ghosh, Advocate, appearing for O.P. submitted unsigned reply to the Show Cause Notices (which were not acceptable) though the same is forming a part of the record. The Advocates for O.P. all along states and submits that the O.P. is eager to clear up all the dues/charges of KoPT though nothing has been shown to prove the honest gesture on the part of O.P. to liquidate the dues/charges of Kolkata Port Trust for use and enjoyment of the Port property in question in spite of repeated adjournment granted at the instance of O.P. In fact the O.P. has failed to submit the reply to the Show Cause Notices in spite of a good number of chances to establish its authority to occupy the public premises. Such being the case I do not find any alternative but to issue the order of eviction against O.P. on the following reasons/grounds:-

1. That the O.P. has failed miserably to pay the outstanding rental dues/charges to KoPT in spite of sufficient chances.
2. That the O.P. has failed to submit its reply to the Show Cause and has failed to bear any witness or adduce any evidence in support of its unauthorized possession into the public premises in question.

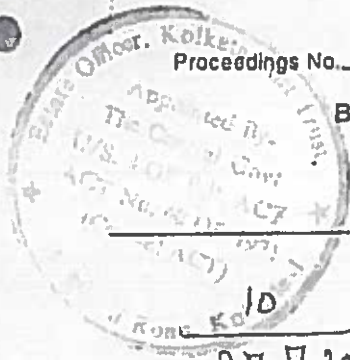


06/8/07
Office of the M. Estate
Kolkata Port Trust

Estate Officer, Kolkata Port Trust

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

311



Proceedings No. 785 of 2006 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Estate Karim Bux Khan

27.7.2007

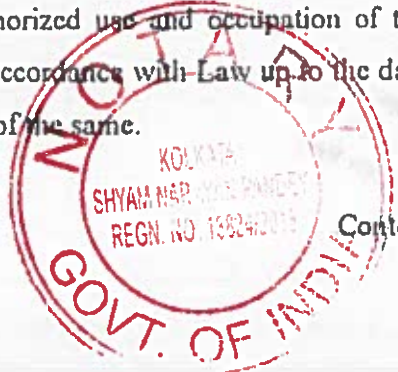
ORDERED COST TO BE PAID AS
ASSESSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

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3. That in fact no evidence has been laid on behalf of O.P. to consider the matter of authorized occupation for enjoyment of the Port property in question in spite of good number of chances.
4. That the O.P. never denied the validity of service of ejectment notice dated 29.9.1996 by the Port Authority and as such the same is valid, legal and binding upon the parties.
5. That the O.P. is in wrongful occupation of the public premises after expiry of the period as mentioned in the said ejectment notice dated 29.6.1999 and liable to pay damages for unauthorized use and occupation of the Port property in question on and from 1st August 1999 upto the date of delivering vacant, peaceful and unencumbered possession to KoPT.

ACCORDINGLY, Department is directed to draw up formal order of eviction u/s.5 of the Act as per Rule made there under, giving 15 days time to O.P. and any person/s whoever may be in occupation 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 and the Port Authority is entitled to claim damages for unauthorized use and occupation of the property against O.P. in accordance with Law up to the date of recovery of possession of the same.

06/8/07
Office of the E.O., Port
Kolkata, Kolkata Port Trust

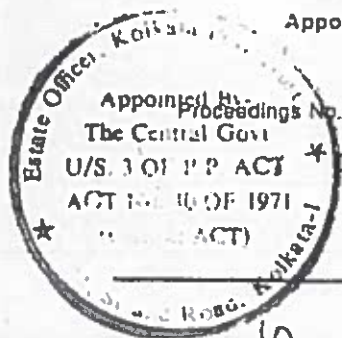


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Estate Officer, Kolkata Port Trust

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



Proceedings No. 785 of 2006 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Estate Karim Bux Khan

10
27-7-2007

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I am satisfied that a sum of Rs. 1,48,153.95 for the period 1.9.1977 to 31.7.1999 is due and recoverable from O.P. on account of arrear rental dues in respect of proceedings No.785/R of 2006. It is hereby ordered that the arrear rental dues as aforesaid shall be payable by O.P. to KoPT with accrued interest from the date of incurrance of their liability at the rate of 15% per annum up to 18.9.1996 and thereafter at the rate of 18% per annum as per KoPT's rule till its final payment. Accordingly, Department is directed to draw up formal order u/s.7 of the Act as per Rule, giving time upto 30.9.2007 to O.P. to pay such arrear rental dues.

KoPT is directed to submit a report regarding its claim on account of damages against O.P., indicating therein the details of the computation of such damages with the rate of charges so claimed for the respective period (details of computation with rates applicable for the relevant period) for my consideration in order to assess the damages as per the Act and the Rules made thereunder. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL.

S. Pradhan

(S. PRADHAN)
ESTATE OFFICER.

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



Original copy of the order issued by the Estate Officer, Kolkata Port Trust

Office of the Estate Officer, Kolkata Port Trust

06/8/07
Office of the M. Secy, Kolkata Port Trust

3695/1

DEPH.

519

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

OFFICE OF THE ESTATE OFFICER, 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
15, STRAND ROAD
(4th Floor)
KOLKATA - 700 001

EE ✓
Pb file caret
at appropriate
court.

Court Room At the 2nd Floor
of Kolkata Port Trust's
Head Office, Old Buildings
15, Strand Road, Kolkata - 700 001

REASONED ORDER NO. 10 OF 13.7.2007
PROCEEDINGS NO. 832/A OF 2006
BOARD OF TRUSTEES OF THE PORT OF KOLKATA
- Vs -

JANAB ABDUL HASSIN & MD. SHABIB KHAN.

FORM - "B"

ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC PREMISES
(EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971

LA (S/L)
May kindly
arrange to file
caret at
appropriate
courts on
subject of
this order.

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below
that Shri/Smt./Kum/M/s. Janab Abdul Hassin & Md. Shabbir Khan,
Chandmari Ghat Terrace, Howrah.

6/8/07
Ex 6-100-11
FLM (S/L)
Sent 16/11/07
Pamgok
Kali P.
Smith
6/8/07

is/are in unauthorised occupation of the Public Premises specified in the Schedule below :

REASONS

THAT YOU HAVE FAILED TO PAY THE RENTAL DUES TO KoPT AND YOU HAVE CONTINUED YOUR OCCUPATION INTO THE PORT PROPERTY AFTER EXPIRY OF THE PERIOD AS MENTIONED IN THE NOTICE DATED 6.1.2006 TO VACATE THE PREMISES AS SERVED UPON YOU BY THE PORT AUTHORITY. THAT THE PORT AUTHORITY IS WELL WITHIN ITS JURISDICTION TO SERVE NOTICE DATED 6.1.2006, REQUIRING YOU TO VACATE THE PREMISES AND THE SAID NOTICE IS VALID, LAWFUL AND BINDING UPON YOU. THAT YOU HAVE FAILED TO FILE REPLY TO THE SHOW CAUSE NOTICES IN SPITE OF REPEATED CHANCES AND NO EVIDENCE HAS BEEN LAID ON BEHALF YOU IN SUPPORT OF YOUR OCCUPATION INTO THE PORT PROPERTY. THAT YOU HAVE FAILED TO BEAR ANY WITNESS AND/OR ADDUCE ANY EVIDENCE IN SUPPORT OF YOUR OCCUPATION IN SPITE OF REPEATED CHANCES. THAT YOU ARE IN WRONGFUL OCCUPATION OF THE PUBLIC PREMISES ON AND FROM 20.1.2006 AND LIABLE TO PAY DAMAGES FOR UNAUTHORISED USE AND OCCUPATION OF THE PORT PROPERTY IN QUESTION UPTO THE DATE OF HANDING OVER OF CLEAR, VACANT AND UNENCUMBERED POSSESSION TO KoPT. A CERTIFIED COPY OF THE ORDER DATED 13.7.2007 IS ATTACHED HERETO WHICH ALSO FORMS A PART OF THE REASON

✓ E-11
AL/A-11
W
7/8/07
S. (H)
notary
8.8.07

27.7.07
Kolkata Post Trust



b15

NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby order the said Shri / Smt. / Km / M/s. **Jamat Abdul Hussin & Mi. Shabbir Khan, Chanduari Ghat Terrace, Howrah.**

and all person 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 Shri / Smt. / Km. / M/s. **Jamat Abdul Hussin & Mi. Shabbir Khan, Chanduari Ghat Terrace, 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

The said goomty 6 & 7 msg. about 17.745 sq.m. or thereabouts is situate on the terrace of Chanduari Ghat, Howrah. P.S. Golabari, Dist-Howrah, Registration Dist. Howrah. It is bounded on the north by the Trustees land occupied by Brij Mohanlal Gupta & Ors. On the east by the River Hooghly on the south by the Trustees land occupied by Estate Karim Bux and on the west by the Trustees' space covered by your Chajja Licenced to you beyond which lies Trustees' cable house. Trustees' means the Board of Trustees for the Port of Kolkata.

SECRET

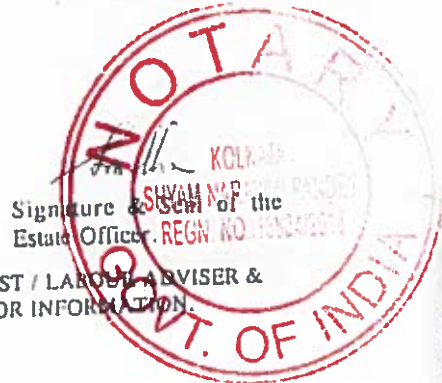
RECEIVED

23.7.67



Dated 23.7.2007

COPY FORWARDED TO THE LAND MANAGER, KOLKATA PORT TRUST / LABOUR ADVISER & INDUSTRIAL RELATIONS OFFICER, KOLKATA PORT TRUST FOR INFORMATION.



- 61-

512



ESTATE OFFICER, KOLKATA PORT TRUST
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971
Central Act) Public Premises (Eviction of Unauthorised Occupant) Act 1971
Office of the Estate Officer,
15, Strand Road, (4th Floor) Kolkata-700 001.

FORM-“ E ”

PROCEEDINGS NO. 832/R OF 2006
ORDER NO. 10 DATED: 13.7.2007

To
Janab Addul Hassin &
Md. Shabbir Khan.
Chandmari Ghat Terrace,
Howrah.

STRICTLY COPY OF THE ORIGINAL
ORDER BY THE ESTATE OFFICER,
KOLKATA PORT TRUST

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

AND WHEREAS, by written notice dated 21.2.2007 you were called
upon to show cause on/or before 16.3.2007 why an order requiring you to pay a
sum of Rs.3,18,967.00 (Rupees Three lac eighteen thousand nine hundred sixty
seven only.) being the rent payable together with simple interest in respect of
the said premises should not be made;

ORDER BY
THE ESTATE OFFICER,
KOLKATA PORT TRUST

AND WHEREAS you have not made any objections or produced any
evidence before the said date;

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. 3,18,967.00 (Rupees Three lac
eighteen thousand nine hundred sixty seven only.) to Kolkata Port Trust by
16.8.2007.

27/7/07
KOLKATA PORT TRUST

Small

PLEASE SEE ON REVERSE



5/3

IN exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest @ 15% per annum upto 18.9.1996 and thereafter @ 18% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Calcutta Gazette.

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.

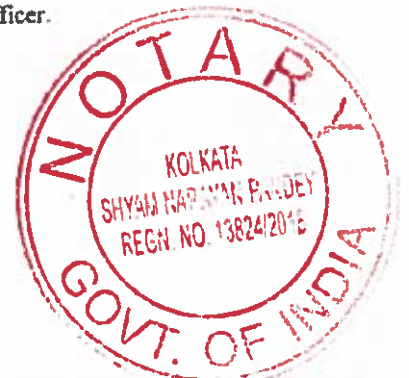
SCHEDULE

The said goomty 6 & 7 msg. about 17.745 sq.m. or thereabouts is situate on the terrace of Chandmari Ghat, Howrah, P.S. Golabari, Dist-Howrah, Registration Dist. Howrah. It is bounded on the north by the Trustees land occupied by Brij Mohanlal Gupta & Ors. On the east by the River Hooghly on the south by the Trustees land occupied by Estate Karim Bux and on the west by the Trustees' space covered by your Chajja Licenced to you beyond which lies Trustees' cable house. Trustees' means the Board of Trustees for the Port of Kolkata.

27/7/07
General Assistant
Kolkata Port Trust

Dated: 2-3-7-2007

Shadh
Signature and seal of the
Estate Officer.

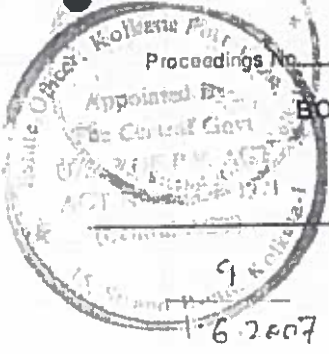


-63-

Estate Officer, Kolkata Port Trust

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

611



Proceedings No. 832, 832/R of 2006 Order Sheet No. 85

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Janab Abdul Hasin & Md. Shabbir Khan.

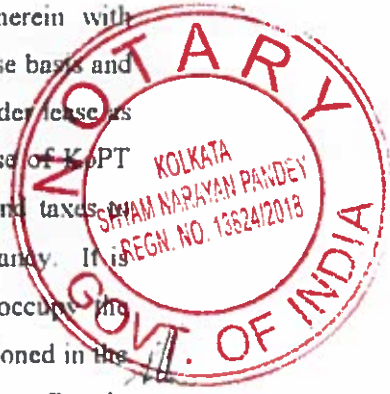
Present: N. Mallick, Executive Engineer
P. K. Majumdar, Asst. Land Manager
&
S. Nandy, Land Inspector for Kolkata Port Trust (KoPT)
Shankar Ranjan Sen, Advocate for O.P.

Advocate for O.P. prays for further time to file reply to the Show Cause. Heard the submission and perused the papers on record. I do not find any justification to grant further time as there is no cogent explanation for not filing reply to the Show Cause notices during the period as extended earlier. Prayer for adjournment is rejected. Final order is reserved.

[Signature]
Estate Officer.

FINAL ORDER

Before delivering final order, certain facts are required to be discussed. It is the case of Kolkata Port Trust (KoPT), the Applicant herein, that Goomty nos. 6 & 7 msg. about 17.745 sq.m. under occupation No. HL-20/A situated at Chandmari Ghat, Howrah Thana: Golabari, was allotted to M/s. Janab Abdul Hasin & Md. Sabbir Khan, the O.P. herein with certain terms and conditions on monthly term lease basis and the O.P. has violated the condition of tenancy under lease as granted by the Port Authority. It is also the case of KoPT that the O.P. has failed to pay the rental dues and taxes to KoPT in gross violation of the condition of tenancy. It is argued that the O.P. has lost its authority to occupy the public premises after expiry of the period as mentioned in the



Contd.

Delivered copy to the Estate Officer
by the Estate Officer
Kolkata Port Trust

RECEIVED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

10
13.7.2007

27/7/07
V. S. S. S. S.
OFFICE OF THE ESTATE OFFICER
Kolkata Port Trust

Estate Officer, Kolkata Port Trust

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

Proceedings No. 837, 837/R of 2006 Order Sheet No. 186

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Jannab Abdul Hossain & MD. Shabbis Khan

510



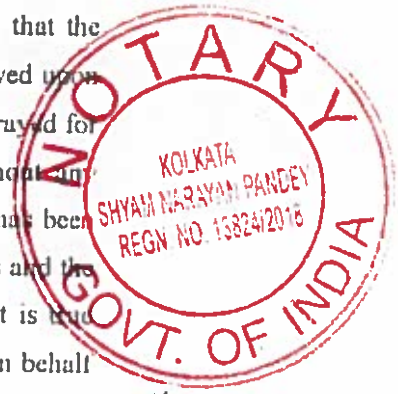
16
13.7.2007

RECEIVED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

RECEIVED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

RECEIVED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

Contd. from pre-page..
mentioned in the notice of ejection dated 6.1.2006 as served upon O.P. by the Port Authority. It is claimed that an amount of Rs.3,18,967/- is due and recoverable from O.P. for the period 1st September 1977 upto 19.1.2006, excluding interest as chargeable under the KoPT's Rule. This Forum of Law formed its opinion to proceed against O.P. under the relevant provisions of the Act and issued notices u/s.4 and 7 of the Act both dated 23.2.2007, calling upon O.P. to show cause etc. on or before 16.3.2007. It is seen from the report of the Process Server that the notices u/s.4 and 7 were affixed on the public premises in question by Sandip Patra on 5.3.2007. Shri Shankar Ranjan Sen, Advocate for O.P. appeared on 30.3.2007 and prayed for time to file reply to the Show Cause notice. Prayer for adjournment on behalf of O.P. was allowed and 13.4.2007 was fixed for the next date of hearing etc. and filing reply to the Show Cause with the knowledge of Shri Sen, Advocate for O.P. Further opportunity was given to O.P. to file reply to the Show Cause/s as no one appeared on behalf of O.P. on the dates scheduled for hearing/filing reply to the Show Cause/s on 13.4.2007 and 18.5.2007. It is evident from record that the orders fixing the dates of hearing etc. were duly served upon O.P. On 1.6.2007 Shri Shankar Ranjan Sen again prayed for time to file reply to the Show Cause notices without any cogent reason. I am convinced that sufficient time has been given to O.P. to file reply to the Show Cause notices and the O.P. has failed and neglected to file such reply. It is true that adjournments are granted on the prayers made on behalf of the parties in deserving cases to administer principle of



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Estate Officer, Kolkata Port Trust

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

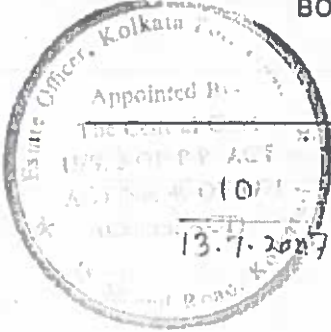
Proceedings No. 837.832/R of 2006 Order Sheet No. X 7

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

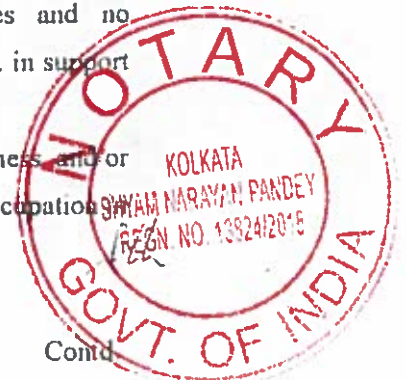
Janab Abdul Hassin k MD. Shabbir Khan



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principle of natural justice. It does not mean that adjournment can be claimed as a matter of right. On 16.2.2007 Shri Sen, Advocate prayed for adjournment but failed to convince upon this Forum of Law that O.P. had any valid ground for not filing reply to the Show Cause notices in spite of repeated chances. As there is no reply to the Show Cause notices by this Forum of Law, I am left with no other alternative but to allow the prayer of the Port Authority for order of eviction on the following grounds/reasons.

1. That the O.P. has failed to pay the rental dues to KoPT and the O.P. has continued its occupation into the Port property after expiry of the period as mentioned in the notice dated 6.1.2006 to vacate the premises as served upon O.P. by the Port Authority.
2. That the Port Authority is well within its jurisdiction to serve notice dated 6.1.2006, requiring the O.P. to vacate the premises and the said notice is valid, lawful and binding upon the parties.
3. That O.P. has failed to file reply to the Show Cause notices in spite of repeated chances and no evidence has been laid on behalf of O.P. in support of its occupation into the Port property.
4. That O.P. has failed to bear any witness and/or adduce any evidence in support of its occupation in spite of repeated chances.



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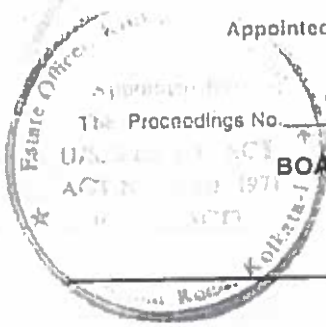
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PC UNDER BY THE ESTATE OFFICER

27/7/07
Estate Officer
Kolkata Port Trust

Estate Officer, Kolkata Port Trust

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



The Proceedings No. 832, 832/R of 2006 Order Sheet No. 1A-8

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Janab Abdul Hassim & MD. Shabbir Khan

108

10
13.7.2007

Contd. from pre-page..

5. That the O.P. is in wrongful occupation of the public premises on and from 20.1.2006 and liable to pay damages for unauthorized use and occupation of the Port property in question upto the date of handing over of clear, vacant and unencumbered possession to KoPT.

ACCORDINGLY, Department is directed to draw up formal order of eviction u/s.5 of the Act as per Rule made there under, giving 15 days time to O.P. and any person/s whoever may be in occupation 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 and the Port Authority is entitled to claim damages for unauthorized use and occupation of the property against O.P. in accordance with Law up to the date of recovery of possession of the same.

I am also satisfied that a total sum of Rs. 3,18,967/- for the period 1.9.1977 to 19.1.2006 is due and recoverable from O.P. on account of arrear rental dues. It is hereby ordered that the arrear rental dues as aforesaid shall be payable by O.P. to KoPT with accrued interest from the date of incurrance of their liability at the rate of 15% per annum up to 18.9.1996 and thereafter at the rate of 18% per annum as per KoPT's rule till its final payment. Accordingly, Department is also directed to draw up formal order u/s.7 of the Act as per Rule, requiring O.P. to pay the amount as aforesaid by 16th August 2007.

ORIGINAL COPY OF THIS ORDER
FORWARDED BY THE ESTATE OFFICER,
Kolkata Port Trust

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13.7.2007

10
13.7.2007

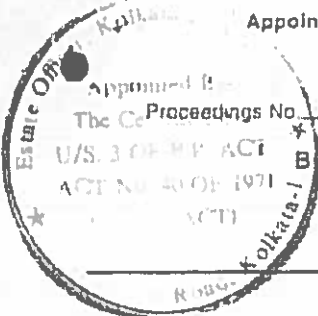


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Estate Officer, Kolkata Port Trust

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

507



Proceedings No. 832, 832/R of 2006 Order Sheet No. 129

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Janab Abdul Hossain & RA. Shabbis Khan

10
13.7.2007

COPIED COPY OF THE ORDER
ISSUED BY THE ESTATE OFFICER
Kolkata Port Trust

Contd. from pre-page..
In my opinion KoPT's claim for damages may be payable as it is gathered in course of hearing that the charges so claimed by KoPT is on the basis of the Schedule of Rent Charges published under the Authority of Law as per provisions of the Major Port Trust Act 1963. I make it clear that Kolkata Port Trust is entitled to claim damages against O.P. for unauthorized use and occupation of the public premises upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law. KoPT is accordingly directed to submit a statement comprising details of its calculation of damages indicating therein the details of the rate of such charges together with the basis on which such charges are claimed against O.P. for my consideration for the purpose of assessment of damages as per Rule made under the Act.

GIVEN UNDER MY HAND AND SEAL

S. Pradhan
(S. PRADHAN)
ESTATE OFFICER

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



24/7/07
Kolkata Port Trust
Estate Officer

-68-

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

DepH
529

31/7/07

7913

THE ESTATE OFFICER, 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
15, STRAND ROAD
(4th Floor)
KOLKATA - 700 001

EE/1
Pvs file cancells
at appropriate
court.
3/8

Court Room At the 2nd Floor
of Kolkata Port Trust's
Head Office, Old Buildings
15, Strand Road, Kolkata - 700 001

REASONED ORDER NO. 8
PROCEEDINGS NO. 833

OF 13.7.2007
OF 2006

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
- Vs -

JANAB ABDUL HASSIN & MD. SHABIB KHAN

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 Shri/Smt./Km/M/s. Janab Abdul Hassin & Md. Shabbir Khan,
Chandmari Ghat Terrace, Howrah.

LA (1/1)
May kindly
arrange to
file caveat
at appropriate
courts in respect
of this order.
13/8/07
E.S. Singh

is/are in unauthorised occupation of the Public Premises specified in the Schedule below :

R E A S O N S

THAT YOU HAVE FAILED TO PAY THE RENTAL DUES TO KoPT AND YOU HAVE CONTINUED YOUR OCCUPATION INTO THE PORT PROPERTY AFTER EXPIRY OF THE PERIOD AS MENTIONED IN THE NOTICE DATED 6.1.2006 TO VACATE THE PREMISES AS SERVED UPON YOU BY THE PORT AUTHORITY. THAT THE PORT AUTHORITY IS WELL WITHIN ITS JURISDICTION TO SERVE NOTICE DATED 6.1.2006, REQUIRING YOU TO VACATE THE PREMISES AND THE SAID NOTICE FOR REVOCATION OF LICENCE IS VALID, LAWFUL AND BINDING UPON YOU. THAT YOU HAVE FAILED TO FILE REPLY TO THE SHOW CAUSE/S IN SPITE OF REPEATED CHANCES AND NO EVIDENCE HAS BEEN LAID ON BEHALF YOU IN SUPPORT OF YOUR OCCUPATION INTO THE PORT PROPERTY. THAT YOU HAVE FAILED TO BEAR ANY WITNESS AND/OR ADDUCE ANY EVIDENCE IN SUPPORT OF YOUR OCCUPATION IN SPITE OF REPEATED CHANCES. THAT YOU ARE IN WRONGFUL OCCUPATION OF THE PUBLIC PREMISES ON AND FROM 20.1.2006 AND LIABLE TO PAY DAMAGES FOR UNAUTHORISED USE AND OCCUPATION OF THE PORT PROPERTY IN QUESTION UPTO THE DATE OF HANDING OVER OF CLEAR, VACANT AND UNENCUMBERED POSSESSION TO KoPT. A CERTIFIED COPY OF THE ORDER DATED 13.7.2007 IS ATTACHED HERETO WHICH ALSO FORMS A PART OF THE REASON.

TECH/CS
Sent through
Peer Bank on
date.
Shuk
6/8

24/8/07
At the Bd. Room
Kolkata Port Trust

Notary
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 05212/E
GOVT. OF INDIA
8.8.07

1525

NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. I hereby order the said Shri / Smt. / Km / M/s. **Janab Abdul Hassain & Md. Shabbir Khan, Chandmari Ghat Terrace, Howrah.**

and all person 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 Shri / Smt. / Km. / M/s. **Janab Abdul Hassain & Md. Shabbir Khan, Chandmari Ghat Terrace, 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

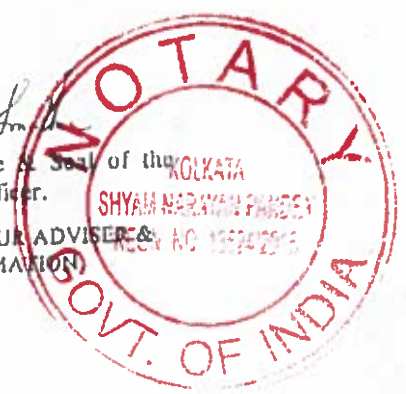
The piece or parcel for chajja encroachment by fixing sunshed msg. about 6.08 sq.m or thereabouts is situate at Chandmari ghat, Howrah P.S. Golabari, Dist. Howrah registration Dist. Howrah. It is bounded on the north by the Trustees chajja licenced to Brj Mohanlal Gupta & Ors. On the east by the Trustees goomty occupied by Janab Abdul Hassain and Md. Shabbir Khan and on the south by the Trustees' chajja licenced to Estate Karim Bux and on the west by the Trustees Cable House. Trustees' means the Board of Trustees for the Port of Kolkata.

Handwritten signature in Bengali script.

Dated : 23.7.2007

COPY FORWARDED TO THE LAND MANAGER, KOLKATA PORT TRUST / LABOUR ADVISER & INDUSTRIAL RELATIONS OFFICER, KOLKATA PORT TRUST FOR INFORMATION

Signature & Seal of the Estate Officer.



70-

522

ESTATE OFFICER, KOLKATA PORT TRUST
 (Appointed by the Central Govt. Under Section 3 of Act 40 of 1971
 Central Act) Public Premises (Eviction of Unauthorised Occupant) Act 1971
 Office of the Estate Officer,
 15, Strand Road, (4th Floor) Kolkata-700 001.

FORM- " E "

PROCEEDINGS NO. 833/R OF 2006
ORDER NO. 8 DATED: 13.7.2007

To
 Janab Abdul Hassin &
 Md. Shabbir Khan,
 Chandmari Ghat Terrace,
 Howrah.

RETURN COPY OF THIS ORDER
 TO BE SENT BY THE ESTATE OFFICER
 TO THE DISTRICT MAGISTRATE

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

AND WHEREAS, by written notice dated 23.2.2007 you were called
 upon to show cause on/or before 16.3.2007 why an order requiring you to pay a
 sum of Rs.66,407.00 (Rupees Sixty six thousand four hundred seven only.)
 being the rent payable together with simple interest in respect of the said premises
 should not be made;

ORDER BY
 THE ESTATE OFFICER
 KOLKATA PORT TRUST

AND WHEREAS you have not made any objections or produced any
 evidence before the said date;

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. 66,407.00 (Rupees Sixty six
 thousand four hundred seven only .) to Kolkata Port Trust by 16.8.2007.

Signature
 Estate Officer
 Kolkata Port Trust

hll

PLEASE SEE ON REVERSE



522

IN exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest @ 15% per annum upto 18.9.1996 and thereafter @ 18% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Calcutta Gazette.

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

The piece or parcel for chajja encroachment by fixing sunshed msg. about 6.038 sq.m. or thereabouts is situate at Chandmari ghat, Howrah. P.S. Golabari, Dist. Howrah registration Dist. Howrah. It is bounded on the north by the Trustees chajja licenced to Brij Mohanlal Gupta & Ors. On the east by the Trustees goomty occupied by Janab Abdul Hassin and Md. Shabbir Khan and on the south by the Trustees' chajja licenced to Estate Karim Bux and on the west by the Trustees Cable House. Trustees' means the Board of Trustees for the Port of Kolkata.

NOTARY PUBLIC
Kolkata Port Trust

NOTARY PUBLIC
Kolkata Port Trust



21/7/07
Signature of Notary

Dated: 23.7.2007

Signature of Estate Officer

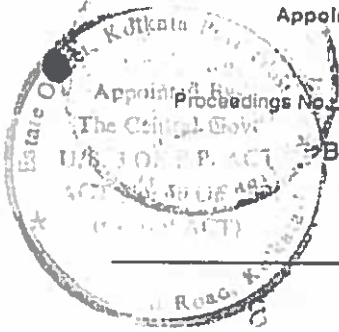
Signature and seal of the Estate Officer



521

Estate Officer, Kolkata Port Trust

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



Proceedings No. 833

Of 2007

Order Sheet No. 6

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Janab Abdul Hasin & Md. Sabbir Khan

13.7.2007

FINAL ORDER

Before delivering final order, certain facts are required to be discussed. It is the case of Kolkata Port Trust (KoPT), the Applicant herein, that piece or parcel of chajja encroachment msg 6.038 sq.m. (by fixing sunshed) under occupation No. HL-20/B situated at Chandmari Ghat, Howrah Thana: Golabari, was licensed to M/s. Janab Abdul Hasin & Md. Sabbir Khan, the O.P. herein, with certain terms and conditions as embodied in the grant of licence and the O.P. has violated the condition of licence as granted by the Port Authority. It is also the case of KoPT that the O.P. has miserably failed to pay the licence fees to KoPT in gross violation of the condition of licence. It is argued that the O.P. has lost its authority to occupy the public premises after expiry of the period as mentioned in the notice for revocation of licence dated 6.1.2006 as served upon O.P. by the Port Authority. It is claimed that an amount of Rs.66,407/- is due and recoverable from O.P. for the period 1st September 1977 upto 19.1.2006, excluding interest as chargeable under the KoPT's Rule. This Forum of Law formed its opinion to proceed against O.P. under the relevant provisions of the Act and issued notice u/s.4 and 7 of the Act both dated 23.2.2007, calling upon O.P. to show cause etc. on or before 16.3.2007. It is seen from the report of the Process Server that the notice u/s.4 and 7 were affixed on the public premises in question by Sandip Patra on 5.3.2007. Shri Shankar Ranjan Sen, Advocate for O.P. appeared on 30.3.2007 and prayed for time to file reply to the Show Cause notices. Prayer for adjournment on behalf of O.P. was

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RETURNED COPY OF THE ORDER
RECEIVED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

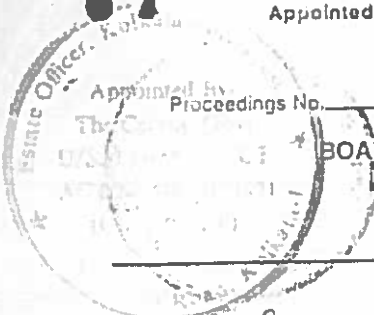
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73-

Estate Officer, Kolkata Port Trust

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

518



Proceedings No. 833 of 2006 Order Sheet No. 7

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Janab Abdul Hussin k md. Shabbis Khan

8

13.7.2007

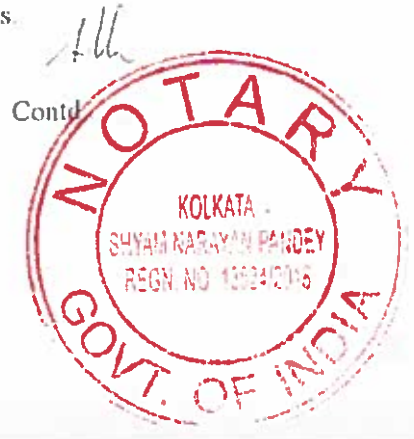
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O. P. was allowed and 13.4.2007 was fixed for the next date of hearing etc. and filing reply to the Show Cause with the knowledge of Shri Sen, Advocate for O.P. Further opportunity was given to O.P. to file reply to the Show Cause/s as no one appeared on behalf of O.P. on the dates scheduled for hearing/filing reply to the Show Cause/s on 13.4.2007 and 18.5.2007. It is evident from record that the orders fixing the dates of hearing etc. were duly served upon O.P. On 1.6.2007 Shri Shankar Ranjan Sen again prayed for time to file reply to the Show Cause notices without any cogent reason. I am convinced that sufficient time has been given to O.P. to file reply to the Show Cause notices and the O.P. has failed and neglected to file such reply. It is true that adjournments are granted on the prayers made on behalf of the parties in deserving cases to administer principle of natural justice. It does not mean that adjournment can be claimed as a matter of right. On 1.6.2007 Shri Sen, Advocate prayed for adjournment but failed to convince this Forum of Law that O.P. had any valid ground for not filing its reply to the Show Cause notices in spite of repeated chances. As there is no reply to the Show Cause notices issued by this Forum of Law, I am left with no other alternative but to allow the prayer of the Port Authority for order of eviction on the following grounds/reasons.

REPRODUCTION COPY OF THIS ORDER
ISSUED BY THE Estate Officer
Kolkata Port Trust

ORDER OF
THE BOARD OF TRUSTEES
KOLKATA PORT TRUST

ORDER OF
THE BOARD OF TRUSTEES
KOLKATA PORT TRUST



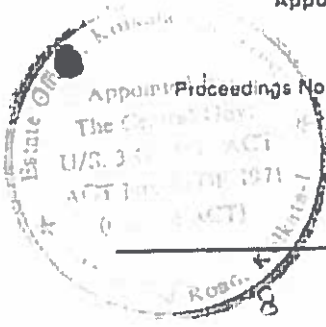
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-74-

ETA

Estate Officer, Kolkata Port Trust

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



833 of 2006 Order Sheet No. 8

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Janab Abdul Nassim & s/o. Shabbir Khan

13.7.2007

Original copy on the ground received by the Estate Officer, Kolkata Port Trust

Contd. from pre-page..

1. That the O.P. has failed to pay the licence fees to KoPT and the O.P. has continued its occupation into the Port property after expiry of the period as mentioned in the notice dated 6.1.2006 to vacate the premises as served upon O.P. by the Port Authority.
2. That the Port Authority is well within its jurisdiction to serve notice dated 6.1.2006, requiring the O.P. to vacate the premises and the said Notice for revocation of licence is valid, lawful and binding upon the parties.
3. That O.P. has failed to file reply to the Show Cause/s in spite of repeated chances and no evidence has been laid on behalf of O.P. in support of O.P.'s occupation into the Port property.
4. That O.P. has failed to bear any witness and/or adduce any evidence in support of its occupation in spite of repeated chances.
5. That the O.P. is in wrongful occupation of the public premises on and from 20.1.2006 and liable to pay damages for unauthorized use and occupation of the Port property in question upto the date of handing over of clear, vacant and unencumbered possession to KoPT.

Handwritten signature and stamp of the Estate Officer.

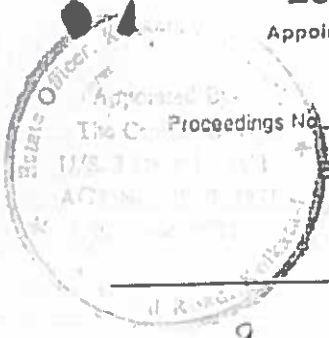


-75-

Estate Officer, Kolkata Port Trust

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

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Proceedings No. 833 of 2006 Order Sheet No. 9

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Jamab Abdul Hasim K Md. Shabbir Khan

8
13.7.2007

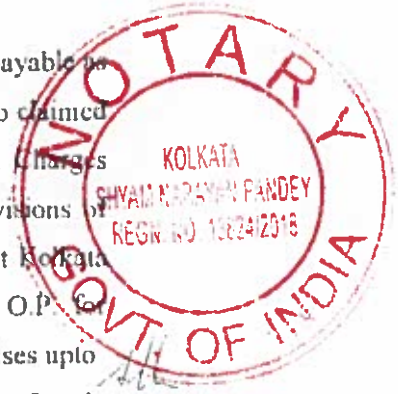
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Kolkata Port Trust

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ACCORDINGLY, Department is directed to draw up formal order of eviction u/s 5 of the Act as per Rule made there under, giving 15 days time to O.P. and any person/s whoever may be in occupation 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 and the Port Authority is entitled to claim damages for unauthorized use and occupation of the property against O.P. in accordance with Law up to the date of recovery of possession of the same.

I am also satisfied that a total sum of Rs. 66,407/- for the period 1.9.1977 to 19.1.2006 is due and recoverable from O.P. on account of arrear rental dues. It is hereby ordered that the arrear rental dues as aforesaid shall be payable by O.P. to KoPT with accrued interest from the date of incurrance of their liability at the rate of 15% per annum up to 18.9.1996 and thereafter at the rate of 18% per annum as per KoPT's rule till its final payment. Accordingly, Department is also directed to draw up formal order u/s.7 of the Act as per Rule, requiring O.P. to pay the amount as aforesaid by 16th August 2007.

In my opinion KoPT's claim for damages may be payable as it is gathered in course of hearing that the charges so claimed by KoPT is on the basis of the Schedule of Rent Charges published under the Authority of Law as per provisions of the Major Port Trust Act 1963. I make it clear that Kolkata Port Trust is entitled to claim damages against O.P. for unauthorized use and occupation of the public premises upto



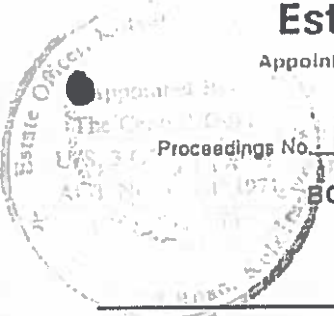
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Kolkata Port Trust

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



Proceedings No. 833 of 2006 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Janak Abdul Nassim k md. Shabbis Khan

8

13-7-2007

Approved with the terms & conditions by the Estate Officer, Kolkata Port Trust

Contd..from pre-page..

upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law. KoPT is accordingly directed to submit a statement comprising details of its calculation of damages indicating therein the details of the rate of such charges together with the basis on which such charges are claimed against O.P. for my consideration for the purpose of assessment of damages as per Rule made under the Act.

GIVEN UNDER MY HAND AND SEAL.

S. Pradhan
(S. PRADHAN)
ESTATE OFFICER

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



S. Pradhan
Office of the Est. Officer,
Kolkata Port Trust

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3
Capt. Jaffer

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



THE ESTATE OFFICER, 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
15, STRAND ROAD (4TH FLOOR) KOLKATA-700 001

Court Room At the 2nd Floor
of Kolkata Port Trust's
Head Office, Old Buildings
15, Strand Road, Kolkata-700 001

REASONED ORDER NO. 27
PROCEEDINGS NO. 640

OF 12.10.18 BY ORDER OF
OF 2004 :
KOLKATA PORT TRUST

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

- Vs -
SHRI ASHIT KUMAR DUTTA & ORS.

Order/s
Dear

FORM "B"

ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC PREMISES
(EVICTON OF UNAUTHORISED OCCUPANTS) ACT, 1971

WHEREAS, I, the undersigned, am satisfied, for the reasons recorded below
that Shri / Smt. / Kin / M/s. **Shri Anjan Kumar Dutta of 69/11, Baruipara Lane
Dunlop, Kol-35 for self and on behalf of legal heirs of Late Ambica
Kumar Dutta as constituted attorney AND any body interested into the
leasehold property of Late Ambica Kumar Dutta, 4/3, Chandnari Ghat
Howrah, commonly known as "Dutta Cabin" (Opposite Howrah Railway
Station)**

is / are in unauthorised occupation of the Public Premises specified in the Schedule below.:

REASONS

THAT THE PURPOSE OF ISSUING SHOW CAUSE NOTICE U/S 4 OF THE ACT HAS DULY BEEN FULFILLED BY WAY OF AFFIXATION OF SUCH NOTICE ON THE PROPERTY AS PER MANDATORY PROVISION OF THE P.P.ACT. THAT THE PLEA OF SERVING NOTICE TO "DEAD PERSON" IN DECLARING THE SHOW CAUSE NOTICE INVALID IS NOT SUSTAINABLE AS LEGAL HEIRS OF THE ALLOTTEES IN RESPECT OF THE PROPERTY IN QUESTION WERE NOTIFIED BY AFFIXATION OF THE NOTICE ON THE PREMISES AND WERE DULY REPRESENTED BY THEIR ADVOCATES THROUGH THEIR CONSTITUTED ATTORNEY DURING THE PROCEEDINGS THAT THE EJECTMENT NOTICE, DEMANDING POSSESSION FROM YOURSELVES DATED 29.4.1998 IS VALID/LAWFUL IN THE FACTS AND CIRCUMSTANCES OF THE CASE AS KOPT NEVER CONSENTED TO YOUR OCCUPATION AFTER EXPIRY OF THE PERIOD AS MENTIONED IN THE SAID NOTICE OF EJECTMENT. THAT YOU HAVE ADMITTED YOUR DEFAULT IN MAKING TIMELY PAYMENT OF RENTAL DUES TO KOPT AND AS SUCH, VALIDITY OF SERVING EJECTMENT NOTICE AND NOTICE FOR REVOCATION OF LICENCE CANNOT BE CHALLENGED BY O.P. THAT YOU HAVE FAILED TO BEAR ANY WITNESS OR ADDUCE ANY EVIDENCE IN SUPPORT OF YOUR OCCUPATION AS "AUTHORISED OCCUPATION". THAT THE EJECTMENT NOTICE DATED 29.4.1998 AS SERVED UPON YOU IS VALID, LAWFUL AND BINDING UPON THE PARTIES. THAT YOUR OCCUPATION IS UNAUTHORISED IN VIEW OF SEC 2(g) OF THE P.P.ACT. THAT YOU HAVE LOST YOUR AUTHORITY TO OCCUPY THE PUBLIC PREMISES AFTER EXPIRY OF THE PERIOD AS MENTIONED IN THE SAID NOTICE OF EJECTMENT DATED 29.4.1998 AND AS SUCH YOU ARE IN WRONGFUL OCCUPATION OF THE PUBLIC PREMISES AND LIABLE TO PAY DAMAGES FOR UNAUTHORISED USE AND OCCUPATION OF THE PORT PROPERTY IN QUESTION UP TO THE DATE OF HANDING OVER OF CLEAR, VACANT AND UNENCUMBERED POSSESSION TO KOPT. THAT YOU ARE NOT IN A POSITION TO CARRY OUT THE BUSINESS OF RUNNING A RESTAURANT/HOTEL FROM THE PREMISES IN VIEW OF ORDER OF THE WEST BENGAL POLLUTION CONTROL BOARD, DULY APPEALED BY THE HON'BLE HIGH COURT CALCUTTA. A CERTIFIED COPY OF THE ORDER DATED 12.10.18 IS ATTACHED HERETO WHICH IS ALSO A PART OF THE REASONS.

PLEASE SEE THE REVERSE



NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby order the said Shri / Smt. / Km / M/s. Shri Anjan Kumar Dutta of 69/11, Baruipara Lane, Dunlop, Kol-35 for self and on behalf of legal heirs of Late Ambica Kumar Dutta as constituted Attorney AND any body interested into the leasehold property of Late Ambica Kumar Dutta, 4/3, Chandmari Ghat Howrah commonly known as "Dutta Cabin" (Opposite Howrah Railway Station)

and all person 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 Shri / Smt / Km. / M/s. Shri Anjan Kumar Dutta of 69/11, Baruipara Lane, Dunlop Kol-35 for self and on behalf of legal heirs of Late Ambica Kumar Dutta as constituted Attorney AND any body interested into the lease hold property of Late Ambica Kumar Dutta, 4/3, Chandmari Ghat Howrah commonly known as "Dutta Cabin" (Opposite Howrah Railway Station)

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

All that the piece and parcel of land msg. 35.12 sq.m. and land alongwith two goomties altogether msg. 25.55 sq.m. and one licence plot msg. 16.350 sq.m. or thereabouts are situated at Chandmari Ghat Terrace, Thana-Howrah, District and Regn. District Howrah. It is bounded on the north by the said Trustees' land used as bathing ghat for the general public on the south by the said Trustees' land as passage on the east by the said Trustees' brick built wall on the west by the Trustees' open land used as footpath. Trustees' means the Board of Trustees for the Port of Kolkata.

BY ORDER Of
ESTATE OFFICER
KOLKATA PORT TRUST

Secretary of the Order/
Estate Officer
Kolkata Port Trust

19/10/10
Head Assistant
Office of the Ld Estate Officer
KOLKATA PORT TRUST



Shyam Narayan Pandey
Signature & Seal of the
Estate Officer.

Dated: 18/10/10

COPY FORWARDED TO THE LAND MANAGER, KOLKATA PORT TRUST /LABOUR ADVISER & INDUSTRIAL RELATIONS OFFICER /LEGAL ADVISER KOLKATA PORT TRUST FOR INFORMATION



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



Proceedings No. 640 of 2004 Order Sheet No. 27

BOARD OF TRUSTEES OF THE PORT OF KOLKATA VS

Asit Kumar Datta & others

FINAL ORDER

Factual aspects of the case are briefly recapitulated in order to bring out the issues involved. 275 sq. feet of open space on the terrace of Chandmari Ghat, Thana: Howrah, District & Registration Dist: Howrah with two goomties were allotted to Babu Ambica Kumar Dutta, C/o Messrs. Dutta Brothers on 23.8.1934. on monthly term lease for running a shop. The Port Commissioners by their Resolution No.136 dated 22.2.1954 sanctioned licensing of 378 sq. ft. of space to the same party for use as a sitting place for customers for the adjoining restaurant. After demise of Ambica Kumar Dutta on 13.12.1954, the property was mutated in favour of his legal heirs Kishori Mohan Dutta (eldest son) and others w.e.f. 1.4.1955.

The above occupation was later comprised under occupation No. HL-25/1 and HL-25/3 described as two plots of land measuring about 25.55 sq.m. and 33.12 sq.m., respectively. Shri Kishori Mohan Dutta expired on 19.7.1969 and the legacy continued in the name of the other legal heirs of Ambica Kumar Dutta whose names were confirmed through Police Authorities in 1955, 1965 and 1976. Sometime during



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12.10.10



BY ORDER OF
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Kolkata Port Trust

Head Office
Kolkata

19/10/10

Head Office

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Estate Officer, Kolkata Port Trust

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

Proceedings No. 640 of 2004 Order Sheet No. 28

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

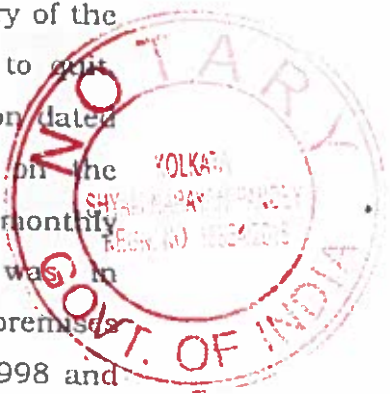
VS

Asit Kumar Dutta & others

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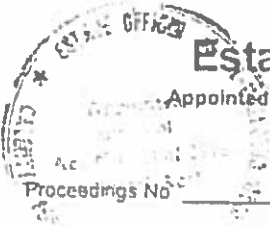
→ continuation of the said leases in favour of the legal heirs, a chajja encroachment of about 16.350 sq.m. under HL-25/3/1 was allotted to them on licence basis.

Notice to quit dated 29.4.1998 was served upon Shri Asit Kumar Dutta, Shri Ajay Kumar Dutta, Shri Arun Kumar Dutta, Shri Amiya Kumar Duta, Shri Avik Kumar Dutta (all sons of Late Ambika Coomar Dutta) and to Smt. Tripti Rani Dutta, wife of Late Kishori Mohan Dutta for herself and as natural guardian of her two daughters and one son viz. Smt. Saberi Dutta, Smt.Sahana Dutta and Shri Raja Dutta, as per statute to determine the tenancy under lease on the ground of failure to pay rent and taxes on and from July, 1983. It is the case of KoPT that occupation of the aforementioned plates by Asit Kumar Dutta & Others (OP herein) had become unauthorized after expiry of the period as mentioned in the notice to quit. Accordingly, KoPT filed an application dated 28.8.1998 seeking eviction of OP on the ground of default in payment of monthly rent. KoPT submitted that OP was in wrongful occupation of the public premises in question on and from 1st June 1998 and liable to be evicted. KoPT declined to consider



→ *Shankar*

Head Assistant
19/10/10
19/10/10



Estate Officer, Kolkata Port Trust

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Proceedings No. 640 of 2004 Order Sheet No. 29

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Asit Kumar Dutta & others

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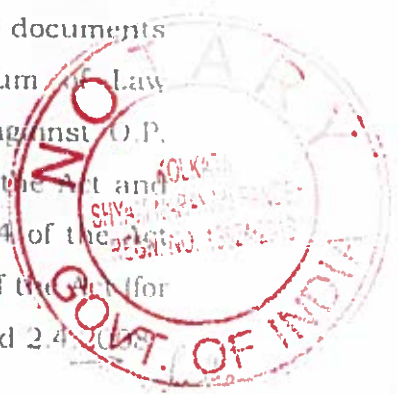
12.10.10



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Office of the
Kolkata

→ payments tendered by M/s. K.M. Dutta & Bros. (Dutta Cabin) and by M/s Kishori Mohan Dutta and Bros. as payments by recorded lessee stating that the said firms were separate legal entities and OPs had parted with possession under disguise. This Forum of Law examined the papers submitted by KoPT in connection with the application for eviction which also included letters from M/s. K.M. Dutta & Bros. (Dutta Cabin) confirming payment of rental dues by the said partnership firm which was set up during the life time of Asit Kumar Dutta in 1971. As per these documents Asit Kumar Dutta had died unmarried and the tenancy was thus continuing in the names of partners of the said firm who had deposited rent.

Brief factual aspects of the tenancy were ascertained on the basis of correspondence between KoPT and OP during 1934 to 2005 as original lease documents were not available. This Forum of Law formed its opinion to proceed against O.P. under the relevant provisions of the Act and issued Show Cause Notices u/s.4 of the Act (for order of eviction) and u/s.7 of the Act for recovery of rental dues) both dated 24/10/09



Estate Officer, Kolkata Port Trust

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

Proceedings No. 640 of 2004 Order Sheet No. 30

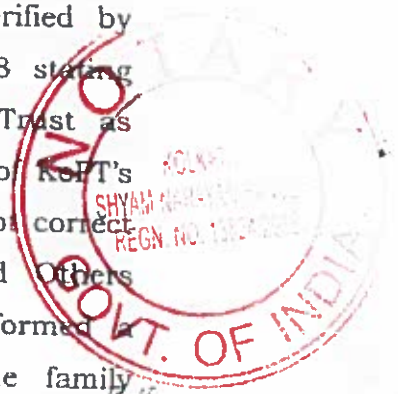
BOARD OF TRUSTEES OF THE PORT OF KOLKATA VS

Asit Kumar Dutta & Others

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12.10.10

→ One Anjan Kumar Dutta, son of Late Arun Kumar Dutta, a partner of M/s. K. M. Dutta & Bros. filed reply to the Show Cause Notice on 22.4.2008 and denied the allegation of KoPT regarding unauthorized occupation through his Advocate Shri Shyamal Sanyal. He also contested the show cause notice on the ground that the same was issued to dead persons, no lease deed was produced to confirm schedule of property, and/or allegation of violation of condition of tenancy and that plate nos. were not mentioned in the schedule of the show cause notice. The matter was also contested by Anjan Kumar Dutta being the Constituted Attorney of Amiya Kumar Dutta, Saberi Dutta, Sahana Kar and Archita Dutta, claiming to be the legal heirs of OP as named in the record of KoPT (ejectment notice dated 29.4.1998). Shri Tarit Baran Roy, Advocate filed an objection/ application verified by Anjan Kumar Dutta on 20.6.2008 stating that the claim of Kolkata Port Trust as appended under Schedule B & C of KoPT's application dated 21.8.1998 was not correct and that Asit Kumar Dutta and Others including Kishori Mohan Dutta formed a partnership business amongst the family

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Asit Kumar

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Proceedings No. 640 Of 2004 Order Sheet No 31

BOARD OF TRUSTEES OF THE PORT OF KOLKATA VS

Asit Kumar Dutta & others

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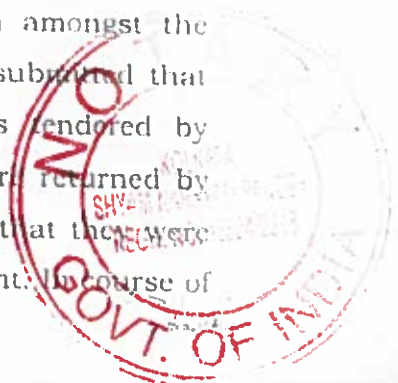
BY ORDER OF
THE ESTATE OFFICER
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Order/s
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19/10/10

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members in the name and style of Kishori Mohan Dutta and Bros. also known and called as K.M. Dutta & Bros. To contradict the KoPT's allegation regarding "unauthorized parting with possession", it was asserted that Kishori Mohan Dutta and Bros. were carrying out their business in the public premises since long back with full knowledge of KoPT. It was contended on behalf of OP that Kishori Mohan Dutta and Bros. and M/s, K. M. Dutta & Bros. were the same firm and that rent deposited by Kishori Mohan Dutta and Bros as well as by M/s. K. M. Dutta & Bros. were accepted by KoPT for a considerably long period as confirmed through several rent receipts. It was submitted that a family business under a deed of partnership was formed after death of Asit Kuamr Dutta and all the partners were legal heirs of Late Ambika Kumar Dutta, the original lessee and KoPT accepted rent from M/s. Kishori Mohan Dutta & Bros. (M/s. K. M. Dutta & Bros.), being aware of the formation of partnership firm amongst the family members. It was also submitted that Demand Drafts/Cheques tendered by M/s. K. M. Dutta & Bros. were returned by KoPT in 1999 on the ground that they were not tendered by recorded tenant. In course of



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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Ajit Kumar Dutta & Others

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hearing, Shri T.B.Roy, Advocate assured this Forum of Law on behalf of the legal heirs of the deceased/lessees to clear up KoPT's dues/charges in installments.

KoPT objected to the submissions/assertions of OP regarding acceptance of M/s. K.M. Dutta and Bros. as authorized tenant in place of legal heirs of original lessee and submitted that a partnership firm formed by the legal heirs cannot be considered as a successor of the original lessee.

Records of the case revealed that arrear rent were accepted by KoPT from M/s. K. M. Dutta & Bros. on several occasions from the year 1986 to 2004. OP failed to comply with the order of this Forum of Law for payment of Rs.2 lakhs to KoPT together with monthly bill for compensation, without prejudice to the rights and contentions of both the parties, to confirm its submission for clearing arrear dues towards occupation of the premises. In this connection OP's plea was that their restaurant business was temporarily closed by an order of the Pollution Control Board against which they had moved a petition in the Honble High

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Head Assistant
Office of the Estate Officer
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Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

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Proceeding No. 640 of 2004 Order Sheet No. 33

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Asit Kumar Dutta & others

29

12.10.10



ORDER OF
ESTATE OFFICER
KOLKATA PORT TRUST

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Particulars of the Order
Kolkata

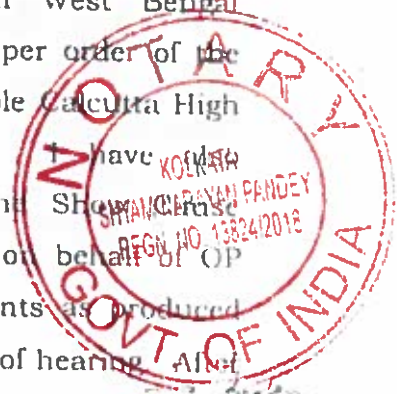
Head Assistant
19/10/10

Office of the Estate Officer
Kolkata

→ Court, Calcutta and were hopeful of a favorable order after which business would commence and KoPT's dues paid.

The matter of recovery of possession of the public premises as prayed for on behalf of Port Authority acquired a new dimension with the aforementioned order of the West Bengal Pollution Control Board for enforcement of environmental laws on running of restaurant business of OP from the premises in question. Though this did not form a part of the original ground for eviction I could not ignore the above fact as it had an impact on continuance of the lease for running a shop/restaurant. I have duly considered the application of M/s. Kishori Mohan Dutta & Brothers dated 23.4.2009 regarding their inability to liquidate the arrears till the matter of reopening of the premises for any business/trade or profession is finalized after obtaining necessary permission from West Bengal Pollution Control Board as per order of the Division Bench of the Hon'ble Calcutta High Court dated 19.9.2008.

I have considered the reply to the Show Cause Notice and objections filed on behalf of OP and all the papers/documents as produced on behalf of KoPT in course of hearing.



Estate Officer, Kolkata Port Trust

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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 THE PORT OF KOLKATA

VS

Asit Kumar Dutta & Others

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→ considering all the materials and submissions/arguments made on behalf of the parties as brought before me in course of hearing the following issues have come up for adjudication:

1. Whether Show Cause Notice is invalid for not serving of the same to individual heirs whose names were mentioned in the notice.
2. Whether Show Cause Notice is invalid due to service of the same to the "dead persons".
3. Whether non-production of the lease deed and non-mentioning of the plate Nos. in the schedule of the notice/application are fatal for drawing up proceedings under this Act.
4. Whether acceptance of rent after service of ejection notice dated 29.4.1998 amounts to waiver of the said notice.
5. Whether KoPT's allegation of non-payment of rental dues has any merit in the light of payment tendered by

Kolkata Port Trust
 Head Assistant
 Office of the Estate Officer
 Kolkata Port Trust
 19/10/10





Estate Officer, Kolkata Port Trust

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

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Proceedings No 640 of 2004 Order Sheet No 35

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Asit Kumar Dutta & Others

29
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ESTATE OFFICER
KOLKATA PORT TRUST
Central Govt.
Kolkata

19/10/10
Head Assistant
Office of the Estate Officer
KOLKATA

-
- M/s. K.M. Dutta & Bros./ M/s. Kishori Mohan Dutta & Bros. and whether there has been any unauthorized parting with possession in favour of M/s. K.M. Dutta & Bros.
6. Whether O.Ps are in default in making payment of rental dues to KoPT.
 7. Whether the ejection notice dated 29.4.1998 as served upon OP could be considered as a valid and lawful termination of OP's tenancy under lease.
 8. Whether OP is in wrongful occupation of the public premises after expiry of the period as mentioned in the said notice to quit dated 29.4.1998.
 9. Whether appeal for alternative accommodation/arrangement in view of closure of hotel or restaurant business in question by order passed by the Hon'ble High Court, Calcutta and Pollution Control Board, West Bengal has got any merit in deciding



Estate Officer, Kolkata Port Trust

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Asit Kumar Dutta & Others



DE ORDER OF
ESTATE OFFICER
KOLKATA PORT TRUST
Office of the Estate Officer
Kolkata

29
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→ any question before this Forum of Law.

With regard to the points raised on behalf of OP under issue Nos. 1&2, I hold that notice to all person/s interested in the property under schedule was given through affixation of notice on the property as per provision under P.P. Act. As per report of the Process Server dated 7.4.2008, one Kanai Chatterjee on behalf of Asit Kumar Dutta & Brothers stood as witness for affixation of such notice on the property on 7.4.2008. In my view, the purpose of drawing attention of the persons interested in the property has been fulfilled as per mandatory provisions under the P. P. Act and there should be no doubt regarding effective service of notice to all concerned. Shri Anjan Kumar Dutta being the Constituted Attorney of Amiya Kumar Dutta, Saberi Dutta, Archita Dutta and Sahana Kar executed his Vakalatnama in favour of Shri Tarit Baran Roy, Advocate and also signed verification of the petition of objection/Show Cause Reply on 22.4.2008 as a partner of M/s. K. M. Dutta & Bros. In a situation where the partners of the firm M/s. K. M. Dutta & Bros are all the legal heirs of original allottee/lessee (Late Ambika Kumar



→ *Archer*

Estate Officer, Kolkata Port Trust

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Proceedings No. 640 of 2004 Order Sheet No. 37

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

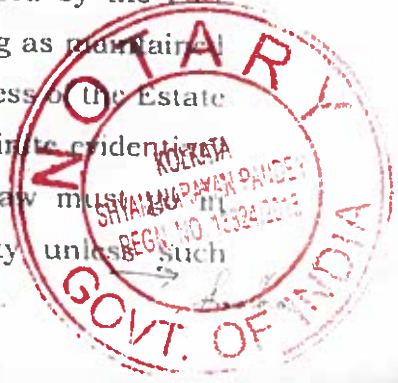
VS

Asit Kumar Dutta & others

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Dutta) and the matter is being represented by Shri Anjan Kumar Dutta as a partner of the said firm, I do not find any scope for considering the matter otherwise. In fact, it is futile to assert any question about maintainability of the proceedings on behalf of OP in the facts and circumstances of the case. Hence the issues raised by OP are not tenable.

Issue No.3 regarding non-production of lease deed and non-mentioning of plate nos./occupation no. as raised on behalf of OP, one must have to consider the scope for adjudication of the matter under statutory provision of P. P. Act. This Forum of Law formed its opinion to proceed against OP under the relevant provision of the Act. The grounds mentioned under the Show Cause Notice were subject to contravention by OP who had ample opportunity to demolish them by way of producing relevant papers/documents/arguments. The papers/documents as produced by the Port Authority in course of hearing as maintained in the official course of business of the Estate Department, KoPT has definite evidentiary value and presumption of law must be in favour of the Port Authority unless such



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Proceedings No 640 of 2004 Order Sheet No. 38

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Hsit Kumar Dutta & Others

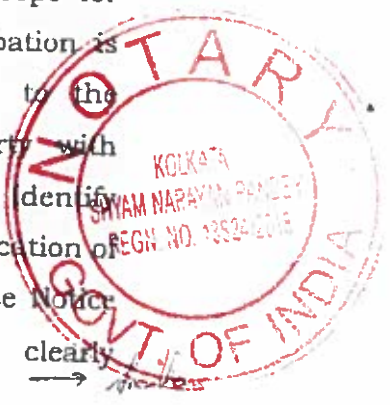


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ORDER OF
ESTATE OFFICER
KOLKATA PORT TRUST
Head Assistant
Office of the Estate Officer
KOLKATA PORT TRUST

→ presumption is contradicted by producing suitable material. As per record of KoPT, occupation No.HL-25/1 for land measuring 25.55 sq.m. and occupation No.HL-25/3 for land measuring 35.12 sq.m. were granted on monthly term lease by KoPT and occupation No.HL-25/3/1 for area measuring 16.350 sq.m. was granted on licence by the Port Authority for chhaja encroachment. As per law a monthly lease in respect of an immovable property in favour of anybody can be created without any registered lease deed and even by oral agreement if it is accompanied by delivery of possession. There is no question of denial in respect of possession/occupation of OP in the Port property in question. There is no scope for denial that grant of lease necessarily involves payment of rent to the lessor/KoPT etc. OP's occupation of the public premises as mentioned in the notice is a fact whatever the status of such occupation. The scope for adjudication is whether such occupation is "authorized" or not. The schedule to the notice clearly identifies the property with delimiting boundaries to specifically identify the said property. Further, the application of KoPT as attached to the Show Cause Notice u/s.4 of the Act dated 2.4.2008 clearly



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Estate Officer, Kolkata Port Trust

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

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Proceedings No 640 of 2004 Order Sheet No 39

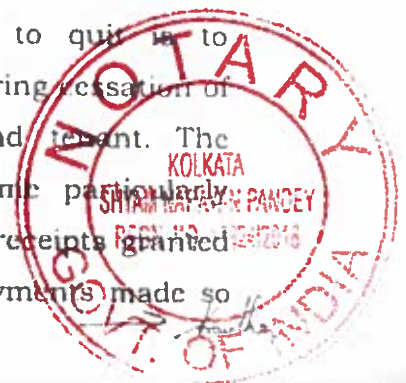
BOARD OF TRUSTEES OF THE PORT OF KOLKATA VS

Asit Kumar Datta & Others

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mentions the plate nos. as HL-25/1, HL-25/3 and HL-25/3/1. So, non-mentioning of the plate nos./occupation nos. is not relevant. Hence the issue raised by OP is not tenable.

Regarding Issue No.4, I am of the view that acceptance of arrear rental dues after service of ejection notice cannot be termed as waiver of that ejection notice. To take this view I am fortified by decision of Allahabad High Court reported in AIR 1952 All 863 where it was held that if within the time fixed in the notice to quit, rent already due from the lessee for a period prior to the date on which he was to vacate, is accepted by the lessor, such acceptance does not amount to a waiver of notice to quit on the part of lessor/landlord. OP has not contended that rent bills have been issued after expiry of the notice period thereby recognizing OP as tenant in respect of the premises in question. The purpose of serving ejection notice or notice to quit is to determine the tenancy, declaring cessation of relationship as landlord and tenant. The materials produced before me particularly the photocopies of the rent receipts granted by the Port Authority for payments made so



Stamp: BOARD OF TRUSTEES OF THE PORT OF KOLKATA
Estate Officer
Kolkata
19/10/10
Office

Estate Officer, Kolkata Port Trust

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Asit Kumar Dutta & Others

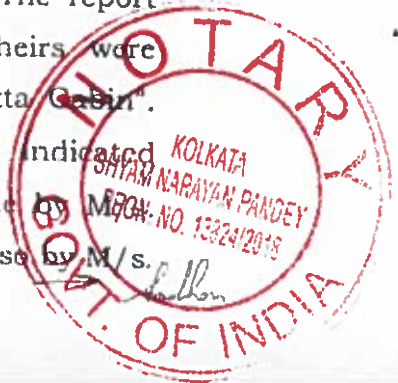
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12.10.10

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KOLKATA PORT TRUST

19/10/10
Head Assistant
Office of the Id Estate Officer
KOLKATA PORT TRUST

far in respect of the premises in question leads me to the conclusion that KoPT had never consented to OP's occupation after expiry of the period as mentioned in the ejectment notice dated 29.4.1998 and KoPT was accepting payments on account of arrear rental dues and not in respect of rent against current monthly rent bills or demand. In such a situation, OP's contention of waiver of ejectment notice cannot be sustained. To consider the matter of waiver one must have to show that there was intention on the part of lessor/landlord (KoPT) to the continuance of OP's occupation in the Port property. In absence of such material the issue is decided against OPs

Issue Nos.5, 6 & 7 have been considered by me on the basis of all the documents made available by both sides. From KoPT's records, I find that North Port Police Station (NPPS) had submitted a report dated 8.2.1965 confirming the names of legal heirs of Ambika Coomar Dutta. The report also mentioned that the legal heirs were running a restaurant styled "Dutta Cabin". The long tenancy record also indicated payments made from time to time by Kishori Mohan Dutta & Bros. as also



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Estate Officer, Kolkata Port Trust

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 THE PORT OF KOLKATA

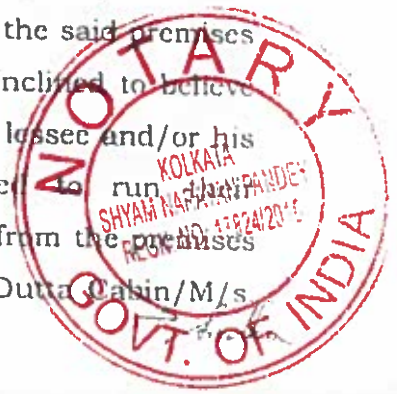
VS

Asit Kumar Dutta & Others

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12.10.10

K.M. Dutta & Bros., long before issue of ejection notice by KoPT. Some of these payments were kept in suspense account. A Partnership Deed of M/s. Kishori Mohan Dutta & Bros. shows the legal heirs of Ambika Kumar Dutta as partners. I find that KoPT was aware of operation of a restaurant named Dutta Cabin from the above premises at least after receipt of the police report dated 8.2.1965 if not earlier. The lease was originally granted to Babu Ambika Kumar Dutta, c/o Dutta Brothers in 1934 in connection with running a shop. Hence running of a shop/restaurant from the above premises with a name different from the name of the lessee was known to KoPT.

Payments tendered by M/s. Kishori Mohan Dutta & Bros. were kept in suspense account for reasons not placed before me. In the absence of any communication from KoPT to the recorded lessees regarding functioning of Dutta Cabin or M/s. Kishori Mohan Dutta & Bros. from the said premises being unauthorized, I am inclined to believe that the original individual lessee and/or his legal heirs were permitted to run a hotel/restaurant business from the premises in the name and style of Dutta Cabin/M/s.



Office of
Estate Officer
Kolkata Port Trust
Kolkata
Date: 19/10/10
Signature: _____
Official Seal: _____

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Estate Officer, Kolkata Port Trust

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

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Proceedings No 640 of 2006 Order Sheet No 42

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Asit Kumar Dutta & others

12.10.10
Circular stamp of the Board of Trustees of the Port of Kolkata

Kishori Mohan Dutta & Bros. Abbreviated name of M/s. K.M. Dutta & Bros. was loosely used by the lessees in their letterhead. The Trade Licence of Howrah Municipal Corporation, tax payments, etc. were all in the name of M/s. Kishori Mohan Dutta and Bros. Hence, non-acceptance of rental payment by M/s. Kishori Mohan Dutta and Bros. or M/s. K.M. Dutta & Bros. by KoPT cannot be accepted as evidence of non-payment of dues by the authorized lessee. This is all the more relevant as the partners of the said firms are the legal heirs in whose favour KoPT had mutated the lease. It cannot be accepted that the large number of legal heirs in whose favour mutation was done by KoPT could run a business without adopting a separate business name which in the instant case was M/s. Kishori Mohan Dutta & Bros. In the above scenario, the allegation of KoPT brought out in the course of the proceedings that the lessees had parted with possession is not established.

ORDER OF
ESTATE OFFICER
KOLKATA PORT TRUST
Head Assistant
Office of the Id. Estate Officer
KOLKATA PORT TRUST

In respect of the issue of default in payment of rental dues before issue of ejectment notice by KoPT on 29.4.1998, there has been no denial by OP who has submitted evidence of payment of outstanding after the

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN NO. 13824/2018
NOTARY OF INDIA



Estate Officer, Kolkata Port Trust

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Proceedings No. 640 of 2004 Order Sheet No. 43

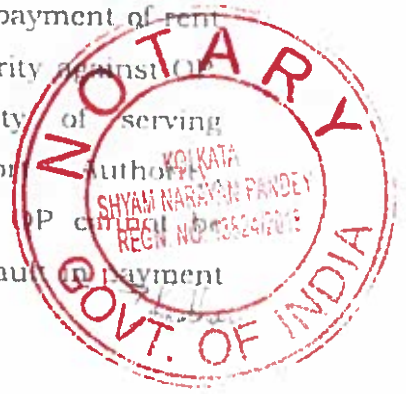
BOARD OF TRUSTEES OF THE PORT OF KOLKATA VS

Asit Kumar Dutta & others

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Order
Chief
Kolkata
10/10/10
Assistant
Estate Officer

→ ejection notice along with details of some payments returned by KoPT on the ground of the same being tendered by third party. In the course of hearing OP agreed to clear the dues on commencing business after obtaining relief from the High Court in respect of the order of the Pollution Control Board of W. Bengal. Records show that there was erratic payment and default on the part of the recorded lessee/ M/s. Kishori Mohan Dutta & Bros./M/s. K.M. Dutta & Bros. in timely payment of rental dues. This is also confirmed by annexure to OP's written submission filed on 24.6.08 and statement of dues handed over by KoPT to OP on 31.10.2008 during the course of the hearing. Anjan Kumar Dutta by his verified application as filed on 9.1.2009 clearly admitted the position with regard to non-payment of rental dues to KoPT for the period July 1983 to May 1998 against the claim of Rs.7,29,969.87. I do not find any scope to adjudicate the matter of non-payment of rent as claimed by the Port Authority against OP. Hence, validity and legality of serving of ejection notice by Port Authority demanding possession from OP challenged. The issues of default in payment



Estate Officer, Kolkata Port Trust

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

6/5

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Asit Kumar Dutta & others

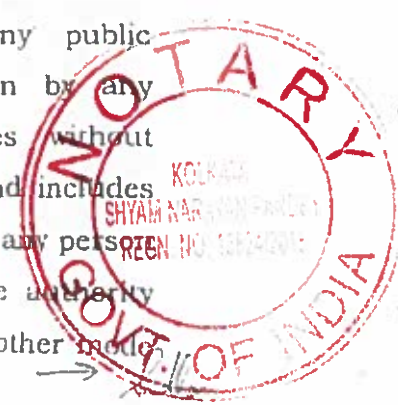


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12.10.10

Office of the Estate Officer
KOLKATA PORT TRUST
Kolkata

of rental dues and service of ejection notice are accordingly decided against OP.

Regarding issue no. 8 of wrongful occupation, it is my considered view that "possession" and "authorized occupation" are not same and have different meaning in deciding any question of law. One may be in possession of the public premises but that does not mean that one is in authorized occupation in respect of that public premises. I have not been shown any record or argument to take the view that KoPT had intention to recognize the occupants as authorised lessee after determination of tenancy by service of ejection notice on 29.4.1998. The properties of the Port Trust are under the purview of "public premises" as defined under the Act. Now the question arises how a person becomes 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





Estate Officer, Kolkata Port Trust

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

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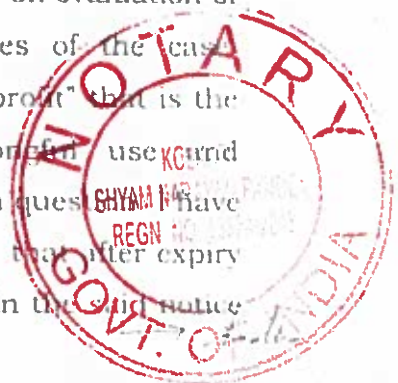
Proceedings No. 640 of 2004 Order Sheet No. 45

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS

Amit Kumar Bhatia & Others

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12.10.10

→ of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever. As per Transfer of Property Act, a lease of immovable property determines either by efflux of time limited thereby or by implied surrender or on expiration of notice to determine the lease or to quit or of intention to quit, the property leased, duly given by one party to another. As per Indian Easement Act, Port Authority as licensor/landlord can revoke the licence granted in respect of property under licence. The Port Authority by service of notice dated 29.4.1998 had intended to determine the tenancy of OP under monthly term lease and licence in question and did not recognize OP as tenant by way of not issuing rent demand after expiry of the period as mentioned in the said notice of ejection. As such, I have no bar to accept KoPT's contention regarding determination of tenancy by due service of ejection notice as aforesaid on evaluation of the facts and circumstances of the case. "Damages" are like "mesne profit" that is 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 notice



Head Assistant
Estate Officer

9-19/10/10

Estate Officer, Kolkata Port Trust

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 THE PORT OF KOLKATA

VS

Amit Kumar Datta & others



BY ORDER OF
ESTATE OFFICER
KOLKATA PORT TRUST
19/10/10
Office of the Estate Officer
KOLKATA PORT TRUST

29
12.10.10

of ejection, OP has lost its authority to occupy the public premises and is liable to pay damages for such unauthorized use and occupation. To come to such conclusion, I am fortified by the decision/observation of the Hon'ble Supreme Court in Civil Appeal No.7988 of 2004, decided on 10th 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 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 lease is governed by the provisions of the Transfer of Property Act 1882 and there is no scope for denial of the same and a licensee cannot



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

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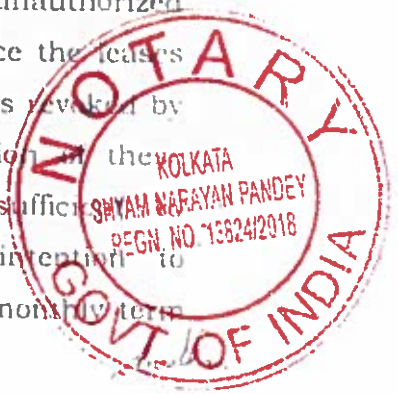
BOARD OF TRUSTEES OF THE PORT OF KOLKATA VS

Asit Kumar Datta & Others

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claim any interest over the property in question after revocation of licence as granted by the Port Authority for HL-25/3/1.

It is contended that KoPT's intention to get back possession is evident from the conduct of the Port Authority and OP cannot claim its occupation as "authorized" without receiving any rent demand note. The question of "Holding Over" cannot arise in the instant case as the Port Authority never consented to the occupation of OP. In the instant case, the monthly term leases were doubtlessly determined by the landlord (KoPT) by a notice u/s.106 of the Act, whose validity for the purpose of deciding the question of law has not been questioned by OP and as per law OP cannot question KoPT's authority for service of notice for revocation of licence in respect of the property in question. Therefore, there can be no doubt that the OP was in unauthorized occupation of the premises, once the leases were determined and licence was revoked by KoPT. In my opinion, institution of the proceedings against OP is sufficient to express KoPT's absence of intention to recognize OP as tenant under monthly term leases and licence.



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Estate Officer, Kolkata Port Trust

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

Proceedings No. 640 of 2004 Order Sheet No. 48

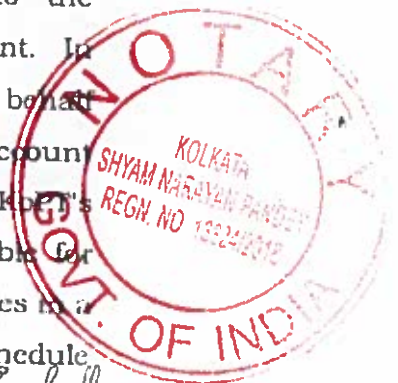
**BOARD OF TRUSTEES OF THE PORT OF KOLKATA
VS**

Asit Kumar Bhatta & Others

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12.10.10

→

In the instant case there was no consent on the part of the Port Authority either by way of accepting rent from O.P. or by any other mode, expressing the assent for continuance in such occupation after expiry of the period as mentioned in the notice to vacate the premises. The Port Authority has a definite legitimate claim to get its revenue involved as per the KoPT'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. To take this view, I am fortified by the Apex Court judgement report 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 was submitted on behalf of KoPT that the charges claimed on account of damages was on the basis of the KoPT's Schedule of Rent Charges as applicable for all the tenants/occupiers of the premises in a similarly placed situation and such Schedule

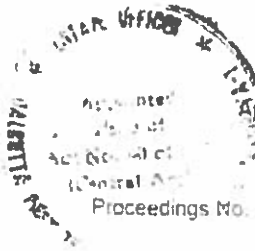


Shalban



BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST

Head Assistant
Office of the Estate Officer
KOLKATA PORT TRUST



Estate Officer, Kolkata Port Trust

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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 THE PORT OF KOLKATA
VS

Asit Kumar Saha & others

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12.10.10

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 KoPT 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. Moreover, as per law OP is bound to deliver up vacant and peaceful possession of the public premises to KoPT after expiry of the period as mentioned in the notice to Quit in its original condition. As such, the issues are decided in favour of Kolkata Port Trust. I have no hesitation to observe that OP's act in continuing occupation is unauthorized and OP 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 KoPT.

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Estate Officer, Kolkata Port Trust

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 THE PORT OF KOLKATA
VS**

Asit Kumar Das & others

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12.10.10

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With this observation, I must reiterate that the ejection notice, demanding possession from OP as stated above has been validly served upon OP in the facts and circumstances of the case and such notice is valid, lawful and binding upon the parties. In fact I have no hesitation in my mind to declare OP's occupation as "wrongful occupation". In view of the discussions above, the issue is decided in favour of KoPT.

In respect of issue no. 9 I observe that this Forum of Law is required to adjudicate the matters within the ambit of the P.P. Act. I have no ground to consider the prayer of OP for alternative accommodation/arrangement in view of closure of business by order of the Hon'ble High Court, Calcutta and Pollution Control Board, West Bengal. In fact, I have no jurisdiction under P. P. Act to consider any matter for allotment of any property to anybody. As such, I have nothing to do with regard to Issue No.9 as propounded by OP.

Now therefore, in view of the discussion above, I am left with no other alternative but to issue order of eviction u/s.5 of the Act against OP for the following reasons/grounds:



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BY ORDER OF
ESTATE OFFICER
KOLKATA PORT TRUST
Head Assistant
Office of the Estate Officer
KOLKATA PORT TRUST

19/10/10

Estate Officer, Kolkata Port Trust

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

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Of 2000

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BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Ajit Kumar Saha & Co. A.C. Thus

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Head of the Office
29/10/10



1. That the purpose of issuing Show Cause Notice u/s.4 of the Act has duly been fulfilled by way of affixation of such notice on the property as per mandatory provision of the P.P. Act.
2. That the plea of serving notice to "dead person" in declaring the Show Cause Notice invalid is not sustainable as legal heirs of the allottees in respect of the property in question were notified by affixation of the notice on the premises and were duly represented by their Advocates through their Constituted Attorney during the proceedings.
3. That the ejectment notice, demanding possession from OP dated 29.4.1998 is valid/lawful in the facts and circumstances of the case as KoPT never consented to OP's occupation after expiry of the period as mentioned in the said notice of ejectment.
4. That OP has admitted its default in making timely payment of rental dues to KoPT and as such validity of serving ejectment notice and notice



Estate Officer, Kolkata Port Trust

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 THE PORT OF KOLKATA VS

Asit Kumar Gupta & Others

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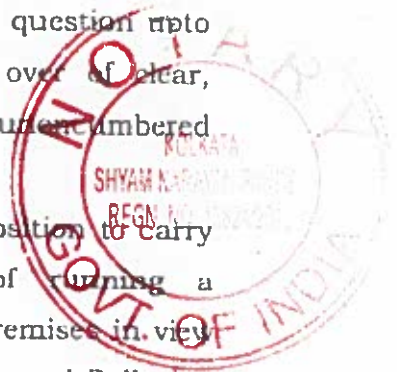


BY ORDER OF
THE ESTATE OFFICER
KOLKATA PORT TRUST

Head Assistant
Office of the Estate Officer
KOLKATA PORT TRUST

→

- for revocation of licence cannot be challenged by OP.
- 5. That OP has failed to bear any witness or adduce any evidence in support of its occupation as "authorized occupation".
- 6. That the ejection notice dated 29.4.1998 as served upon OP is valid, lawful and binding upon the parties.
- 7. That OP's occupation is unauthorized in view of Sec.2(g) of the P.P Act.
- 8. That OP has lost its authority to occupy the public premises after expiry of the period as mentioned in the said notice of ejection dated 29.4.1998 and as such OP is in wrongful occupation of the public premises and liable to pay damages for unauthorized use and occupation of the Port property in question upto the date of handing over of clear, vacant and unencumbered possession to KoPT.
- 9. That OP is not in a position to carry out the business of running a restaurant from the premises in view of order of the West Bengal Pollution



→ *Shukla*

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Estate Officer, Kolkata Port Trust

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

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of

2004

Order Sheet No

53

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Ashutosh Kumar VS
Dutta & Others

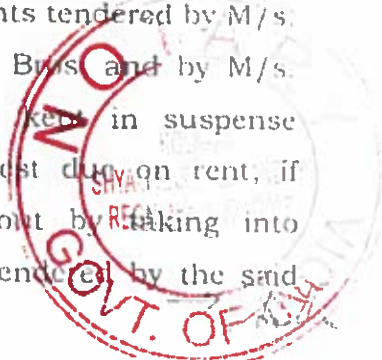
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12.10.2010

→ Control Board, duly upheld by the Hon'ble High Court Calcutta.

ACCORDINGLY, Department is directed to draw up formal order of eviction u/s.5 of the Act as per Rules made thereunder, giving 15 days time to OP to vacate the premises.

It is made clear that any person/s whoever may be in occupation are directed to vacate the premises in terms of the order u/s.5 of the Act. I make it clear that all person/s whoever may be in occupation are liable to be evicted by this order and the Port Authority is entitled to claim damages for unauthorized use and occupation of the property against OP in accordance with law up to the date of recovery of possession of the same.

KoPT is directed to submit a report regarding its claim on account of account of rental dues, if any, after taking into consideration the payments tendered by M/s. Kishori Mohan Dutta & Bros and by M/s. K.M. Dutta and Bros., kept in suspense account. Similarly, interest due on rent, if any, may be worked out by taking into account the payments tendered by the said



Kolkata

19/10/10

Head of Office

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Estate Officer, Kolkata Port Trust

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 THE PORT OF KOLKATA

Ashut Kumar VS Dutta & Others

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12.10.2010



→ partnership firm by way of cheque/DD which were returned to OP.

KoPT is also directed to submit a report regarding its claim on account of damages up to the date of recovery of possession against OP, indicating therein the details of the computation of such damages with the rate of charges so claimed for the respective period along with amount and dates of tendering payment by OP (which also includes payment by M/s. Kishori Mohan Dutta & Bros. and M/s. K. M. Dutta & Bros.) for my consideration in order to assess the damages as per the Act and the Rules made thereunder. All concerned are directed to act accordingly.

BY ORDER OF
ESTATE OFFICER
KOLKATA PORT TRUST

Head Office
Kolkata

Office of the Estate Officer
KOLKATA PORT TRUST

GIVEN UNDER MY HAND AND SEAL

S. Pradhan

(S. PRADHAN)
ESTATE OFFICER.

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



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

THE ESTATE OFFICER, 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
15, STRAND ROAD (4th Floor)
KOLKATA - 700 001

Court Room At the 2nd Floor
of Kolkata Port Trust's
Head Office, Old Buildings
15, Strand Road, Kolkata- 700 001.

REASONED ORDER NO. 09 DT 19.04.2018
PROCEEDINGS NO. 1627 OF 2018

ESTATE OFFICER
KOLKATA PORT TRUST

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-

M/s. Hooghly Nadi Jalapath Paribahan
Samabay Samity Limited (O.P.)

FORM - "B"

certified copy of the Order
issued by the Estate Officer
Kolkata Port Trust

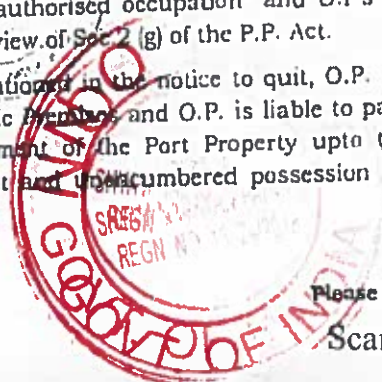
ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC
PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971

Head Assistant

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that
M/s. Hooghly Nadi Jalapath Paribahan Samabay Samity Limited, of 4/5,
Rishi Bankim Chandra Road, Howrah Station, Howrah-711101 is in
unauthorized occupation of the Public Premises specified in the Schedule
below:

REASONS

1. That O.P. had failed to liquidate the licence fees of KoPT for a prolonged period, without any valid/justifiable excuse.
2. That O.P. had carried out unauthorized construction in the public premises, as well as encroached into the port property without any authority of law.
3. That O.P.'s prayer for relaxation/waiver of arrear licence fees, interest etc, are beyond the jurisdiction of this Forum which is mandated to act strictly in terms of the P.P. Act, 1971.
4. That no case has been made out on behalf of O.P. as to how its occupation in the Public Premises could be termed as "authorised occupation" after service of notice to quit by the Port authority.
5. That O.P. has failed to bear any witness or adduce any evidence in support of its contention regarding "authorised occupation" and O.P.'s occupation has become unauthorized in view of Sec 2 (g) of the P.P. Act.
6. That right from the date mentioned in the notice to quit, O.P. has lost its authority to occupy the Public Premises and O.P. is liable to pay damages for wrongful use and enjoyment of the Port Property upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.



Please see on reverse

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:: 2 ::



A copy of the reasoned order No. 09 dated 19.04.2018 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 M/s. Hooghly Nadi Jalapath Paribahan Samabay Samity Limited, of 4/5, Rishi Bankim Chandra Road, Howrah Station, Howrah-711101 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 M/s. Hooghly Nadi Jalapath Paribahan Samabay Samity Limited, of 4/5, Rishi Bankim Chandra Road, Howrah Station, Howrah-711101 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

Land msg. 481.61 sq.m. at Armenian Ghat is situated in the presidency town of Kolkata. It is bounded on the north by Moti Lal Seal Ghat & then River Hooghly, on the south by the Trustees' Kolkata Jetty Shed No.1, on the west by River Hooghly and on the east by the Trustees' road.

Godown space msg. 184.74 sq.m. at Calcutta Jetty Shed No.1 is situated in the presidency town of Kolkata. It is bounded on the north & east by Trustees' land occupied by M/s. Hooghly Nadi Jalapath Paribahan Samabay Samity Limited, on the south by portion of Trustees' Kolkata Jetty Shed No.1 and on the west by River Hooghly.

Land between Shed No.4 & 5 Calcutta Jetty msg. 389.91 sq.m. is situated in the presidency town of Kolkata. It is bounded on the north by the Trustees' vacant land, on the south & east by Millennium Park and on the west by Millennium Park & River Hooghly.

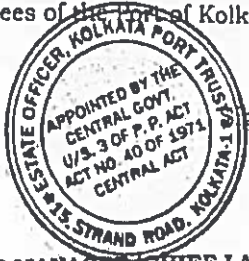
Land msg. 5 sq.m. at Bagbazar is situated in the presidency town of Kolkata. It is bounded on the north by Bagbazar Ferry Ghat, on the south & west by River Hooghly, and on the east by Strand Bank Road.

Land msg. 5 sq.m. at Sovabazar is situated in the presidency town of Kolkata. It is bounded on the north & west by River Hooghly, on the south by Rathtala Ferry Ghat and on the east by Strand Bank Road.

Land msg. 5.90 sq.m. at Cossipore is situated in the presidency town of Kolkata. It is bounded on the north & south by the Trustees' vacant land, on the east by Strand Bank Road and on the west by River Hooghly.

Trustees' means the Board of Trustees of the Port of Kolkata.

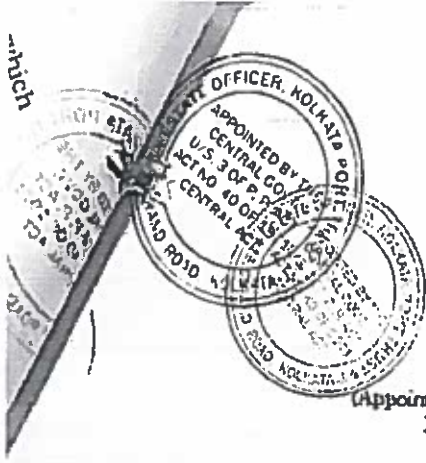
Dated: 19.04.2018



COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER, KOLKATA PORT TRUST FOR INFORMATION.

- 109 -

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

ESTATE OFFICER, 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
15, STRAND ROAD (4TH FLOOR) KOLKATA-700001

Form "E"

PROCEEDINGS NO. 1627/R OF 2018
ORDER NO. 09 DATED: 19.04.2018

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

To
M/s. Hooghly Nadi Jalapath Paribahan
Samabay Samity Limited,
4/5, Rishi Bankim Chandra Road,
Howrah Station,
Howrah-711101.

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

AND WHEREAS, by written notice dated 10.01.2018 you are/were called upon to show cause on/or before 07.02.2018 why an order requiring you to pay a sum of Rs. 1,29,34,282/- (Rupees One Crore Twenty Nine Lakhs Thirty Four thousand Two hundred Eighty Two only.) being the rent payable together with compound interest in respect of the said premises should not be made;

And wherens I have considered your objection 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. 1,29,34,282/- (Rupees One Crore Twenty Nine Lakhs Thirty Four thousand Two hundred Eighty Two only) for the period 01.04.2011 to 30.11.2017 (both days inclusive) to Kolkata Port Trust by 15.05.2018.

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest at the rate of 15% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Official Gazettee/s as per Kolkata Port Trust's Rule.

PLEASE SEE ON REVERSE



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11 2 11

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

Land msg. 481.61 sq.m. at Armenian Ghat is situated in the presidency town of Kolkata. It is bounded on the north by Moti Lal Seal Ghat & then River Hooghly, on the south by the Trustees' Kolkata Jetty Shed No.1, on the west by River Hooghly and on the east by the Trustees' road.

Godown space msg. 184.74 sq.m. at Calcutta Jetty Shed No.1 is situated in the presidency town of Kolkata. It is bounded on the north & east by Trustees' land occupied by M/s. Hooghly Nadi Jalapath Paribahan Samabay Samity Limited, on the south by portion of Trustees' Kolkata Jetty Shed No.1 and on the west by River Hooghly.

Land between Shed No.4 & 5 Calcutta Jetty msg. 389.91 sq.m. is situated in the presidency town of Kolkata. It is bounded on the north by the Trustees' vacant land, on the south & east by Millennium Park and on the west by Millennium Park & River Hooghly.

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Land msg. 5 sq.m. at Sovabazar is situated in the presidency town of Kolkata. It is bounded on the north & west by River Hooghly, on the south by Rathala Ferry Ghat and on the east by Strand Bank Road.

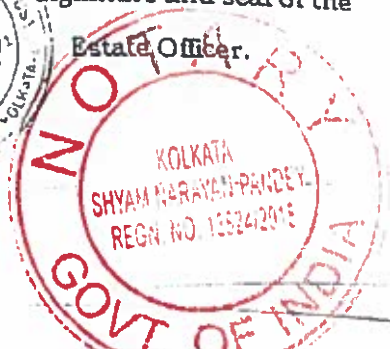
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Trustees' means the Board of Trustees of the Port of Kolkata.

Dated: 19.04.2018



Signature and seal of the Estate Officer.



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Estate Officer, Kolkata Port Trust

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

Proceedings No. 1627, 1627/R of 2018 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

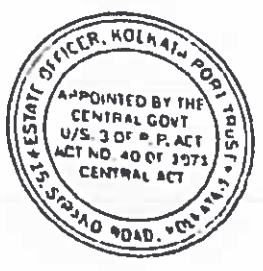
VS

M/s Hooghly Nadi Jalapath Paribahan Samabay Samity Limited.

09

19-04-2018

FINAL ORDER



ESTATE OFFICER, KOLKATA PORT TRUST
15, SEAPORT ROAD, KOLKATA

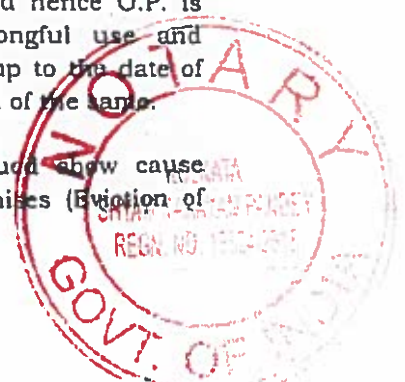
Identified copy of the Order
issued by the Estate Officer,
Kolkata Port Trust

09/04/18
Handwritten signature

The matter is taken up today for final disposal. It is the case of Kolkata Port Trust (KoPT), Applicant herein, that M/s Hooghly Nadi Jalapath Paribahan Samabay Samity Limited, O.P. herein, came into occupation of the public premises in question [land msg. 481.61 sqm at Armenian Ghat under Plate no. SB-536, godown space msg. 184.74 sqm at Calcutta Jetty Shed no. 1 under Plate no. JS-29, land msg. 5 sqm at Bagbazar under Plate no. SB-538, land msg. 5 sqm at Sovabazar under Plate no. SB-539, land msg. 5.57 sqm at Chandpal Ghat under Plate no. SB-540, land between Shed no. 4 & 5 of Calcutta Jetty msg. 389.91 sqm under Plate no. SB-556, and land msg. 5.90 sqm at Cossipore under Plate no. SB-537] as a month to month licensee on certain terms and conditions, and O.P. violated the conditions for grant of such monthly licence by way of not making payment of monthly licence fees/rent for a considerable period of time, carrying out unauthorised construction, encroaching into the Port property and also storing inflammable goods in the premises/godown under Plate no. SB-536 & JS-29 which caused a devastating fire on 07.11.2017 that has gutted down the entire Calcutta Jetty Shed no. 1. It is the case of KoPT that due to these breaches, O.P. was asked to vacate the premises on 01.12.2017 in terms of the quit notice dated 10.11.2017 served as per statute. It is argued by KoPT that in spite of determination of the said tenancy, O.P. failed and neglected to quit, vacate and deliver up vacant peaceful possession of the said premises on 01.12.2017 and hence O.P. is liable to pay damages for wrongful use and occupation of the Port property up to the date of handing over of vacant possession of the same.

K-

On 10.01.2018 this Forum issued show cause notice u/s 4 of the Public Premises (Eviction of





Estate Officer, Kolkata Port Trust

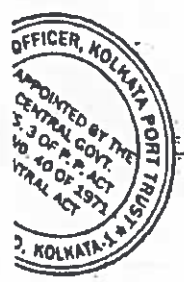
Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1627, 1627/R Of 2418 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Hooghly Nadi Jalapatta Paribahan Samabay Samity Limited VS

09
19-04-2018



WRITTEN
ESTATE OFFICER
KOLKATA PORT TRUST

Verified copy of the Order
issued by the Estate Officer
Kolkata Port Trust

dt. 22/4/18
Head Assistant
Estate Officer

Unauthorised Occupants) Act 1971 for adjudication of the prayer of passing an order of eviction etc, and also show cause notice u/s 7 of the Act for adjudication of the prayer for recovery of rental dues/license fees, interest etc.

O.P. contested the matter and filed a Reply u/s 4 of the Act on 01.02.2018. O.P. also filed a Reply u/s 7 of the Act on 28.02.2018. KoPT filed its Rejoinder against said Replies of O.P., on 06.04.2018 and the matter was finally heard on 09.04.2018, when the final order was reserved. No written notes of arguments was filed by either party.

I have carefully gone through the contentions made by KoPT against the O.P. and the supporting documents submitted in this respect. On perusal of submissions and materials available on the record, I find that the Port Authority had been repeatedly issuing letters to the O.P., for liquidating the licence fees. I have gone through letters dated 22.10.2014, 30.07.2015, 26.10.2017 of KoPT addressed to the Secretary of the O.P., wherein KoPT categorically mentioned about substantial outstanding dues. I do not find a single letter/communication of the O.P. controverting such claim of KoPT. On the other hand, I have come across a communication dated 12.08.2016 of the O.P., addressed to Minister-in-Charge, Road Transport & Highway etc, Govt. of India, whereby O.P. had sought waiver of outstanding dues payable to the Port Authority. Para 7 of said communication is specific admission of O.P. that it has not been able to pay to the tune of Rs 1.65 Crores (including interest). In the Reply/s filed before this Forum also, in page 4, the O.P. has drawn reference to the said outstanding dues vis-a-vis the said communication of the O.P. dated 12.08.2016. The O.P. has also claimed in said Reply/s that the due



Estate Officer, Kolkata Port Trust
Appointed by the Central Govt. Under Section 3 of the Public Premises
(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1627, 1627/R Of 2018 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Hooghly Naoli Jalapath VS Paribahan Samabay Samity Limited

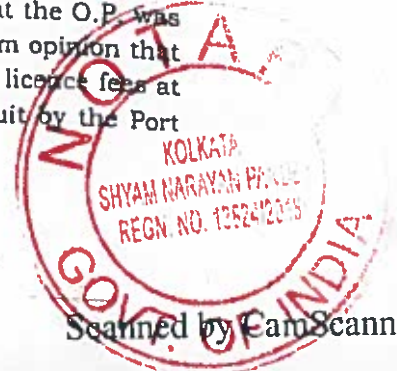
09
19.04.2018



amount has been paid to KoPT, as is brought out in the statement annexed to the Reply. I have gone through the said single-page statement annexed with the Reply u/s 4. It is seen that as per own statement of O.P., the licence fees for the month of March 2017 was paid on 13.11.2017 (as claimed by O.P.). Similarly, licence fees for the month of April 2017 was paid on 21.11.2017 (as claimed by O.P.). A question arises how far such contention of O.P. is valid in the eye of law. It is a settled law that a monthly licence like that granted to the O.P. continues on month to month renewal basis, i.e. presentation of bill by the licensor and liquidation of said bill by the licensee in the prescribed mode within prescribed time. Such a relationship comes to an end even for the default of payment of any one bill/license fee. In other words, the continuance of such a relationship is very much dependant on the "conduct" of the parties. The moment the licensor refuses to accept the licensee, owing to non-payment of license fees, nothing survives in the relationship. In the instant case, KoPT has produced document/s substantiating default in payment by the O.P. for a substantial period, which has not been denied by the O.P. The O.P. has in turn produced a statement (only for the period of April 2016 to April 2017) and claimed to have cleared the dues. I take note of the fact that such statement is only for a particular period and not the entire period of occupation of the O.P. I find that the O.P. has not mentioned anything at all about the licence fees for the months of May 2017 to November 2017. Rather, I find that the O.P. has again prayed for relaxation of the outstanding dues, in the penultimate para of its Reply filed on 01.02.2018. As such, in my view, there is definite element of truth in the submission of KoPT that the O.P. was in default of licence fees. It is my firm opinion that the O.P. was definitely in arrears of licence fees at the time of issuance of notice to quit by the Port

ORDER BY THE ESTATE OFFICER, KOLKATA PORT TRUST

Limited copy of the Order issued by the Estate Officer, Kolkata Port Trust
12/23/18
[Signature]



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Estate Officer, Kolkata Port Trust

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

Proceedings No. 1627, 1627/R of 2018 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Hooghly Nadi Jalapatti Paribahan Samabay Samity Limited,
VS
Authority

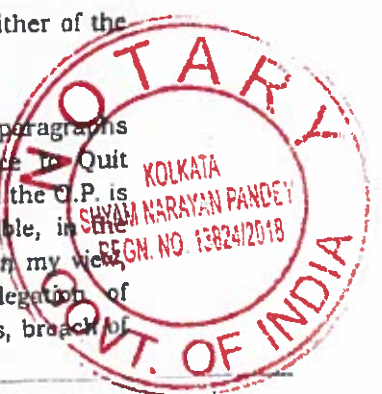


authority. Moreover, I must mention that the said notice to quit specifically mentions that any payment tendered by the O.P. after expiry of the period mentioned therein, will be deemed to have been tendered as compensation for wrongful use and occupation, and not as rent/licence fees. Therefore, as I find, even any payment made by the O.P. after 01.12.2017 cannot waive or excuse the breach of non-payment of licence fees.

As regards the allegations of encroachment and unauthorised construction, I find that O.P. has chosen not to counter the said allegations, in its Reply/s. On the other hand, I find that the KoPT has enclosed specific sketch maps with its application dated 22.12.2017, substantiating the allegations. In my view, mere claim by representative of O.P. during the course of hearing, that it has not committed any encroachment/unauthorised construction, is not sufficient in the eye of law, particularly when such statement is not supported by any documentary evidence. Again it is my specific observation that nothing has been produced by O.P. to counter the said allegations and hence I have no reason to disbelieve KoPT, in the facts and circumstances of the matter. I may add a line here that I have not decided the issue of storage of inflammable goods by the O.P., as it is seen from record that the issue of incident of fire on 07.11.2017 is under investigation of the police authorities and no firm outcome has been communicated by either of the parties.

Discussions against the foregoing paragraphs would certainly reveal that the Notice to Quit dated 10.11.2017 as served by KoPT on the O.P. is very much valid, lawful and enforceable, in the facts and circumstances of the case. In my view, even without going through the allegation of storage of inflammable goods/materials, breach of

STATE OFFICER
KOLKATA PORT TRUST
verified copy of the Order
issued by the Estate Officer
Kolkata Port Trust
19.04.2018
Estate Officer



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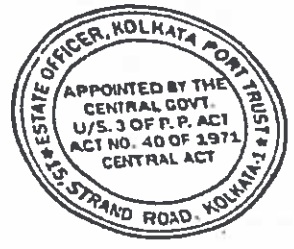
Estate Officer, Kolkata Port Trust
Appointed by the Central Govt. Under Section 3 of the Public Premises
(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1627, 1627/R of 2018 Order Sheet No. 14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Hooghly Nadi Jalajath VS Paribahan Samabay Samity Limited.

19.04.2018



ESTATE OFFICER
KOLKATA PORT TRUST

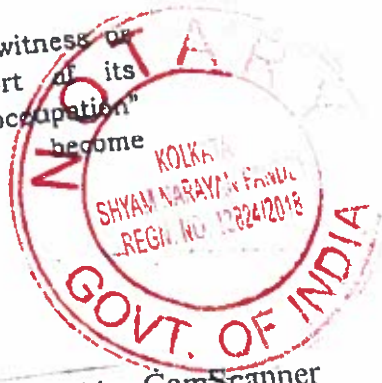
certified copy of the Order
issued by the Estate Officer
Kolkata Port Trust

02/23/4/18
Handwritten signature

important terms and conditions of the licence, as brought out above, are sufficient enough to declare the status of the O.P. as "unauthorised" in terms of Sec. 2 (b) of the P.P. Act, 1971. It is my firm view that claim of running public utility service by the O.P. does not bestow any additional/special right in the O.P., as per the scheme of the P.P. Act. With such observation, I have no hesitation to conclude that O.P.'s act in continuing occupation is unauthorised and O.P. is liable to pay damages for unauthorised use and occupation of the Port property in question upto the date of delivering vacant, unencumbered and peaceful possession to KoPT.

NOW THEREFORE, I think it is a fit case for allowing KoPT's prayer for eviction against O.P. u/s 5 of the Act for the following grounds/reasons :-

1. That O.P. had failed to liquidate the licence fees of KoPT for a prolonged period, without any valid/justifiable excuse.
2. That O.P. had carried out unauthorised construction in the public premises, as well as encroached into the port property without any authority of law.
3. That O.P.'s prayer for relaxation/waiver of arrear licence fees, interest etc, are beyond the jurisdiction of this Forum which is mandated to act strictly in terms of the P.P. Act, 1971.
4. That no case has been made out on behalf of O.P. as to how its occupation in the Public Premises could be termed as "authorised occupation" after service of notice to quit by the Port authority.
5. That O.P. has failed to bear any witness or adduce any evidence in support of its contention regarding "authorised occupation" and O.P.'s occupation has become



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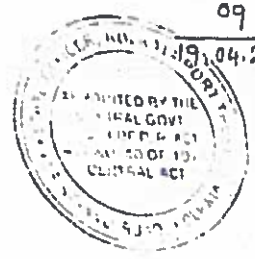
Estate Officer, Kolkata Port Trust

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

Proceedings No. 1627, 1627/R of 2018 Order Sheet No. 16

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Hooghly Trade Jalapath Parishad Samalaya Samity Limited,
VS



09 04.2018

in Calcutta Gazette. I sign the formal order u/s. 7 (1) & (2-A) of the Act.

KoPT is directed to submit a report regarding its claim on account of damages against O.P., indicating therein the details of the computation of such damages with the rate of charges so claimed for the respective period, right upto the date of handing over of vacant, peaceful and unencumbered possession by O.P., for my consideration in order to issue appropriate Notice u/s 7 (2) & (2-A) of the Act and the Rules made thereunder.

I make it clear that in the event of failure on the part of O.P. to hand over vacant and peaceful possession to KoPT, Port Authority is entitled to proceed further for recovery of possession in accordance with law. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

(Signature)
(M.K. DAS)
ESTATE OFFICER

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



Identified copy of the Order issued by the Estate Officer Kolkata Port Trust
on 23/4/18
Head Assistant
Officer of the E.O. Estate Officer

Estate Officer, Kolkata Port Trust

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

Proceedings No. 1627, 1627/R

of 2018

Order Sheet No. 14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Hooghly Nadi Talarath Paribahan Samahay Samity Limited. VS

19.04.2018



important terms and conditions of the licence, as brought out above, are sufficient enough to declare the status of the O.P. as "unauthorised" in terms of Sec. 2 (g) of the P.P. Act, 1971. It is my firm view that claim of running public utility service by the O.P. does not bestow any additional/special right in the O.P., as per the scheme of the P.P. Act. With such observation, I have no hesitation to conclude that O.P.'s act in continuing occupation is unauthorised and O.P. is liable to pay damages for unauthorised use and occupation of the Port property in question upto the date of delivering vacant, unencumbered and peaceful possession to KoPT.

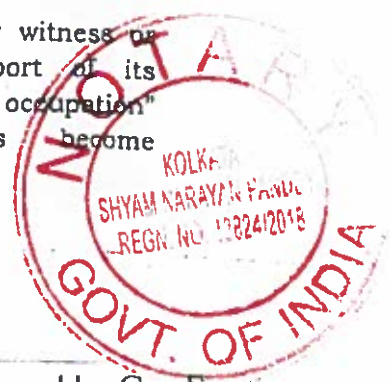
NOW THEREFORE, I think it is a fit case for allowing KoPT's prayer for eviction against O.P. u/s 5 of the Act for the following grounds/reasons :-

1. That O.P. had failed to liquidate the licence fees of KoPT for a prolonged period, without any valid/justifiable excuse.
2. That O.P. had carried out unauthorised construction in the public premises, as well as encroached into the port property without any authority of law.
3. That O.P.'s prayer for relaxation/waiver of arrear licence fees, interest etc, are beyond the jurisdiction of this Forum which is mandated to act strictly in terms of the P.P. Act, 1971.
4. That no case has been made out on behalf of O.P. as to how its occupation in the Public Premises could be termed as "authorised occupation" after service of notice to quit by the Port authority.
5. That O.P. has failed to bear any witness or adduce any evidence in support of its contention regarding "authorised occupation" and O.P.'s occupation has become

ESTATE OFFICER, KOLKATA PORT TRUST

certified copy of the Order issued by the Estate Officer, Kolkata Port Trust

02.23/4/18
Sd/-
Estate Officer



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Estate Officer, Kolkata Port Trust

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

Proceedings No. 1627, 1627/R of 2018 Order Sheet No. 15

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Houghtly Nadi Jalapath Postbahar Samabaya Samity Limited.

09
19.04.2018



unauthorized in view of Sec.2 (g) of the P.P. Act.

- 6. That right from the date mentioned in the notice to quit, O.P. has lost its authority to occupy the Public Premises and O.P. is liable to pay damages for wrongful use and enjoyment of the Port Property upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

ACCORDINGLY, I sign the formal order of eviction u/s.5 of the Act as per Rule made there under, giving 15 days time to O.P. and any person/s whoever may be in occupation 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 and the Port Authority is entitled to claim damages for unauthorized use and enjoyment of the property against O.P. in accordance with Law up to the date of recovery of possession of the same. KoPT 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. 1,29,34,282.00/- for the period from 01.04.2011 to 30.11.2017 (both days inclusive) as more fully described in the Notice u/s 7 of the Act, 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 the said amount to KoPT on or before 15.05.2018. Such dues attracts simple interest @18% per annum upto 06.04.2011 and thereafter @14.25% per annum on the above sum from the date of incurrance of liability till its final payment in accordance with KoPT's notification published



ESTATE OFFICER
KOLKATA PORT TRUST

verified copy of the Order
issued by the Estate Officer
Kolkata Port Trust

23/4/18

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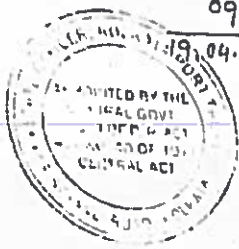
Estate Officer, Kolkata Port Trust

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

Proceedings No. 1627, 1627/R of 2018 Order Sheet No. 16

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Hooghly Mudi Jalapath Parishad Samabay Samity Limited, VS



09 19.04.2018

in Calcutta Gazette. I sign the formal order u/s. 7 (1) & (2-A) of the Act.

KoPT is directed to submit a report regarding its claim on account of damages against O.P., indicating therein the details of the computation of such damages with the rate of charges so claimed for the respective period, right upto the date of handing over of vacant, peaceful and unencumbered possession by O.P., for my consideration in order to issue appropriate Notice u/s 7 (2) & (2-A) of the Act and the Rules made thereunder.

I make it clear that in the event of failure on the part of O.P. to hand over vacant and peaceful possession to KoPT, Port Authority is entitled to proceed further for recovery of possession in accordance with law. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

(M.K. DAS)
ESTATE OFFICER

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



Identified copy of the Order issued by the Estate Officer, Kolkata Port Trust
Date: 23/4/18
Head Assistant
Estate Officer