

SL. No. 29/25

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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:

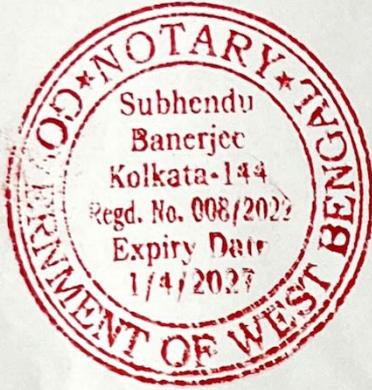
Subhas Dutta

....Applicant

----VS---

State of West Bengal & Ors

....Respondents

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Paushali Banerjee

Advocate

7A, Kiron Shankar Roy Road, Kolkata-700001

30 APR 2025

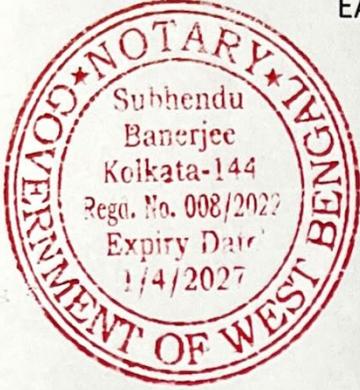
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BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONAL BENCH, KOLKATA, WEST BENGAL
FINANCE CENTRE, 3RD FLOOR, NEW TOWN

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 in Reply on behalf of Syama Prasad Mookerjee Port, Kolkata to the Affidavit of West Bengal Pollution Control Board dated 04/03/2025:

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 **Affidavit of West Bengal Pollution Control Board dated 04/03/2025**. 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.

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2. That I say that before dealing with the Affidavit of the West Bengal Pollution Control Board dated 04/03/2025 (herein after referred to as the said affidavit) it is necessary to state the following facts that are essential or holistic adjudication of the present matter:

(a) I say 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 Chandmari ghat 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.

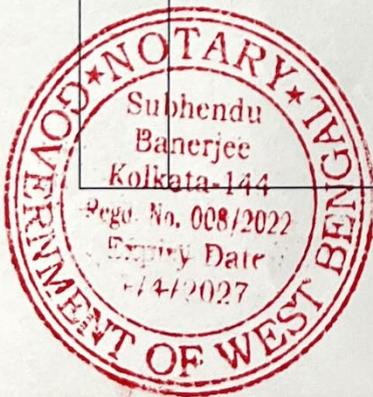
(b) That it is stated that it is not possible to protect the river banks and river fronts from erosion and decay due to the unauthorised occupants encroaching the river bank, the respective details/status of encroachment by unauthorised occupants with eviction orders is stated herein below:

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

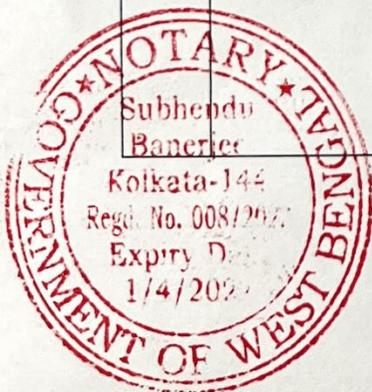


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				Proceeding No.348/1999.
2	M/s. Abhishek Hotel	28.15 Sq.mts HL-22 & HL-22/1	Abilakh Singh	Eviction order passed by Ld. Estate Officer on 29.10.2007 in Proceedings No.858 & 865 of 2007. No court case is pending.
3	M/s. Islamia Hotel	20.067 Sq.mts 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

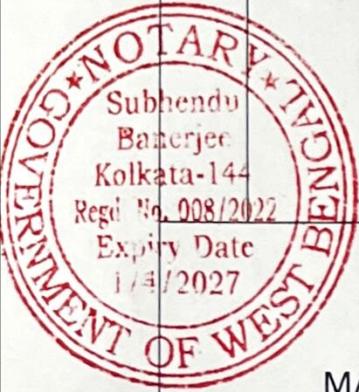


				without any stay order.
4	M/s. Islamia Hotel	23.783 Sq.mts HL-20/A & HL-20/B	Janab Abdul Hosain Md Shabbir Khan	Eviction order passed by Ld. Estate Officer on 13.07.2007 in Proceedings No.832 & 833 of 2006. Misc. Appeal No(s).212 & 213 of 2007 filed by rank outsider are pending before Ld. Howrah Court without any stay order.
5	M/s. Dutta Cabin	77.02 Sq.mts HL-25/1, HL-25/3, HL-25/3/1	Ashit Kumar Dutta &Ors	Eviction order passed by Ld. Estate Officer on 12.10.2010 in Proceeding No.640 of 2004.



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				Misc. Appeal No.291/2010 filed by unauthorised occupant is pending before Howrah Court with stay order.
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6.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

(c)That it is stated that all the hotels units are occupying the SMPK premises illegally and they ought to be evicted vide earlier Order dated 08.04.2008 passed by the Ld. Registrar, Pollution

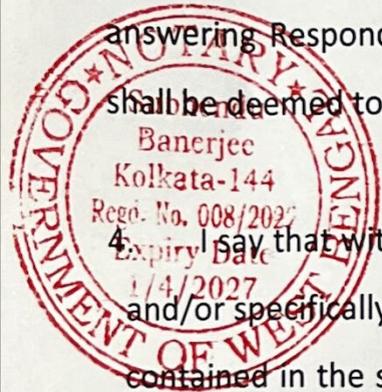
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Control Appellate Authority (West Bengal) in Appeal No(s).16 to 23 of 2007 filed by shop owners/stalls at Chandmarighat, Howrah.

(d) I say that 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.

3. Now dealing with the said Affidavit I say that with regard to paragraphs 1 and 2 are matter of record. Save and except what are matters of record and/or specifically admitted by the answering Respondent hereinafter all other allegations contained in the said paragraphs shall be deemed to have been denied by the answering respondent.

4. I say that with regard to paragraph no 3 save and except what are matters of record and/or specifically admitted by the answering respondent hereinafter all other allegations contained in the said paragraphs shall be deemed to have been denied by the answering respondent. That the statements made in the said Affidavit in Para No.3 is not commented to as the answering respondent is unaware about any such Proceedings/hearing conducted by West Bengal Pollution Control Board on 12.11.2024 in terms of connected Order dated 02.09.2024. No documents submitted before the West Bengal Pollution Control Board had been shared or forwarded to this answering respondent /Port authorities for any kind of response or objection thereto. It is pertinent to mention here that as the answering respondent is the owner of the land the West Bengal Pollution control board ought to have called the answering respondent for any such Proceedings/hearing conducted by West

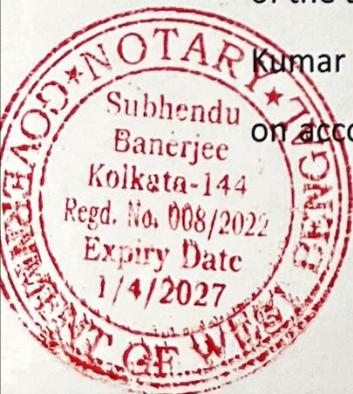


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Bengal Pollution Control Board on 12.11.2024 in terms of connected Order dated 02.09.2024.

5. I say that with regard to paragraph no 4 are matter of record save and except what are matters of record and/or specifically admitted by the answering respondent hereinafter all other allegations contained in the said paragraphs shall be deemed to have been denied by the answering respondent. It is pertinent to mention here the following:

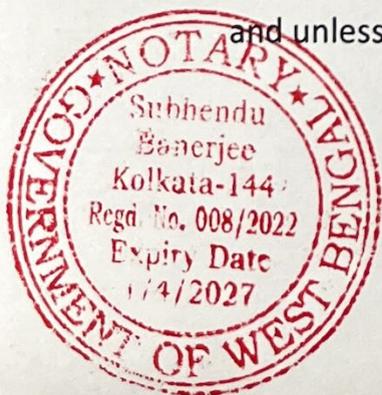
- (i) That all the hotel units/eateries are unauthorised entities. M/s. Eating House, Ms. Anna Hotel, M/s. Howrah Station Porters Welfare Association, M/s. Dilip Hindu hotel, M/s. Rajesh Hindu hotel, M/s. Gupta Hotel, M/s. Sai Ganga Hindu hotel and M/s. Durga Mukesh Hindu hotel are unauthorised occupants/rank outsiders. The answering respondent never permitted them to conduct any hotel/eatery activities at Chandmari Ghat, Howrah. They are illegally occupying the above SMPK public premises. It is immaterial whether or not these eateries/hotel units are operating with or without any permission from any competent authority. Their primary existence on the public premises of the answering respondent is unauthorised and wrongful. It is submitted that M/s. Kishori Mohan Dutta & Bros. (Dutta Cabin) has been unauthorisedly occupying the SMPK earlier tenancy plots of Ashit Kumar Dutta & Ors. The aforesaid tenancy had already been terminated and Eviction Order passed by Ld. Estate Officer vide its Order dated 12.10.2010 in Proceedings No.640 of 2004. They have also preferred one Appeal against the eviction order before Ld. Howrah Court vide Misc. Appeal No.291/2010 which is at present pending with stay order. It is also mentioned that subsequent to the termination of the tenancy no rent has been accepted by this answering respondent from Ashit Kumar Dutta & Ors tenancy & whatever they have tendered had been deposited on account of compensation/occupational charges without prejudice to rights of





this answering respondent. Furthermore, the answering respondent did not issue any rent invoices after termination of the tenancy of Ashit Kumar Dutta & Ors.

- (ii) M/s. Abhishek Hotel has been unauthorisedly occupying SMPK earlier tenancy plots allotted to Udai Bhan Singh and Abhilakh Singh. M/s. Islamia Hotel has been unauthorisedly occupying SMPK earlier tenancy plots allotted to Estate Karim Bux Khan & Janab Abdul Hosain Md Shabbir Khan.
- (iii) In this connection it is pertinent to mention that eviction orders had already been passed by Ld. Estate Officer under the relevant provisions of the Public Premises (Eviction of Unauthorised Occupants), Act, 1971, with respect to the earlier tenancies of Udai Bhan Singh (eviction order dated 10.11.2005), Abhilakh Singh (eviction order dated 29.10.2007), Estate Karim Bux Khan (eviction order dated 27.07.2007), Janab Abdul Hosain Md Shabbir Khan (eviction order dated 13.07.2007).
- (iv) It is also mentioned that subsequent to the termination of the aforesaid tenancies no rent has been accepted by SMPK from Ashit Kumar Dutta & Ors, Udai Bhan Singh, Estate Karim Bux Khan, Abhilakh Singh, Janab Abdul Hosain & Md Shabbir Khan & whatever the unauthorised occupants occupying the said plots have tendered had been deposited on account of compensation/occupational charges without prejudice to rights of the answering respondent. No rent invoices are being issued by the answering respondent after termination of the aforesaid tenancies except compensation/demand invoices. Furthermore, SMPK is constantly pursuing with Howrah Police authorities & HMC for the removal of these illegal hotel units and unless police help is extended these hotel units could not be removed



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6. I say furthermore, that without any prior verification and inspection of the business location and modalities, Municipal authorities issued licenses to various entities to carry on business & trade of eateries near the banks of river Ganga opposite Howrah railway station at Chandmari Ghat. Furthermore, during the joint inspection of the Chandmari Ghat Hotel/eateries along with police officials on 22.12.2023, the HMC authorities were shown the area and the existence of illegal eateries and also in the aforesaid SMPK letter dated 18.01.2024, the HMC authorities were requested to expedite the removal operation of the unauthorised hotel units. But so far no affirmative steps have yet been taken by HMC authorities. In this connection, it is pertinent to mention that no action taken by HMC in installing pipelines and sewage treatment plants for protecting the holy river of Ganga from pollution in consonance with the Order passed by the Ld. Registrar, Pollution Control Appellate Authority (WB) dated 08.04.2008 in Appeal No(s).A-16 to A-23 of 2007.

7. I say that with regard to paragraph no 5 are matter of record save and except what are matters of record and/or specifically admitted by the answering respondent hereinafter all other allegations contained in the said paragraphs shall be deemed to have been denied by the answering respondent. The occupants on the answering respondent's public premises at Chandmari Ghat at Howrah are running hotel business or eateries are unauthorised and illegally operating therefrom. In fact in various matters eviction orders had already been passed by Ld. Estate Officer under the relevant provisions of the Public Premises (Eviction of Unauthorised Occupants), Act, 1971, with respect to the earlier tenancies of Udai Bhan Singh, Abhilakh Singh, Estate Karim Bux Khan, Janab Abdul Hosain Md Shabbir Khan, Ashit Kumar Dutta & Ors and Hooghly Nadi Jalapath Paribahan Samabay Samity Limited (HNJPSS). It is re-iterated that no permission was granted by this answering respondent/ Port Authority to these hotel units/eateries in continuing with their unauthorised activities of running hotel



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units/eateries within the near vicinity of River Ganga with consequent acts of polluting the river and its adjoining areas. It is immaterial whether or not these eateries/hotel units are operating with or without any permission from any competent authority. Their primary existence on the public premises is unauthorised and wrongful. Furthermore, this answering respondent is constantly pursuing with Howrah Police authorities & HMC for the removal of these illegal hotel units and unless police help is extended these hotel units could not be removed from the public premises.

8. That the answering respondent is 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.

Verification

That the statements made in paragraphs 1, 3 & 4 are true to my knowledge and those made in paragraph 2, 5, 6, 7 & 8 are my humble submissions before this Hon'ble Court.

Prepared in my office

Identified by me

Ranabir Banerjee

[Advocate]

Avishek Raut

AVISHEK RAUT
Resolution Officer-Legal
Estate Division
Bhama Prasad Mookerjee Port, Kolkata

Deponent

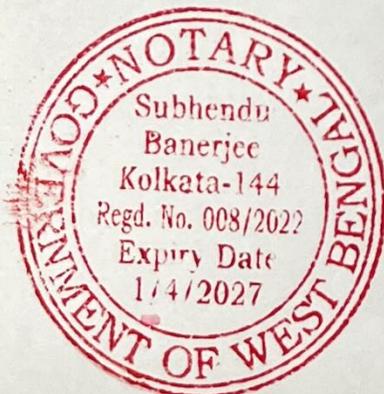
Solemnly Affirmed and
Declared before me u/s
139 CPC and u/s 333BNSS 2023

Banerjee
Notary

Govt. of West Bengal

SUBHENDU BANERJEE
Notary, Govt. of W.B
Regd. No. 008/2022
Advocate High Court, Calcutta

30.04.2025



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