



**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
6, Fairley Place (1st Floor)
KOLKATA - 700 001

Court Room At the 1st Floor
of Kolkata Port Trust's
Fairlie Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO.13 DT 05.11.2019
PROCEEDINGS NO. 1283 OF 2012

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
Shri Janardan Prosad Singh(O.P.)

F O R M - "B"

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

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that
**Shri Janardan Prosad Singh, 40, Chetla Railway Siding, Kolkata-
700027** is in unauthorized occupation of the Public Premises specified in the
Schedule below:

REASONS

1. That O.P. has failed to file any Reply to the Show Cause/ papers/ documents inspite of repeated sufficient chances being provided and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P. dated 12.04.2007.
2. That occupation of O.P. beyond the period of expiry of the Quit Notice is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question.
3. That O.P. has violated the condition of tenancy by way making unauthorized construction.
4. That O.P. has parted with possession of the Public Premises in question without having any authority under law.
- 5) That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.
- 6) That the Quit notice dated 12.04.2007 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.
- 7) That O.P. is liable to pay damages/ mesne profit along with the accrued interest thereon for wrongful enjoyment of the Port Property in question.

Please see on reverse

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KOLKATA PORT TRUST

(2)

upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

A copy of the reasoned order No.13 dated 05.11.2019 is attached hereto which also forms a part of the reasons.

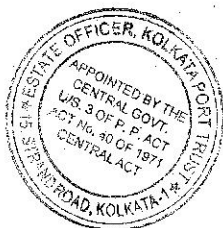
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **Shri Janardan Prosad Singh, 40, Chetla Railway Siding, Kolkata-700027** and all persons who may be in occupation 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 Janardan Prosad Singh, 40, Chetla Railway Siding, Kolkata-700027** 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 of land msg.173.27 sq.m or thereabouts is situate at Chetla Station Yard, Thana- New Alipore Police Station, Calcutta, Dist.24Parganas, Registration District-Alipore. It is bounded on the North by the Trustees' strip of open land beyond which is the Nikashi drain on the East by the Trustees' land leased to M/S Roy Coal Concern on the South by the Trustees open land used as roadway & on the West by the Trustees' land leased to M/S. Khidderpore Head Coke Company.

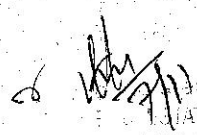
Trustees' means the Board to Trustees' of the Port of Kolkata.

Date- 5.11.19




Signature & Seal of the
Estate Officer.

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

BY Order of:
ESTATE OFFICER
KOLKATA PORT TRUST

ESTATE OFFICER
KOLKATA PORT TRUST

**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)
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OFFICE OF THE ESTATE OFFICER
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PROCEEDINGS NO.1283/D OF 2012
ORDER NO 13 DATED : 05.11.2019

Form- G

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

To
Shri Janardan Prosad Singh
40, Chetla Railway Siding,
Kolkata- 700027

Whereas I, the undersigned, am satisfied that you are/were in unauthorised occupation of the public premises mentioned in the Schedule below:

And whereas by written notice dated 19.02.2018 you are/were called upon to show cause on/or before 06.03.2018 why an order requiring you to pay damages of **Rs.2,05,610.00** (Rupees two lakhs five thousand six hundred ten only) for **Plate No.D-525/B** for unauthorised use and occupation 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 on me by Sub-section (2) of Section 7 of the Public Premises (Eviction of Unauthorized Occupants) Act 1971, I hereby order you to pay the sum of **Rs.2,05,610.00** (Rupees two lakhs five thousand six hundred ten only) for **Plate No.D-525/B** as damages on account of your unauthorised occupation of the premises for the period from 01.05.2007 to 30.06.2017 to Kolkata Port Trust by 20.11.2019.

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 18.09.1996 and thereafter @ 18% per annum till 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 Kolkata Port Trust's Notification published in Calcutta Gazette/s as per Kolkata Port Trust's Rule.

PLEASE SEE ON REVERSE

OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

In the event of your refusal or failure to pay the damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue.

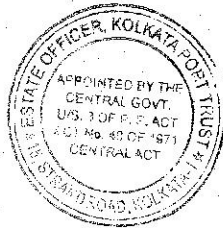
SCHEDULE

The said piece or parcel of land msg.173.27 sq.m or thereabouts is situate at Chetla Station Yard, Thana- New Alipore Police Station, Calcutta, Dist.24Parganas, Registration District-Alipore. It is bounded on the North by the Trustees' strip of open land beyond which is the Nikashi drain on the East by the Trustees' land leased to M/S Roy Coal Concern on the South by the Trustees open land used as roadway & on the West by the Trustees' land leased to M/S. Khidderpore Head Coke Company. Trustees' means the Board to Trustees' of the Port of Kolkata.

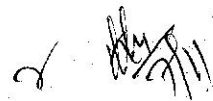
Date 5.11.19

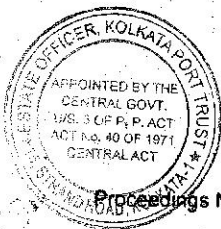


Signature & Seal of the
Estate Officer.



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





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. 1283, 1283/D Of 2012 Order Sheet No. 9

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Janardan ^{VS} Prosad Singh

FINAL ORDER

13

05.11.2019

The instant proceedings No. 1283, 1283/D of 2012 arises out of the application bearing No. Lnd.3184/129/A/08/11334 dated 08.02.2017 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of eviction and recovery of dues /damages and other charges etc. along with accrued interest in respect of the public premises as defined in the 'Schedule A' of said application; against Shri Janardan Prosad Singh, the O.P. herein, under relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

The fact of the case in a nutshell is that the O.P. came into occupation of the port property measuring 173.27 sq.mtrs. or thereabout situated at Chetla Station Yard (under Plate Nos.D-525/B) Thana- Chetla Police Station District-Kolkata as short term Lessee, morefully described in the 'Schedule of Property' of the said KoPT's application dated 22.12.2008. The allegations levelled by KoPT against the O.P. is that while in possession of Port property as Lessee, the O.P. has defaulted in payment of monthly rent/Compensation/damages also accrued interest thereon the details of which has given in 'Schedule-B' of the KoPT's application dated 22.12.2008.

It is also the case of KoPT that O.P. made unauthorised construction in the subject premises and parted with the possession of the premises to the rank outsiders in clear violations of the terms and conditions of the lease in question and without taking the prior approval of KoPT.

[Handwritten signature]

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

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(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1283, 1283/D Of 2012 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Tanardan Prosad Singh ^{VS}

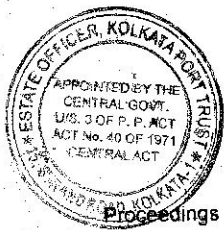
13
05.11.2019

It is also the case of KoPT that O.P. failed and neglected to remove the unauthorised parting with possession and the unauthorised construction upon the subject premises even after issuance of KoPT's letter dated 12.04.2007 upon them. It is further the case of KoPT that the tenancy with the O.P. was determined w.e.f. 01.05.2007 and the O.P. failed and neglected to vacate/ hand over the possession of the premises after service of the said Notice to Quit.

Considering the submission advanced by KoPT and the documents on record, Notice/s to Show Cause under section 4 and 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 all dated 19.02.2018 were issued by this forum to O.P. The Notice/s were issued in terms of the said provisions of the Act calling upon the O.P. to appear before this forum in person or through authorized representative capable to answer all material questions in connection with the matter along with the evidence which the opposite party intends to produce in support of their support of their case.

It is placed on record that the said Notices were sent to the recorded address of O.P. vide Speed Post, hand delivery as well by affixing the same in the Public Premises in question as per mandate of the Act. The Notice/s sent by Speed Post were not returned back to this Forum. However, it appears from the report of Process Server dated 21.03.2018 that the Door of the O.P was closed. However, the said notice/s was affixed on the subject premises as per the mandate of the P.P Act on 21.03.2018. As none appeared on behalf of O.P or any other person interested in the property in spite of

24.03.2018
THE ESTATE OFFICER
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21.03.2018
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Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

1283, 1283/D

Of 20/12

Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Shri Jaganmohan Prasad Singh.

13

05.11.2019

service in all available modes and affixation of the Notice/orders on subject premises, a publication was made in the classified column of "The Statesman Patrika" on 20.04.2018 fixing the penultimate date of O.P's appearance on 08.05.2018. Finally as the O.P failed to appear on 08.05.2018 the final Order was reserved in the matter.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of KoPT. The question now arises is how far the service of the Show Cause Notice/s deserves merit in the facts and circumstances of the case. After a through perusal of all the records in the case, I have left with no other alternative but to accept that the said notice/s have duly been served upon O.P. through Speed Post at the recorded address of O.P. at that point of time. In my view, the importance of a notice served in the official course of business of India Post cannot be ignored by mere non appearance of the O.P. During the entire proceedings, no justification came from the O.P. inspite of providing repeated chances as to how the O.P. is entitled to enjoy the property after Notice to Quit. No attempt has been made on behalf of O.P. to satisfy this Forum of Law about any consent on the part of KoPT in occupying the public premises after expiry of the long term lease. No paper/document was ever produced on behalf of O.P., contradicting/ disputing the claim of KoPT inspite of repeated chances being given. Further the occupation of O.P. beyond the period of expiry of the lease is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question; In view of the discussion mentioned above, I am left with no other alternative but to issue an order of eviction u/s 5 of the Act against O.P. on the following grounds/reasons :-

1. That O.P. has failed to file any Reply to the Show Cause/ papers/ documents inspite of repeated

2



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. 1283, 1283/D Of 2012 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Shri Janardan Prasad Singh

13

05.11.2019

- sufficient chances being provided and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P. dated 12.04.2007.
2. That occupation of O.P. beyond the period of expiry of the Quit Notice is unauthorized in view of Sec. 2 (g) of the Public Premises Act in question.
 3. That O.P. has violated the condition of tenancy by way making unauthorized construction.
 4. That O.P. has parted with possession of the Public Premises in question without having any authority under law .
 - 5) That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.
 - 6) That the Quit notice dated 12.04.2007 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties.
 - 7) That O.P. is liable to pay damages/ mesne profit along with the accrued interest thereon for wrongful enjoyment of the Port Property in question upto 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.Ps' 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

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11, STRAND ROAD, KOLKATA-71
05.11.2019
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Appointed by the Central Govt. Under Section 3 of the Public Premises
(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1283, 1283/D Of 2012 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri Tanardan Prosad Singh ^{VS}

13
05.11.2019

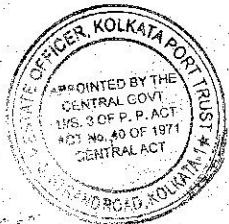
of the property against O.Ps' in accordance with Law up to the date of recovery of possession of the same.

Regarding payment of compensation/damages/Mesne profit dues to KoPT, I must say that Rs 2,05,610.00 (for Plate No D-525/B) as claimed by the Port Authority in relation to the Plates in question, is correctly payable by O.P. for the period 01.05.2007 to 30.06.2017 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 20.11.2019. O.P. shall be liable to pay simple interest @ 15% per annum upto 18.09.1996 and thereafter @ 18% per annum till 06.04.2011 and thereafter @14.25% per annum on the above sum from the date of incurrence of liability till its final payment in accordance with the relevant notification/s published in Official Gazette. The formal order u/s 7 of the Act is signed accordingly.

I make it clear that KoPT is entitled to claim further damages against O.P. for unauthorized use and occupation of the public premises right upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law, and as such I am not in a position to assess the damages which is payable by the O.P. in total at this stage when possession of the premises is still with the O.P. KoPT is directed to submit a statement comprising details of its calculation of damages indicating there-in, the details of the rate of such charges, and the period of the damages (i.e. till the date of taking over of possession) together with the basis on which such charges are claimed against O.P., for my consideration for the purpose of assessment of damages as per Rule made under the Act.

(Signature)

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KOLKATA PORT TRUST
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. 1283, 1283/D Of 2012 Order Sheet No. 14

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Shri. Janardan Prasad Singh ^{VS}

13

05.11.2019

I make it clear that in the event of failure on the part of O.P. to comply with this Order, Port Authority is entitled to proceed further for recovery of possession in accordance with law.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

(A.K. Sarkar)

ESTATE OFFICER

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

ESTATE OFFICER
KOLKATA PORT TRUST