

Extra

REGISTERED WITH A/D
HAND DELIVERY/AFFIXATION ON PROPERTY

THE ESTATE OFFICER

(APPOINTED BY THE CENTRAL GOVERNMENT IN EXERCISE OF THE
POWERS CONFERRED BY SECTION 3 OF THE PUBLIC PREMISES
(EVICTION OF UNAUTHORISED OCCUPANTS) ACT 1971-40 OF 1971.)

Office of The Estate Officer
Kolkata Port Trust
6, Fairlie Place Warehouse, 1st Floor,
Kolkata-700 001

Proceedings & No.615 of 2004
Order No. 20 Dated 24.9.19

Board of Trustees' for the Port of Kolkata
-vs-
Shri Arjun Singh & Ors.

To
Shri Arjun Singh & Ors.,
Vill : Dehuri, Pachim Tota,
P.O. : Marhowra, Bihar,

AND

38/1, Chetla Station Yard,
Kolkata- 700 027

And Also of

38, Chetla Railway Siding,
Calcutta-700 027.

AND ANY PERSON/S INTERESTED
ON THE PROPERTY UNDER SCHEDULE

Whereas I, the undersigned, am of opinion on the grounds specified below that you are in unauthorised occupation of the public premises mentioned in the schedule below and that you should be evicted from said premises

GROUND

THAT YOU HAVE VIOLATED THE FUNDAMENTAL CONDITION FOR GRANT OF MONTHLY LEASE IN RESPECT OF PUBLIC PREMISES BY KOLKATA PORT TRUST (KOPT). THAT YOU HAVE DEFAULTED IN MAKING PAYMENT OF RENT AT THE TIME OF ISSUANCE OF NOTICE TO QUIT. THAT YOU HAVE MADE UNAUTHORIZED ENCROACHMENT UPON THE PUBLIC PREMISES IN QUESTION. THAT YOU HAVE MADE UNAUTHORIZED CONSTRUCTION OVER THE SAID PUBLIC PREMISES. THAT YOU HAVE UNAUTHORIZEDLY PARTED WITH POSSESSION OF THE SAID PUBLIC PREMISES. THAT YOU HAVE FAILED AND NEGLECTED TO HAND OVER POSSESSION VIDE NOTICE TO QUIT DATED 21.05.1982 AS SERVED UPON YOU BY KOPT. THAT YOU HAVE LOST YOUR AUTHORITY WHATSOEVER TO OCCUPY THE PUBLIC PREMISES AFTER EXPIRY OF THE PERIOD AS MENTIONED IN THE NOTICE TO QUIT DATED 21.05.1982 AS SUCH YOU ARE A WRONGFUL OCCUPANT OF THE PUBLIC PREMISES IN QUESTION AND IS LIABLE TO BE EVICTED FROM THE PUBLIC PREMISES. AN APPLICATION FROM KOPT DATED 05.04.2019 IS ATTACHED HERETO WHICH ALSO FORMS A PART OF THE GROUND.

PLEASE SEE ON REVERSE

Now, therefore, in pursuance of Sub-Section (1) of section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby call upon you to show cause on or before 22.10.19 why such an order of eviction should not be made.

And in pursuance of Clause (b) (ii) of Sub-Section 2 of Section 4, I also call upon you to appear before me in person or through the duly authorised representative capable to answer all material questions connected with the matter along with the evidence which you intend to produce in support of the cause shown on 22.10.19 at 4.00 P.M. for personal hearing. In case you fail to appear on the said date and time, the case would be decided exparte.

SCHEDULE OF THE PUBLIC PREMISES
REFERRED TO ABOVE

.....
The said piece or parcel of land Msg. 74.880 Sq. metres or thereabouts is situate at Chetla Station Yard, Thana : New Alipore, Now Chetla Police Station, Kolkata, District : 24 Parganas, Registration District: Alipore. It is bounded on the North by the Trustees' strip of open land alongside their Railway line, On the East by the Trustees' land leased to Mahalakshmi Coal Depot on the South by the Trustees' open land along side their Boat Canal and On the West by the Trustees' land leased to Ashok Coal Traders.

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

DATED: 26/9/19


ESTATE OFFICER

SERVICE TO THE KOLKATA PORT TRUST THROUGH ESTATE
MANAGER, Ko.P.T. AT 15, STRAND ROAD, KOLKATA-700 001.

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

6, Fairlee Warehouse, 1st Floor

Kolkata - 700 001

(FORM 'F')

PROCEEDINGS NO. 615/D OF 2004

ORDER NO. 26 DT. 24.9.19

Form of notice under Sub-Section (3) or Section 7 of the Public Premises Eviction of Unauthorised Occupants Act, 1971.

To
Shri Arjun Singh,
Vill : Dehuri, Pachim Tota,
P.O. : Marhowra, Bihar,

And

38/1, Chetla Station Yard,
Kolkata-700 027

And also of

38, Chetla Railway Siding,
Calcutta - 700 027.

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

And, whereas, in exercise of the powers conferred on me by sub-section (2) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. I consider the damages amounting to Rs. 3,62,416/- (Rupees Three lakhs Sixty Two thousand four hundred sixteen only.) (for Plate No.D-453/1/A) are due for the period (s) and at the rate(s) shown in Schedule-II below on account of unauthorised use and occupation of the said premises;

And, whereas, in exercise of the powers conferred on me by Sub-Section (2A) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I consider that you are also liable to pay compound interest to the Kolkata Port Trust, Government/Statutory Authority on the said arrears at the rate determined by the undersigned till its final payment.

Now, therefore, under the provisions of Sub-section (3) of Section 7 of the Act, I, hereby, call upon you to show-cause on or before 22.10.19 at 4.00 P.M.,.....why an order requiring you to pay the said damages together with interest should not be made.

PLEASE SEE ON REVERSE

SCHEDULE-I

The said piece or parcel of land Msg. 74.880 Sq. metres or thereabouts is situate at Chetla Station Yard, Thana : New Alipore, Now Chetla Police Station, Kolkata, District : 24 Parganas, Registration District: Alipore. It is bounded on the North by the Trustees' strip of open land alongside their Railway line, On the East by the Trustees' land leased to Mahalakshmi Coal Depot on the South by the Trustees' open land along side their Boat Canal and On the West by the Trustees' land leased to Ashok Coal Traders.

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

SCHEDULE-II

<u>Period</u>	<u>Rate at which assessed</u>	<u>Amount assessed</u>	<u>Amount paid</u>	<u>Balance in arrears</u>
01.07.1982 to 27.03.2019	As per the rate of Port Trust's Rent Schedule/s as time to time Notified in Official Gazettee/s for the relevant period.	Rs. 3,62,416/-	Nil	Rs. 3,62,416/-

Dated: 26.4.19


Signature & Seal of the
Estate Officer

8

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. 615, 615/D Of 2004 Order Sheet No. 16

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS
Arjun Singh

20
24.9.19

It transpires from the application dated 05.04.2019 of KoPT that O.P. came into occupation of the Port Property being land measuring about 74.880sqm. situated at Chetla Railway Siding in the presidency town of Kolkata (under Plate No- D453/1/A) in question as a lessee on month to month term and is in default of making payment of the monthly rent and taxes. It is submitted that O.P. has no authority under law to occupy the public premises after issuance of notice to quit dated 21.05.1982 and was required to hand over the possession of the property in question to KoPT on 01.07.1982 as required under the notice to quit. My attention is drawn that the cause of action arises upon failure on the part of the O.P. to hand over possession in terms of the said notice dated 21.05.1982 as duly served upon O.P. is well within the jurisdiction of the Office of the Estate Officer.

It is argued that O.P. is in wrongful occupation on and from 01.07.1982 and is liable to pay compensation charges/mesne profits for unauthorized use and occupation of the Port property in question.

My attention is drawn to the Schedule X and Z of KoPT's application dated 05.04.2019 in this regard.

Heard the submissions and considered the matter on the basis of materials on record. After careful consideration of the submissions made on behalf of KoPT and materials produced before me, I find that KoPT has made out a case to proceed against O.P. under relevant provisions of The Public Premises (Eviction Of Unauthorised Occupants) Act, 1971 (which shall hereinafter be referred to as "The Act") and Rules made thereunder.

Let notice under Section 4 of the Act be issued to O.P. for production of documents, evidence and hearing etc. on 22.10.19 at 4 PM.

Now we must give a meaning to the term "Unauthorized Occupation" as per definition provided in the P.P. Act itself. At this stage, for the purpose of adjudication of KoPT's claim for damages only under Schedule C of KoPT's application dated 05.04.2019 which may have arisen due to unauthorized use and occupation of the public premises in question, after serving ejectment notice, I find no bar to assess the damages as per Rules made under the Act.

In my consideration KoPT has made out an arguable claim for such assessment of damages. As such issue of notice accordingly to O.P. in terms of section 7 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. 615, 615/D of 2004 Order Sheet No. 17

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

Arjun Singh

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24.9.19

the Act and Rules made thereunder, fixing 22.10.19 at
4 pm for production of documents, evidence, hearing
etc O.P. to file reply to show cause notice by 22.10.19

It is however made clear that such assessment of
damages is only for a particular period as claimed by
KOPT at this stage only.

All the points are left open for discussion on merits of the
case on the basis of the Show Cause notice under Sec.4
of the Act.

The notice/s must have to be served upon O.P. through
Registered Post with A/D, affixation on property etc. O.P.
and/or any party interested in the subject property to file
reply to show cause notice/s by 22.10.19.

Parties are directed to appear before the forum of Estate
Officer with proper identity and authority.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

(Nirmalya Biswas)
(ESTATE OFFICER)

By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST

DEPOT COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST