

# 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 2<sup>nd</sup> Floor of Kolkata Port Trust's Head Office, Old Buildings 15, Strand Road, Kolkata- 700 001.

REASONED ORDER NO. 19 DT 04.03. 72020-PROCEEDINGS NO.1475 of 2015

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-Mahendra Nath Nayak

F O R M-"B"

ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC

PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971

OFFICE OF THE LD. ESTATE OFFICE OFFICE

BY O'OBT OF THE OFFICER
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED COPY OF THE OFFICER
PASSED BY THE ESTATE OFFICER
PASSED BY THE ESTATE OFFICER
A ASSISTANT
THE 20 ASSISTANT
TO FFICE OF THE LD. ESTATE OFFICER
TO FFICE OF THE LD. ESTATE OFFICER

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **Mahendra Nath Nayak, of 3, Hide Road, Kolkata- 700 023** is in unauthorized occupation of the Public Premises specified in the Schedule below:

#### REASONS

- That O.P. has failed to submit any reply to the Show Cause Notice u/s 4 of the Act inspite of repeated chances.
- 2. That O.P. has failed to appear before this Forum of Law and has failed to bear any witness or adduce any evidence in support of its authorized occupation into the Public Premises inspite of sufficient chances being given.
- That O.P. has defaulted in making payment of rental dues to Kolkata Port Trust
  in gross violation of the condition of tenancy, under monthly term lease as
  granted by the Port Authority.
- 4. That O.P. has parted with possession of the premises to rank outsiders in gross violation of the condition of tenancy under monthly term lease as granted by the Port Authority.
- That O.P. has erected unauthorized structures without prior permission of Kolkata Port Trust in gross violation of the condition of tenancy under monthly terms of lease as granted by the Port Authority.
- 6. That O.P. has encroached upon Kolkata Port Trust's vacant land, in gross violation of the condition of tenancy under monthly term lease as granted by the port Authority.
- 7. That O.P. has lost its authority to occupy the Public Premises after expiry of the period as mentioned in the notice of ejectment dated 2.11.2011, as issued from the Port Authority.





- 8. That O.P. could not cite any justifiable grounds to establish the status as "Authorised".
- 9. That occupation of O.P. (including the occupation of anybody asserting any right through O.P.) has become unauthorised in view of Sec. 2(g) of the P.P. Act.
- 10. That O.P. is liable to pay damages for its wrongful use and enjoyment of the Port Property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

A copy of the reasoned order No.19 dated & 4. c3.2x2xis 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 Sri. **Mahendra Nath Nayak, of 3, Hide Road, Kolkata-700 023** 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 **Mahendra Nath Nayak, of 3, Hide Road, Kolkata-700 023** 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. 33.445 sqm or thereabouts, situated at western end of Taratala Staff Colony, Thana –Taratala, Dist: 24 Parganas. It is bounded on the North by the said Trustees' open space, on the East by the Trustees' leased out land on the South by the Trustees' open space and on the West by Trustees' leased out land.

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

Dated: 05-03-2020.

Signature & Seal of the Estate Officer.

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

This notice is a part and parcel of the order dated  $\underline{\partial \mathcal{U} \circ 3 \cdot 2 \bullet 2 \bullet}$  and may be conjointly read with the order dated  $\underline{\partial \mathcal{U} \circ 3 \cdot 2 \bullet 2 \bullet}$ 

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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 (4<sup>TH</sup> FLOOR) KOLKATA-700001



#### Form " E"

PROCEEDINGS NO.1475/R OF 2015 ORDER NO. 19 DATED: 04.03. 2020

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

To Mahendra Nath Nayak 3, Hide Road, Kolkata- 700 023 BY O'der of:
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
CERTIFIED COPY OF THE OFFICER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
OFFICE OF THE LD. ESTATE OFFICER
KOLKATA PORT TRUST
KOLKATA PORT TRUST

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

AND WHEREAS, by written notice dated 03.01.2019 you were called upon to show cause on/or before 28.01.2019 why an order requiring you to pay a sum of Rs. 3,85,322.99/- (Rupees Three lakhs eighty five thousand three hundred twenty two and paise ninety nine only) being the rent payable together with [compound] 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. 3,85,322.99/- (Rupees Three lakhs eighty five thousand three hundred twenty two and paise ninety nine only) for the period 01.09.1982 to 30.11.2011 (both days inclusive) to Kolkata Port Trust by 20.03.2020.

PLEASE SEE ON REVERSE



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 18.09.1996 and thereafter @18% 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 Gazette/s.

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 piece or parcel of land Msg. 33.445 sqm or thereabouts, situated at western end of Taratala Staff Colony, Thana –Taratala, Dist: 24 Parganas. It is bounded on the North by the said Trustees' open space, on the East by the Trustees' leased out land on the South by the Trustees' open space and on the West by Trustees' leased out land.

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

Dated: 05.03.2020.

Signature and seal of the Estate Officer

This notice is a part and parcel of the order dated  $\frac{04.03.2020}{20.03.2020}$ , and may be conjointly read with the order dated  $\frac{04.03.2020}{20.03.2020}$ .

# 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



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#### FORM -G

PROCEEDINGS NO. 1475/D OF 2015

ORDER NO. 19 DATED: 04.03. 2020

Form under Sub-Section (2) and (2-A) of Section 7 of the Public STATE OFFICER Premises Eviction of Unauthorised Occupants Act, 1971.

To Mahendra Nath Nayak 3, Hide Road, Kolkata- 750 700 023

Whereas I, the undersigned, am satisfied that you were in unauthorised KOLKATA PORTTLUS!

occupation of the public premises described in the schedule below:

AND, whereas, by written notice dated 03.01.2019 you were called upon to show cause on or before 28.01.2019 why an order requiring you to pay damages of Rs.5,11,167.00 (Rupees Five lakh eleven thousand one hundred sixty seven only) together with [compound] interest 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 Unauthorised Occupants)Act,1971, I hereby require you to pay the sum of Rs.5,11,167.00 (Rupees Five lakhs eleven thousand one hundred sixty seven only) assessed by me as damages on account of your unauthorised occupation of the public premises for the period of 01.12.2011 to 30.04.2018 (both days inclusive) to Kolkata Port Trust by 25.03.2020.



PLEASE SEE ON THE REVERSE



IN exercise of the powers conferred by Sub-section (2-A) of Section 7 of the said Act, I also hereby require you to pay simple interest @ 15% per annum up to the 18.9.1996 and thereafter at the rate of 18% per annum up to 06.04.2011 and thereafter @14.25% per annum on the above sum till its final payment in accordance with Kolkata Port Trust's Notification Published in Calcutta Gazetted.

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

#### SCHEDULE

The said piece or parcel of land Msg. 33.445 sqm or thereabouts, situated at western end of Taratala Staff Colony, Thana –Taratala, Dist: 24 Parganas. It is bounded on the North by the said Trustees' open space, on the East by the Trustees' leased out land on the South by the Trustees' open space and on the West by Trustees' leased out land.

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

Dated: 05.03. 2020.

Signature and Seal of the Estate Officer

This notice is a part and parcel of the order dated 64.63-2626 and may be conjointly read with the said order.



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

Proceedings No. 1475, 1475/R 81475/D of 2015

Order Sheet No - 20 -

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Mohendra wath wayak

FINAL ORDER

04.03.2020

The matter is taken up today for delivering Final Order. It is the case of Kolkata Port Trust(KoPT), Applicant herein that Shri. Mahendra Nath Nayak (O.P) came into occupation of the Public Premises in question with land space measuring 33.445 sqm. (comprised under occupation No. D-377/12) as a month to month lessee and O.P violated the condition of tenancy under the said month to month lease by way of non-payment of rental dues, parting with possession, erecting unauthorised structures and encroaching upon Trustees' khas land. It is argued that O.P. has no authority under law to occupy the Public Premises after expiry of the period as mentioned in the notice of ejectment dated 02.11.2011 as issued upon O.P. by KoPT.

This Forum before issuance of the notices under Section 4 and Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 queried before KoPT whether the O.P. was still alive or not. However, KoPT could not ascertain a response to the query of this Forum, as the Police Authorities, despite being contacted on several occasions by KoPT, did not reply to KoPT on the said query. An application to this effect has been

As no information regarding the said query of the Forum was received, this Forum of Law, upon

filed by KoPT on 11.04.2018.

By Order of: THE ESTATE OFFICER KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
HEAD ASSISTANT
OFFICE OF THE LD. ESTATE OFFICER
KOLKATA FORT TRUST

D

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

Proceedings No. 1475, 1475 R × 1475 D Of 2015 Order Sheet No. -21-

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Mohendra Noth Nogak

04.03.2020.

receipt of other information from the Applicant and being satisfied with the inputs received from KoPT, decided to proceed against O.P. under the relevant provisions of the P.P. Act and issued Show Cause Notice/s u/s 4 of the Act (for adjudication of the prayer for recovery of possession etc. of the Public Premises) and u/s 7 of the Act (for adjudication of the prayer for recovery of arrear rental dues etc.) both being issued as per Rule made under the Act, dated 03.01.2019. O.P. was asked to Show Cause on or before 28.01.2019.

It reveals from records that Postal Service to O.P's address at 3, Hide Road, Kolkata- 700 023 was returned undelivered with remarks of the Postal Department "Addressee cannot be located" on 14.01.2019.I have duly considered the report of the regarding 04.01.2019 dated Server Process Affixation of Notice u/s 4 of the Act on the Public Premises. It has also been stated in the said Report of the Process Server that the premises was found to be under lock and key. However, the order dated 28.01.2019 was duly served on 01.02.2019 upon one Gorakhnath Verma for O.P. upon due signature of the said Gorakhnath Verma on the body of the copy of the order. However, despite having full knowledge of the pendency of the proceedings against the O.P., none appeared on behalf of O.P. or anyone interested into the said

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

Proceedings No. 1475, 1475 R ×1475 D of 2015 Order Sheet No. -22-

### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Mehandre Nath Nayak.

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premises, before this Forum for many subsequent dates fixed by it.

On 22.04.2019, this Forum directed publication of order No. 16 dated 22.04.2019 in an English Daily fixing 08.05.2019 as the final date of hearing, failing which the matter was deemed to be decided ex parte. The same was published on 26.04.2019 in 'The Times of India'. Inspite of publication of the order in the paper, neither O.P. or anyone else on behalf of O.P. appeared before the Forum to represent their case.

I am satisfied with the service of notice to all concerned interested into the property. In my view, sufficient chances have been given to all concerned to represent their case and O.P. has failed to submit its reply to the Show Cause Notice u/s 4 & 7 of the Act both dated 03.01.2019, inspite of sufficient chances being provided. As no one appeared on behalf of O.P. or on behalf of any person/s interested into the property, inspite of several dates scheduled for hearing and no reply to the Show Cause Notice/s has been filed as yet, I am left with no other alternative but to issue the order of eviction u/s 5 of the Act to O.P. and to all person/s whoever may be in occupation, on the following grounds/reasons:

BY OTHER OFFICER
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
CERTIFIED COPY OF THE OFFICER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
KOLKATA PORT TRUST
KOLKATA PORT TRUST

D

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

oceedings No. 1475, 1475 R 1475 D or 2015

\_\_\_ Order Sheet No.

## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Mohendra North Nayak

- 1. That O.P. has failed to submit any reply to the Show Cause Notice u/s 4 of the Act inspite of repeated chances.
- 2. That O.P. has failed to appear before this Forum of Law and has failed to bear any witness or adduce any evidence in support of its authorized occupation into the Public Premises inspite of sufficient chances being given.
- 3. That O.P. has defaulted in making payment of rental dues to Kolkata Port Trust in gross violation of the condition of tenancy, under monthly term lease as granted by the Port Authority.
- 4. That O.P. has parted with possession of the premises to rank outsiders in gross violation of the condition of tenancy under monthly term lease as granted by the Port Authority.
- unauthorised erected has O.P. 5. That structures without prior sanction of Kolkata Port Trust, in gross violation of the condition of tenancy under monthly term lease as granted by the Port Authority.
- 6. That O.P. has encroached upon Kolkata Port Trust's vacant land, in gross violation of the condition of tenancy under monthly term lease as granted by the port Authority.
- 7. That O.P. has lost its authority to occupy the Public Premises after expiry of the period as



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

Proceedings No. 1475, 1475/R × 1475/D Of 2015

Order Sheet No.

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#### BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Moberdre Noth Notok

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mentioned in the notice of ejectment dated 2.11.2011, as issued from the Port Authority.

- 8. That O.P. could not cite any justifiable grounds to establish the status as "Authorised".
- 9. That occupation of O.P. (including the occupation of anybody asserting any right through O.P.) has become unauthorised in view of Sec. 2(g) of the P.P. Act.
- 10. That O.P. is liable to pay damages for its wrongful use and enjoyment of the Port Property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

ACCORDINGLY, Department is directed to draw up formal order of eviction u/s.5 of the Act as per Rules made there-under, giving 15 day's 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.

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It is my considered view that a sum of Rs.3,85,322.99/- (Rupees Three lakhs eighty five thousand three hundred twenty two and ninety

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KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
CERTIFIED COPY OF THE OFFICER
FASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
HOOD ASSISTANTE OFFICER
OFFICE OF THE LD. ESTATE OFFICER
KOLKATA PORT TRUST

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

1475,1475/RX1475/D or 2015

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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Mohendra work wayok

04.03.2020

nine paise only) for the period 01.09.1982 to 30.11.2011 is due and recoverable from O.P. by the Port authority on account of rental dues and O.P. must have to pay the rental dues to KoPT on or before 25.03.2020. Such dues attract interest at the rate of 15% per annum upto 18.09.1996, at the rate of 18% per annum upto 06.04.2011 and thereafter at the rate of 14.25% per annum till liquidation of the same from the date of incurrence of liability, in accordance with the notification of KoPT issued under Authority of Law, as per KoPT's books of accounts. Department is directed to draw up formal order as per Rule u/s 7 of the Act.

In my considered view, KoPT's claim for damages from 01.12.2011 to 30.04.2018 for Rs. 5,11,167.00 (Rupees Five lakhs eleven thousand one hundred and sixty seven only)(excluding interest for delayed payment) for wrongful occupation must be payable by O.P. as it is gathered, during the course of hearing and application dated 25.04.2018, filed by KoPT that the charges so claimed by KoPT are on the basis of the Schedule of Rent Charges published under the Authority of Law, as per provisions of the Major Port Trusts Act 1963.

Likewise I find that KoPT has made out an arguable claim against O.P., founded with sound reasoning regarding damages/compensation to be paid for unauthorized occupation. As such, I must say that 5,11,167.00 (Rupees Five lakhs eleven

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

Proceedings No. 1475,1475/R A1475/D Of 2015

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#### **BOARD OF TRUSTEES OF THE PORT OF KOLKATA**

Mahendra North Majaki

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thousand one hundred and sixty seven only) as claimed by Port Authority as damages in relation to the subject premises in question is correctly payable by O.P. for the period 01.12.2011 to 30.04.2018 (both days inclusive) and is hereby ordered that O.P. shall also make payment of the aforesaid sum to KoPT by 25.03.2020. The said damages shall carry simple interest at the rate of 15% per annum upto 18.09.1996 and thereafter @ 18% per annum upto 06.04.2011 and therafter @ 14.25% per annum on the above sum from the date of incurrance of liability till its final payment in accordance with the relevant notification/s published in Official Gazette. I sign the formal orders u/s 7 of the Act.

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 accordance with Law and KoPT is entitled to claim ihterest upon dues/charges right from the date of incurrence of liability by O.P. as per KoPT's Rule. As such the liability of O.P. to pay damages extends beyond 30.04.2018 as well and till such time possession of the premises continues to be under the unauthorized occupation with O.P. KoPT is directed to submit a statement comprising details of its calculation and after 30.04.2018,

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THE ESTATE OFFICER
KOLKATA PORT TRUST

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KOLKATA FORT TRUST

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

1475, 1475 R #1475/D or 2015

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## BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Mohendra North Nortak

indicating therein, the details of the rate of such damages (i.e. till the date of taking over possession) together with the basis on which such charges are claimed against O.P., for my consideration for the purpose of assessment of such damages as per rule made under the Act.

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 execution of this order in accordance with law.

All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

ESTATE OFFICER

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

This order is a part and parcel of the of the notices dated 4. v3. 1222 issued and may be conjointly read with the said notices.