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

**ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(Erstwhile 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, Fairlie Place (1st FLOOR) KOLKATA-700001

Court Room at the 1st Floor
Of SMPK's
Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO.873/D OF 2007
ORDER NO.38 DATED: 19.04.2023

Form- G

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

To

**M/s. Fabcon India,
1, Oil Installation Road,
Kolkata-700088.**

3355

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

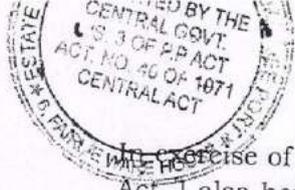
AND WHEREAS by written notice dated 07.10.2022 you are called upon to show cause on or before 21.10.2022 why an order requiring you to pay damages of Rs.5,32,276/- (Rupees Five Lakh thirty two thousand two hundred seventy six only) together with [compound interest] for unauthorised use and occupation 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 order you to pay the sum of Rs.5,32,276/- (Rupees Five Lakh thirty two thousand two hundred seventy six only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.09.2001 to 23.09.2009 (both days inclusive) to SMPK by 09.05.2023.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
19.04.2023
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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 compound interest @ 7.50 % per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

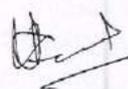
In the event of your refusal or failure to pay the damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue through the Collector.

SCHEDULE

Plate No.D-173/4/A

The said piece or parcel of land Msg. 477.71 Sq.m or thereabouts is situated at Oil Installation Road, Paharpur, P.S: West Port Police Station, Dist: 24 Parganas(South), Registration Dist: Alipore. It is bounded on the north by the Oil Installation Road on the East by the Trustees' land occupied by Khem Chand Rajkumar, on the south by the Trustees' open land and on the West by the Trustees' strip of open land used as passage. Trustees' means the Board of Syama Prasad Mookerjee Port, Kolkata Authority (Erstwhile Board of Trustees' for the Port of Kolkata).

Date 19.04.2023.


Signature & Seal of the
Estate Officer.

By Order of:
THE ESTATE OFFICER
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CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
19.04.2023

COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA FOR INFORMATION.

Dept

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Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

Proceedings No. 873/D or 2007 Order Sheet No. 52

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S FABCON VS INDIA

FINAL ORDER

38
19.04.2023

The instant proceedings No. 873/D of 2007 arises out of the application bearing No. Lnd.4542/11/53 dated 06.04.2011 read with applications dated 07.06.2018, 24.07.2018, 04.01.2022, 12.08.2022 and 12.09.2022 (filed on 13.09.2022) filed by the Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust/KoPT), hereinafter referred to as 'SMPK'], the applicant herein, praying for an order of recovery of dues/compensation/damages/ mesneprofit and other charges etc. along with accrued interest in respect of the subject public premises, against **M/s. Fabcon India** hereinafter referred to as **O.P.**, under relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as 'the Act').

The fact of the case in a nutshell is that the O.P. came into occupation of the Port property being land measuring 477.71 Sq.m or thereabouts situated at Oil Installation Road, Paharpur, comprised under Plate No. D-173/4/A, on long term lease basis for a period of 10 years w.e.f 17.08.1988 for the purpose of Light Engineering Factory. Thereafter, O.P violated the condition for grant of such tenancy under long term lease by unlawfully remaining on the subject premises after expiry of such erstwhile lease on 16.08.1998 and also by way of erecting unauthorised structures on the demised land. Notice to quit was issued by SMPK to O.P. on 12.05.2005. Thereafter, proceeding was initiated by SMPK before this Forum against the O.P. under relevant provisions of the Act, which was numbered as Proceeding No 873, 873/D of 2007. The O.P. had appeared before this Forum and contested the case by filing reply to the Show Cause on 26.06.2007. Thereafter, the Final Order of eviction against O.P. was passed on 07.05.2009. It appears that thereafter O.P filed a P.P Appeal being No.5 of 2009 before the Ld' District Judge at Alipore and such P.P Appeal was thereafter dismissed for default by Ld. 6th Addl. District Judge, Alipore vide his Order dated 09.07.2018. It further appears that thereafter SMPK vide their application dated 06.04.2011 along with other applications subsequently preferred on 07.06.2018, 24.07.2018, 04.01.2022,

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SYAMA PRASAD MOOKERJEE PORT
19.04.2023
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

8731D of 2007 Order Sheet No. 53

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S FABCON INDIA

38
19.04.2023

12.08.2022 and 12.09.2022, had intimated that the possession of the subject premises was taken over by the SMPK on 23.09.2009 in terms of the said Order of eviction dated 07.05.2009 and a huge amount of damages/compensation/ mesne profit was still due and recoverable from the O.P. for their occupation into the subject Plate in question. After considering the submissions and the allegations levelled by SMPK against the O.P. that while in possession of Port property, the O.P. has defaulted in making payment of damages/ compensation and taxes and also accrued interest thereon, this Forum being prima facie satisfied with the claim of SMPK has issued Notice to Show Cause dated 07.10.2022 (vide Order-31 dated 30.09.2022) upon the O.P. u/s 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 to show cause as to why an order requiring to pay arrear damages/compensation together with interest should not be made against O.P. The O.P. was also called upon to appear before this forum in person or through authorized representative capable of answering all material questions connected with the matter along with the evidence which the opposite party intends to produce in support of this case.

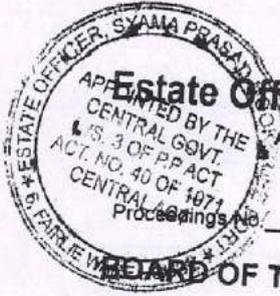
It is the case of SMPK that the O.P. was asked to pay damages/compensation upto 23.09.2009 as because the subject premises was taken over by SMPK on 23.09.2009.

The said notice was sent through Speed Post/hand delivery to the recorded address of O.P. at 1, Oil Installation Road, Kolkata-700088. It appears from record that said Notice sent to O.P. through Speed Post returned undelivered to the forum with the endorsements "left". The Report of the Process Server dated 19.10.2022 further depicts that such notice could not be served upon O.P. due to O.P's absence. Thereafter, following the principles of natural justice, this Forum made further attempt to serve the notice upon O.P by directing SMPK to provide alternative address, if any, of the O.P. Thereafter, on 18.11.2022 SMPK filed two alternative addresses of O.P. and accordingly, to give chances to O.P. Forum made a further attempt to serve such Notice upon both the alternative addresses of O.P. both by Speed

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SYAMA PRASAD MOOKERJEE PORT
19.04.2023
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

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Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

873/D

of 2007

Order Sheet No. 54

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

M/S FABCON VS INDIA

38
19.04.2023

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
19.04.2023
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Post and hand delivery. The order sent through Speed Post again returned undelivered to the Forum from one of the alternative addresses of O.P namely 19, R.N Mukherjee Road, Kolkata-700001. However, the Notice sent to other alternative address of O.P. was not returned back. The Report of the Process Server dated 12.12.2022 further depicts that both the alternative addresses of O.P were occupied by some other entities but Notice was duly affixed on such addresses as per the mandate of P.P Act. As the attendance of O.P. could not be procured to represent its case, a decision was taken by the Forum to publish a notice in a widely circulated newspaper for a notice to all concerned about the pendency of the instant proceeding in order to give further chance to the O.P. to appear before this Forum and to represent their case. Such notice was published in "The Times of India (Kolkata edition)" on 27.12.2022 inviting the attention of all concerned fixing the last date for the O.P's appearance on 13.01.2023 but, all the efforts went into vain as the O.P. failed to appear before the Forum despite publication of such notice in the newspaper.

Now, in view of the spirit laid down in the Public Premises Act, 1971 for speedy and summary disposal of cases and further considering the non-appearance of the O.P. inspite of publication of such Show Cause notice in an esteemed daily, this Forum finds no need to keep the matter pending and the final Order was reserved in the matter on 13.01.2023. Now this Forum has decided to adjudicate the matter ex-parte.

As no one from O.P or other interested party appears and no reply to the Show Cause Notice u/s 7 of the Act has been filed as yet, I have no bar to accept the claim of SMPK on account of damages/compensation/ mesne profit etc. In fact, I have nothing to disbelief in respect of SMPK's claim against O.P. as per statement of accounts maintained regularly in SMPK's office in regular course of business.

It is my considered view that a sum of Rs.5,32,276/- (Rupees Five Lakh thirty two thousand two hundred seventy six only) for the

[Handwritten signature]



Estate Officer, SYAMA PRASAD MOOKERJEE PORT, KOLKATA

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

873/D of 2007 Order Sheet No. 55

BOARD OF TRUSTEES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA

VS
M/S FABCON INDIA

38
19.04.2023

period from 01.09.2001 to 23.09.2009 is due and recoverable from O.P. by the Port authority on account of damages/compensation/ mesne profit and O.P. must have to pay such dues to SMPK on or before 03.05.2023. Such dues attracts Compound interest @ 7.50 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrence of liability, till the liquidation of the same, as per the adjustment of payments, if any made so far by them in terms of SMPK's books of accounts. The formal order u/s 7 of the Act is signed accordingly.

Department is directed to draw up formal order as per Rule u/s 7 of the Act. I make it clear that in the event of failure on the part of O.P. to pay the dues/charges as aforesaid; SMPK is at liberty to recover the dues etc. in accordance with law. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL


(Kausik Kumar Manna)
ESTATE OFFICER.

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

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

Head Assistant