

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 20459 of 2016

Date of Decision: 30.9.2016

Indian Sucrose Limited, Mukerian

....Petitioner.

Versus

State of Punjab and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Mr. Amit Aggarwal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has, *inter alia*, prayed for issuance of a writ in the nature of Mandamus directing respondents No.2 to 4 to register the sale certificate dated 17.2.2010 (Annexure P-1) under the Registration Act, 1908 (in short “the Act”) regarding sale of immovable assets of Mukerian Papers Limited purchased by the petitioner from respondent No.5 by way of tender-cum-sale; to direct the official respondents to decide the representations (Annexures P-5 to P-8, respectively) moved by the petitioner and mutate the official records with regard to the ownership and possession of the immovable property/assets of M/s Mukerian Papers Limited sold and transferred to the petitioner.

2. M/s Mukerian Papers Limited applied for financial assistance to respondent No.5 who sanctioned loan to it from time to time and was a

secured creditor. On 12.9.2008, Memorandum of Understanding was executed between respondents No.5 and 6. In the year ending 1997, M/s Mukerian Papers Limited became a sick company and a reference was made to Board for Industrial and Financial Reconstruction (BIFR). Respondent No.5 filed an application under Section 19 of the Recovery Debts Due to the Banks and Financial Institution Act, 1993 (hereinafter referred to as “the Act”) against M/s Mukerian Papers Limited before the Debts Recovery Tribunal, Chandigarh (in short “the Tribunal”) for recovery of ₹ 139 crores. Respondent No.5 also issued demand notice dated 31.7.2002 to M/s Mukerian Papers Limited for recovery of ₹ 213 crores charging interest on the amount of ₹ 139 crores. Vide order dated 9.8.2005, M/s Mukerian Papers Limited was declared sick by the BIFR and respondent No.5 was appointed as the Operating Agency. The representative of respondent No.5 took possession of the vacant land of M/s Mukerian Papers Limited on 3.2.2009 and the possession of the remaining assets was taken on 9.7.2009. Respondent No.6 issued a tender-cum-sale notice dated 13.11.2009 inviting tenders for purchase of land/building and other assets of M/s Mukerian Papers Limited. In response thereto, the petitioner applied for the tender and being the highest bidder was sold the property for a total consideration of ₹ 39 crores. The sale and possession certificates dated 17.2.2010 (Annexure P-1 Colly) were issued in favour of the petitioner. The petitioner paid the entire sale consideration and became the owner in possession of the freehold property measuring 48.30 acres. M/s Mukerian Papers Limited filed an application under Section 17(1) of the Act challenging the tender notice before the Tribunal. An interim application was also filed before the Tribunal who vide order dated 19.3.2010 dismissed the said application.

The Tribunal vide order dated 12.9.2011 (Annexure P-2) also dismissed the application filed under Section 17(1) of the Act. Against the order, Annexure P-2, M/s Mukerian Papers Limited filed an appeal before the Debts Recovery Appellate Tribunal (DRAT), Delhi who vide order dated 19.3.2012 directed M/s Mukerian Papers Limited to deposit 25% of the amount claimed through notice under Section 13(2) of the SARFAESI Act, 2002 by respondent No.5. M/s Mukerian Papers Limited challenged the order dated 19.3.2012 in CWP No. 9131 of 2012. This Court vide order dated 24.5.2012 (Annexure P-3) dismissed the said writ petition. The SLP filed against the order, Annexure P-3, was also dismissed by the Supreme Court vide order dated 29.3.2016 (Annexure P-4). Thereafter, the petitioner made various representations (Annexure P-5 to P-7, respectively) to respondents No.2 and 4 for registration of sale certificate dated 17.2.2010 (Annexure P-1) under the Act, but to no effect. The petitioner again moved a representation dated 16.6.2016 (Annexure P-8) to respondent No.4, but no response has been received till date. The petitioner informed respondents No.5 and 6 regarding the registration of the sale certificate, Annexure P-1, who vide letter dated 23.6.2016 (Annexure P-9) requested the petitioner to make necessary arrangements for registration and inform them about the date and time of registration of the sale certificate. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent the representations (Annexures P-5 to P-8, respectively) to respondents No.2 and 4, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the

present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.4 to take a decision on the representation dated 16.6.2016 (Annexure P-8), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner and respondents No.5 and 6 within a period of two months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

September 30, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No