

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 7055 of 2017

Date of Decision: 3.4.2017

Harpreet Singh Sodhi

....Petitioner.

Versus

Authorized Officer, Punjab National Bank, Chandigarh and another

...Respondents.

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

PRESENT: Mr. ABS Sidhu, 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 prayed for issuance of a writ in the nature of mandamus directing the respondent-bank to refund the amount of ₹ 87,48,632/- along with interest, the balance amount after adjustment of the loan account of the sale proceeds of his mortgaged property bearing House No. 2467, Phase X, Mohali, sold in e-auction.

2. The petitioner along with his wife Pavneet Kaur had availed a Term Loan (Housing) of ₹ 25 lakhs from the respondent-bank by mortgaging the property bearing House No. 2467, Phase X, Mohali. Due to non-repayment of the loan amount, the loan account was declared Non-Performance Account (NPA). The respondent-bank issued a notice dated 31.1.2012 (Annexure P-1) to the petitioner and his wife under Section 13(2) of the Securitization and Reconstruction of Financial Assets and

Enforcement of Security Interest Act, 2002 (in short “the Act”) for the

recovery of an amount of ₹ 27,27,767/- with further interest and other charges w.e.f. 1.3.2010 under repayment in full. Thereafter, the respondent-bank moved an application dated 12.6.2012 (Annexure P-2) under Section 14 of the Act before the District Magistrate, SAS Nagar, Mohali for providing police assistance in taking physical possession of the mortgaged house in question. The physical possession of the property in question was taken on 10.2.2016 and the said property was put to sale vide e-auction sale notice dated 20.2.2016 against the reserve price of ₹ 2,54,00,000/-. The property in question was sold for an amount of ₹ 2,55,00,000/-. The petitioner moved an application dated 25.11.2016 before the respondents for the details of the loan accounts and respondent No.1 vide letter dated 28.11.2016 (Annexure P-3) informed the petitioner that after adjustment of the alleged six loan accounts from the sale proceeds of the property in question, a balance amount of ₹ 87,48,632/- was left with it. Thereafter, the petitioner vide application dated 2.12.2016 (Annexure P-4) to respondent No.1 for release of the amount of ₹ 87,48,632/-. When no action was taken on the said application, Annexure P-4, the petitioner sent reminders dated 7.1.2017 (Annexure P-5) and dated 20.2.2017 (Annexure P-6) to respondent No.1 for the release of the amount in question, but no response has been received till date. 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 reminders dated 7.1.2017 (Annexure P-5) and dated 20.2.2017 (Annexure P-6) to respondent No.1, but no action has so far been taken thereon.

4. After hearing the 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.1 to take a decision on the reminders dated 7.1.2017 (Annexure P-5) and dated 20.2.2017 (Annexure P-6), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of certified copy of the order. It is further directed that in case the petitioner is found entitled to the amount of refund, the same be released to him within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

April 3, 2017
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No