

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-18161-2018

Date of Decision: 25.7.2018

Vaishno Education Society, Shemrock School, Pathankot

....Petitioner.

Versus

State of Punjab and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE AVNEESH JHINGAN.**

PRESENT: Mr. Vipin Mahajan, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this petition filed under Articles 226/227 of the Constitution of India, the petitioner seeks direction to respondents No.4 and 5 to release its title documents of the land measuring 1 kanal 81/2 marlas kept as mortgage as the petitioner had cleared all the outstanding loan amount as per order dated 2.9.2015 (Annexure P-4) passed by respondent No.3 and to issue 'No Dues Certificate'.

2. The petitioner-Society is registered with the Registrar, Cooperative Societies vide Certificate of Registration dated 21.12.2009 (Annexure P-1). In the year 2010, the petitioner secured a loan of ₹ 50 lakhs from respondent No.4 for construction of building and for the purchase of other infrastructures for running a school, namely, Shemrock School, Pathankot. As a collateral security, respondent No.4 kept sale deed

the revenue estate of village Bhadroya, Tehsil and District Pathankot. The petitioner had paid ₹ 47 lakhs approximately to respondent No.4. However, respondent No.4 issued a notice dated 17.4.2015 (Annexure P-2) under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short “the Act”) to the petitioner raising a demand of outstanding loan of ₹ 55,69,604/-. The petitioner filed CWP-8941-2015 and this Court vide order dated 7.5.2015 (Annexure P-3) issued notice of motion and also stayed the proceedings initiated under the Act. The petitioner approached respondent No.3 for the settlement of dispute between the parties, who vide order dated 2.9.2015 (Annexure P-4) held the petitioner liable to pay a sum of ₹ 27,37,754/- to respondents No.4 and 5. This Court vide order dated 11.7.2016 (Annexure P-5) disposed of the said writ petition as infructuous after recording the statement of the counsel of the petitioner that the amount as assessed by the Arbitrator would be paid to respondents No.4 and 5. Thereafter, the petitioner deposited a sum of ₹ 18,20,000/- as is clear from the statement, Annexure P-6. Respondent No.4 filed a revision against the order dated 2.9.2015 (Annexure P-4). Since the revision remained pending for long time, the petitioner filed CWP-3869-2018 and this Court vide order dated 19.2.2018 (Annexure P-7) directed the revisional authority to decide the revision petition within one month. In response thereto, the revisional authority vide order dated 1.5.2018 (Annexure P-8) dismissed the revision petition and upheld the order of respondent No.3. Thereafter, the petitioner deposited the remaining outstanding amount vide cheques (Annexure P-9 Colly). Instead of encashing the said cheques, respondents No.4 and 5 issued a notice dated 14.5.2018 (Annexure P-10) to the petitioner. The

petitioner submitted a reply dated 11.6.2018 (Annexure P-11) to the said notice, but to no effect. Accordingly, the petitioner made a representation, Annexure P-12, to the Branch Manager, the Hindu Co-operative Bank Ltd., for the release of title documents and for issuance of 'No Dues Certificate', 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 a representation, Annexure P-12, to the Branch Manager, the Hindu Co-operative Bank Ltd., 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.5 to take a decision on the representation, Annexure P-12, in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner or its authorized representative within a period of two months from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

July 25, 2018
gbs

(AVNEESH JHINGAN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No