

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-25018-2018

Date of Decision: 28.9.2018

Anil Kumar Setia and another

...Petitioners

Versus

Dena Bank, Hissar and another

...Respondents

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

PRESENT: Mr. P.S. Jammu, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the notice dated 16.5.2018 (Annexure P-2) issued under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "the SARFAESI Act") as well as the subsequent notice dated 8.8.2018 (Annexure P-3).

2. Petitioner No.2 secured a loan of ₹ 20 lakhs from the respondent-Bank for business purpose and has been re-paying the loan regularly. Unfortunately, on 5.11.2015 the fire took place in the shop in question and in this regard, a case under Section 427 of the Indian Penal Code was registered against the unknown person. Respondent No.2 issued a letter dated 15.10.2015 (Annexure P-1) to the Executive Officer, Municipal Council, Sirsa regarding the entrance and confirmation of mutation/rapat about the deposit of the title deed. Respondent No.1 issued a notice dated 16.5.2018 (Annexure P-2) under Section 13(4) of the SARFAESI Act to petitioner No.1 for taking possession of the mortgaged property. On receipt of the said notice, the petitioners requested the

respondents for grant of time for payment of the loan amount. Thereafter, another notice dated 8.8.2018 (Annexure P-3) was issued to the petitioners vide which E-sale of the secured assets of the account of petitioner No.2 was scheduled on 7.9.2018. The respondents have also issued a public notice published in the daily newspaper 'The Tribune' dated 3.8.2018 (Annexure P-4) for auction of the mortgaged property owned by petitioner No.1 giving reserve minimum price of ₹ 17.39 lakhs. Accordingly, petitioner No.1 sent a representation dated 19.9.2018 to respondent No.2 through registered post for grant of time to deposit the loan amount, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that for the relief claimed in the writ petition, petitioner No.1 has moved a representation dated 19.9.2018 (Annexure P-5) to respondent No.2 through registered post, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioners, 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.2 to take a decision on the representation dated 19.9.2018 (Annexure P-5), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of 15 days from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

September 28, 2018
gbs

(AVNEESH JHINGAN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No