

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-32821-2018

Date of Decision: 17.12.2018

Canara Bank

...Petitioner

Versus

District Magistrate, Faridabad and another

...Respondents

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.**

PRESENT: Mr. Nitin Grover, Advocate for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Article 226 of the Constitution of India, the petitioner has prayed for issuance of a writ of mandamus directing respondent No.1 to take physical possession of the mortgaged properties/Schedule 'A' and 'B' and to hand over the same to the petitioner.

2. Respondent No.2 availed total loan facility of ₹ 29,50,00,000/-, i.e., ₹ 17,50,00,000/- under the head of OCC/ODBD and ₹ 12,00,00,000/- under the head of ILC/FLC/BG from the petitioner-Bank and mortgaged the properties as mentioned in Schedule 'A' and 'B' as detailed in para 3 of the writ petition. Since respondent No.2 had failed to repay the loan amount along with interest, its account was declared as NPA on 30.9.2016. Accordingly, the petitioner issued a notice dated 19.1.2017 (Annexure P-1) under Section 13(2) of the Securitization and Reconstruction of Financial

SARFAESI Act”) raising a demand of ₹ 26,91,23,862.81P. Since, respondent No.2 failed to make the said payment, the petitioner issued a possession notice dated 22.6.2017 under Section 13(4) of the SARFAESI Act. Thereafter, the petitioner filed an application dated 14.9.2017 (Annexure P-2) under Section 14 of the SARFAESI Act before respondent No.1 for taking physical possession of the mortgaged property, 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 moved an application dated 14.9.2017 (Annexure P-2) under Section 14 of the SARFAESI Act before respondent No.1, but no action has so far been taken thereon.

4. After hearing learned counsel for the parties, 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 application dated 14.9.2017 (Annexure P-2), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the concerned parties within a period of one month from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

December 17, 2018
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No