

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-1593-2019

Date of Decision: 21.1.2019

Oriental Bank of Commerce

...Petitioner

Versus

M/s Maruti Packaging Solutions and others

...Respondents

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

PRESENT: Mr. Yogesh Putney, 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 of mandamus directing respondent No.5 to decide the application dated 25.10.2018 (Annexure P-4) moved by the petitioner under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short “the SARFAESI Act”).

2. Respondent No.1 through its partners, respondents No.2 and 3 approached the petitioner for grant of Cash Credit facility of ₹ 1 crore and term loan facility of ₹ 47 lakhs. The said facilities were sanctioned to respondent No.1 vide letter dated 25.8.2014 by executing various documents, i.e. partnership letter, common agreement and agreement of hypothecation of assets dated 27.8.2014. Respondents No.1 and 4 also mortgaged the immovable property in favour of the petitioner by way of deposit of original title deeds of the said property. Respondent No.1 had defaulted in repayment of principal debt/installments and interest thereon and, therefore, its account was declared as Non-Performing Account (NPA) on 30.9.2016. The petitioner filed OA-4767-2017 under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 for recovery of ₹ 177.77 lakhs along with pendente lite and future interest,

expenses, penal interest and costs. A notice dated 14.10.2016 (Annexure P-2) under Section 13(2) of the SARFAESI Act was issued to the respondents No.1 to 4 through registered post raising a demand of ₹ 1,60,25,369 as on 30.9.2016. Since, respondents No.1 to 4 failed to make the loan amount in question, the petitioner took possession of the mortgaged property vide notice dated 30.1.2017 (Annexure P-3). Thereafter, the petitioner filed an application dated 25.10.2018 (Annexure P-4) under Section 14 of the SARFAESI Act before respondent No.5 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 25.10.2018 (Annexure P-4) under Section 14 of the SARFAESI Act before respondent No.5, 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 application dated 25.10.2018 (Annexure P-4), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the concerned parties within a period of six weeks from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

January 21, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No