

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-5896-2019

Date of Decision: 13.3.2019

Vijaya Bank, Ludhiana

...Petitioner

Versus

District Magistrate-cum-Deputy Commissioner, Ludhiana and others

...Respondents

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

PRESENT: Mr. Vivek Sethi, 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.1 to decide the application dated 29.11.2018 (Annexure P-10) 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. Respondents No.2 to 4 requested the petitioner for grant of business loan and various credit facilities of ₹ 2,75,00,000/- were granted by the petitioner against the properties as mentioned in para 3 of the writ petition vide agreements dated 25.1.2016, 30.6.2017 and 11.7.2017 (Annexures P-2 to P-4, respectively). Respondents No.2 to 4 had defaulted in repayment of outstanding dues and the total claim of the bank as on

11.2.2019 (Annexure P-5). Their account was declared as Non-Performing Account (NPA) on 31.5.2018. A notice dated 1.6.2018 (Annexure P-6) under Section 13(2) of the SARFAESI Act were issued to respondents No.2 to 3 raising a demand of ₹ 2,58,08,553.50 along with future interest. Respondents No.2 to 4 duly replied the said notice taking various objections. The petitioner replied the said objections. Since, respondents No.2 to 4 failed to make the loan amount in question, the petitioner took possession of the mortgaged property vide notice dated 5.9.2018 (Annexure P-7) and also published the said notice in two newspapers in English and Punjab Editions dated 6.9.2018 (Annexure P-8 Colly). Thereafter, the petitioner filed an application dated 14.9.2018 (Annexure P-9) under Section 14 of the SARFAESI Act before respondent No.1 for taking physical possession of the mortgaged properties of respondents No.2 to 4. Respondent No.1 raised certain objections on the said application moved by the petitioner. The petitioner moved fresh application dated 29.11.2018 (Annexure P-10) before respondent No.1 for taking possession of the mortgaged assets of respondents No.2 to 4, but to no effect. Thereafter, reminders dated 22.1.2019 and 4.2.2019 (Annexures P-11 and P-12, respectively) were sent to respondent No.1, 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 29.11.2018 (Annexure P-10) 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 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 application dated 29.11.2018 (Annexure P-10), 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

March 13, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No