

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-5195-2019

Date of Decision: 27.2.2019

Oriental Bank of Commerce

...Petitioner

Versus

M/s Usha Enterprises 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.4 to decide the application dated 21.5.2018 (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 respondent No.2 requested the petitioner for grant of Cash Credit Facility. The petitioner got sanctioned the credit facilities, i.e. Cash Credit Limit of ₹ 20 lakhs vide letter dated 3.8.2010. The said Cash Credit Limit was enhanced to ₹ 39 lakhs on 28.4.2014 and further renewed for ₹ 30 lakhs on 31.12.2015. Lastly, the Cash Credit Facility was renewed for ₹ 28.25 lakhs on 24.1.2017.

Respondent No.1 mortgaged the immovable property as mentioned in para 5 of the writ petition in favour of the petitioner. 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 30.12.2017. The petitioner filed OA-2205-2018 under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 for recovery of ₹ 27,39,415/- along with interest. The notices dated 2.1.2018 (Annexure P-2 Colly) under Section 13(2) of the SARFAESI Act were issued to respondents No.1 to 3 through registered post raising a demand of ₹ 28,04,548.12 along with interest as on 30.12.2017. Since, respondents No.1 to 3 failed to make the loan amount in question, the petitioner took possession of the mortgaged property vide notice dated 26.3.2018 (Annexure P-3) under Section 13(4) of the SARFAESI Act. Thereafter, the petitioner filed an application dated 21.5.2018 (Annexure P-4) under Section 14 of the SARFAESI Act before respondent No.4 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 21.5.2018 (Annexure P-4) under Section 14 of the SARFAESI Act before respondent No.4, 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.4 to take a decision on the application dated 21.5.2018 (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

February 27, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

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