IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-5902-2019

Date of Decision: 5.3.2019

Oriental Bank of Commerce

...Petitioner

Versus

Mukesh Devi 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.3 to decide the application dated 12.7.2018 (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. Respondents No.1 and 2 requested the petitioner for grant of home loan which was sanctioned for ₹ 39 lakhs vide sanction letter dated 23.4.2014. Respondents No.1 and 2 executed an agreement dated 23.4.2014 in favour of the petitioner. Respondent No.1 mortgaged the immovable property as mentioned in para 5 of the writ petition in favour of the petitioner. Respondents No.1 and 2 had defaulted in repayment of principal debt/installments and interest thereon and, therefore, their account was declared as Non-Performing Account (NPA) on 30.9.2017. The notices dated 28.11.2017 (Annexure P-2 Colly) under Section 13(2) of the

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SARFAESI Act were issued to respondents No.1 and 2 through registered post raising a demand of ₹ 37,47,456.35. Since, respondents No.1 and 2 failed to make the loan amount in question, the petitioner took possession of the mortgaged property vide notice dated 30.1.2018 (Annexure P-3). Thereafter, the petitioner filed an application dated 12.7.2018 (Annexure P-4) under Section 14 of the SARFAESI Act before respondent No.3 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 12.7.2018 (Annexure P-4) under Section 14 of the SARFAESI Act before respondent No.3, 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.3 to take a decision on the application dated 12.7.2018 (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

March 5, 2019
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(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**

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