

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-6232-2019

Date of Decision: 5.4.2019

M/s Vardaan Exports, Kaithal

...Petitioner

Versus

State Bank of India and another

...Respondents

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

PRESENT: Mr. Aalok Jagga, 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 put the rehabilitation proposal dated 19.1.2019 (Annexure P-9) before respondent No.2 in terms of Reserve Bank of India Guidelines dated 17.3.2016. Further, a writ of certiorari has been sought for quashing the demand notice dated 29.8.2018 (Annexure P-4) and notice dated 4.12.2018 (Annexure P-7) issued under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short “the SARFAESI Act”).

2. Respondent No.1 vide sanction letter dated 8.3.2016 (Annexure P-1) renewed and enhanced the credit facilities to the petitioner from ₹ 17.82 crores to ₹ 20.68 crores. Cash Credit Limit of ₹ 18 crores was sanctioned along with SLC of ₹ 1 crore. Besides thereto, the term loan of

₹ 1.52 crores was also granted/renewed. Respondent No.1 framed a Rehabilitation Policy, Annexure P-2, for all the Rice Millers. The petitioner suffered losses and its revenue became irregular. Respondent No.1 vide letter dated 29.6.2018 (Annexure P-3) informed the petitioner that in the Cash Credit Limit, the overdue was ₹ 15.49 lakhs, ₹ 2.73 lakhs in term loan and ₹ 88,000/- in SLC and directed to regularize the limit. The loan account of the petitioner was declared as NPA on 28.8.2018. Respondent No.1 issued a notice dated 29.8.2018 (Annexure P-4) under Section 13(2) of the SARFAESI Act to the petitioner raising a demand of ₹ 20,65,88,827.44 as on 29.8.2018. Vide letter dated 21.9.2018 (Annexure P-5), the petitioner was informed that its account had been migrated to Stressed Assets Management Branch of respondent No.1. The petitioner filed objections dated 25.10.2018 (Annexure P-6) to the said notice issued under Section 13 (2) of the SARFAESI Act. Since, the petitioner failed to make the loan amount in question, respondent No.1 took symbolic possession of the mortgaged property vide notice dated 4.12.2018 (Annexure P-7) issued under Section 13(4) of the SARFAESI Act. Reserve Bank of India had framed a Policy called Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises on 17.3.2016 (Annexure P-8). According to the said policy, all the directions issued by the Reserve Bank of India would be binding on the Banks. As per Clause 2.1, the Bank itself had a mandatory duty to refer the case of MSME to the Designated Committee to be constituted to examine and undertake steps for rehabilitation even before account is declared NPA. Clause 2.3 thereof provided that even the MSME Borrower can initiate mechanism by submitting a proposal to the bank requesting the Bank to place the matter before the Designated Committee,

for examining rehabilitation of the MSME. Accordingly, the petitioner sent a letter dated 19.1.2019 (Annexure P-9) to the respondents and requested respondent No.1 for placing the matter before respondent No.2, 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 sent a letter dated 19.1.2019 (Annexure P-9) to the respondents, 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.2 to take a decision on the letter dated 19.1.2019 (Annexure P-9), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of one month from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

April 5, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No