

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-9244-2019

Date of Decision: 5.4.2019

Union Bank of India

...Petitioner

Versus

State of Haryana and another

...Respondents

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

PRESENT: Mr. Kamal Satija, 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.2 to decide the application dated 7.5.2018 (Annexure P-3) 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. The petitioner had sanctioned term loan of ₹ 35 crores in favour of M/s Prabhu Dayal Memorial Religious and Education Association, Village Sarai Aurangaband, Tehsil Bahadurgarh, District Jhajjar, on 21.1.2011. The sanctioned loan was availed by the borrower on different occasions from time to time and the entire sanctioned loan was availed by the borrower. The borrower requested the petitioner to grant an over draft

limit of ₹ 5 crores which was duly sanctioned by the petitioner on 12.10.2012. The petitioner also granted credit facility in the shape of a bank guarantee of ₹ 5 crores on 11.3.2013. In all, the borrower availed a sum of ₹ 45 crores as various credit facilities from the petitioner. Against the loan, the borrower mortgaged various immovable properties in favour of the petitioner as mentioned in para 5 of the petition. The borrower had defaulted in repayment of loan amount and, therefore, its account was declared as Non-Performing Account (NPA) on 30.6.2016. A notice dated 15.9.2017 (Annexure P-2) under Section 13(2) of the SARFAESI Act was issued to the borrower raising a demand of ₹ 26,74,79,260.72 along with interest upto 31.8.2017. Since, the borrower failed to make the loan amount in question, the petitioner took possession of the mortgaged property by issuing notice under Section 13(4) of the SARFAESI Act. Thereafter, the petitioner filed an application dated 7.5.2018 (Annexure P-3) under Section 14 of the SARFAESI Act before respondent No.2 for taking physical possession of the mortgaged property of the borrower, 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 7.5.2018 (Annexure P-3) under Section 14 of the SARFAESI Act before respondent No.2, 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 application dated 7.5.2018 (Annexure P-3), 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

April 5, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

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