

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-10858-2019

Date of Decision: 30.4.2019

Allahabad Bank

...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. Sumit Batra, 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 applications dated 29.10.2018 and 20.3.2019 (Annexures P-5 and P-7, respectively) 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 granted cash credit facility to M/s Ajay Electrical Store through its proprietor Shri Ajay Kumar Gupta amounting to ₹ 110 lakhs vide sanction letter dated 7.12.2013 (Annexure P-2). In order to secure repayment of the loan, the borrowers/guarantors executed various documents including guarantee deeds and mortgage deeds. The borrower mortgaged the immovable properties as mentioned in para 3 of the writ petition in favour of the petitioner. The borrowers had defaulted in payment

of interest and, therefore, their account was declared as Non-Performing Assets (NPA) on 31.3.2018. A notice dated 17.4.2018 (Annexure P-3) under Section 13(2) of the SARFAESI Act was issued to the borrowers and the guarantor raising a demand of ₹ 1,23,92,058/- as on 17.4.2018. Since, the borrowers failed to make the loan amount in question, the petitioner took possession of the mortgaged property vide notice dated 11.7.2018 (Annexure P-4). Thereafter, the petitioner filed an application dated 29.10.2018 (Annexure P-5) under Section 14 of the SARFAESI Act before respondent No.2 for taking physical possession of the mortgaged properties. In the meanwhile, the petitioner initiated the process under the SARFAESI Act to sell the mortgaged property in order to recover the outstanding dues and issued e-auction notice of the mortgaged property, i.e. House No. 493, Housing Board Colony, Sector 11, Panchkula. The sale of the aforesaid mortgaged property was held on 15.3.2019 on 'As is where is and what is basis'. One Mrs. Neeru Singh alias Neeru Kaushal wife of Shri Rajesh Kumar Kaushal was declared a successful bidder and she had deposited the required amount. Vide letter dated 16.3.2019 (Annexure P-6), her bid was confirmed. Thereafter, the petitioner moved a representation dated 20.3.2019 (Annexure P-7) to respondent No.2 to allow the application dated 29.10.2018 (Annexure P-5) filed under Section 14 of the SARFAESI Act, 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 29.10.2018 (Annexure P-5) 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 29.10.2018 (Annexure P-5), 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 30, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No