

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-11951-2019

Date of Decision: 6.5.2019

AU Small Finance Bank Ltd., Zirakpur

...Petitioner

Versus

State of Haryana and others

...Respondents

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

PRESENT: Ms. Deepika Mittal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Article 226 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 5.3.2018 (Annexure P-1) 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.5 and 6 requested the petitioner for grant of credit facility/financial assistance/term loan. The petitioner granted the financial assistance for an amount of ₹ 10 lakhs to the said respondents vide loan account No. L9001060100958410 dated 7.8.2014. To secure the repayment of the credit facilities advanced by the petitioner to respondents No.5 and 6, respondent No.6 mortgaged her immovable property as mentioned in para 3 of the writ petition in favour of the petitioner by deposit of original title deeds of the property. Respondents No.5 and 6 had defaulted in repayment of the outstanding dues and, therefore, their account was declared as Non-Performing Asset (NPA) on 9.3.2017. A notice dated

3.6.2017 (Annexure P-2) under Section 13(2) of the SARFAESI Act was issued to respondents No.5 and 6 for liquidating the outstanding amount of ₹ 9,43,391/- due as on 26.5.2017 along with interest. Since, respondents No.5 and 6 failed to make the loan amount in question, the petitioner filed an application dated 5.3.2018 (Annexure P-1) under Section 14 of the SARFAESI Act before respondent No.2 for taking physical possession of the mortgaged property. As per the orders (Annexures P-3 to P-12, respectively), the matter was being adjourned and the said application was not decided by respondent No.2. 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 5.3.2018 (Annexure P-1) under Section 14 of the SARFAESI Act before respondent No.1, 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 5.3.2018 (Annexure P-1), 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

May 6, 2019
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(MANJARI NEHRU KAUL)
JUDGE