

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-12523-2019

Date of Decision: 13.5.2019

Royal Steel

...Petitioner

Versus

Union Bank of India and another

...Respondents

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

PRESENT: Mr. Aayush Gupta, 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 return the month along with interest.

2. Respondent No.2 availed various credit facilities from respondent No.1. Due to recession, the account of respondent No.2 was declared NPA and respondent No.1 started selling the mortgaged properties. Respondent No.1 issued an advertisement dated 6.8.2017 (Annexure P-1) in the 'Hindustan Times' for online E-auction of the mortgaged properties. As per Sr. No.3 of the advertisement, respondent No.1 invited the applications for sale of factory land and building (Industrial Unit) situated at Mandi

Gobindgarh, Tehsil Amloh, District Fatehgarh Sahib of respondent No.2 mentioning that the said property was free from all the encumbrances. In response thereto, one Krishna Steel Rolling Mills (hereinafter referred to as 'the Mill') participated in the auction by transferring an amount of ₹ 14,10,000/- through their account. They were declared highest bidder as is clear from the bid status dated 23.8.2017 (Annexure P-2). When the said Mill was going to deposit the balance amount, they came to know that Punjab State Power Corporation Limited (PSPCL) had issued a press note dated 16.8.2017 (Annexure P-3) regarding their lien over the property for the recovery of ₹ 1,11,88,618/-. Thereafter, the Mill asked respondent No.1 either to return the amount or sale the property free from all encumbrances. However, respondent No.1 vide order dated 1.9.2017 (Annexure P-4) cancelled their auction and forfeited the amount deposited by the Mill. Respondent No.1 asked respondent No.2 to pay the outstanding amount and also informed regarding the passing of the order, Annexure P-4. After that, respondent No.2 approached the petitioner with an offer to purchase the mortgaged property to which it agreed. Respondent No.2 vide letter dated 23.7.2018 (Annexure P-5) approached respondent No.1 with an OTS offer that he had got the prospective buyer, i.e. the petitioner who was ready to purchase the mortgaged property for ₹ 1,50,00,000/- and had handed over a demand draft dated 23.7.2018 in favour of respondent No.1. As per copy of demand draft dated 23.7.2018 (Annexure P-6) and statement of account (Annexure P-7), it is clear that the draft had been prepared from the account of the petitioner. After the payment made by the petitioner, the OTS of respondent No.2 was sanctioned and letter dated 3.10.2018 (Annexure P-8) was issued. In pursuance thereto, the petitioner deposited a sum of ₹ 5

lakhs on 6.10.2018 and another amount of ₹ 5 lakhs on 8.10.2018 with respondent No.1. Thus, a total amount of ₹ 15 lakhs was deposited with respondent No.1 for the property in dispute. The Mill had filed CWP-22887-2017 and this Court vide order dated 13.11.2018 (Annexure P-9) directed respondent No.1 and PSPCL to file their respective affidavits. The petitioner vide letter (Annexure P-10) informed respondent No.2 regarding the pendency of the writ petition and asked the status of the writ petition. This Court vide order dated 14.3.2019 (Annexure P-11) allowed the writ petition and directed respondent No.1 to get the property transferred in favour of the Mill within a period of one month. Respondent No.1 vide letter dated 1.3.2019 (Annexure P-12) informed respondent No.2 that the OTS has been cancelled. As per the envelope, Annexure P-13, the letter, Annexure P-12 was prepared in the back date and was sent on 15.3.2019 after the order, Annexure P-11 which was received on 16.3.2019 by respondent No.2. Accordingly, the petitioner moved a representation dated 20.3.2019 (Annexure P-14) to respondent No.1 for return of the money along with interest paid for the mortgaged property of 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 representation dated 20.3.2019 (Annexure P-14) to 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.1 to take a decision on the representation dated 20.3.2019 (Annexure P-14), in

accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner and respondent No.2 within a period of 15 days from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

May 13, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

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