

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 16049 of 2019

Date of Decision: 27.11.2019

INDIAN OVERSEAS BANK

....Petitioner

VS.

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: **HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.**
 HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Gaurav Goel, Advocate,
 for the petitioner.

Mr. P.P. Chahar, DAG, Haryana.

RAKESH KUMAR JAIN, J. (Oral)

The petitioner has prayed for the issuance of a writ in the nature of mandamus seeking a direction to respondents No. 2 to 5 to assist them in taking the actual physical possession of the secured asset for which an order has already been passed by the District Magistrate, Panchkula under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short “the Act”)

It is submitted by the counsel for the petitioner that in the order dated 22.08.2016, the District Magistrate has issued the following directions:-

“Naib Tehsildar, Kalka is hereby appointed as Duty Magistrate for the said action and he is directed that before taking action, a notice of 15 days in two newspaper be got published, otherwise legal action, as per law, will be taken. Expenses will be borne by the concerned Bank Authorities. If any stay order from any competent Court of Law is produced, action to be taken accordingly. “

CWP No. 16049 of 2019

It is further submitted that the Naib Tehsildar, Kalka has already made a publication but despite there being no hindrance, much less, any order of stay by a competent Court of law, the proceedings are not being carried out for the purpose of taking possession of the secured asset though more than three years have passed.

Counsel for the respondent prays for an adjournment to file the reply.

We have heard counsel for the parties and are of the considered opinion that there is no requirement of reply in this case because the directions issued by the District Magistrate, Panchkula is innocuous in nature as he has already clarified that the possession of the secured asset should be taken in case there is no impediment, much less, any order of stay from a competent Court of law. Therefore, this petition is hereby disposed of, re-iterating the same directions to respondents No. 3 to 5, that in case there is no stay order, produced by the borrower/guarantor, in respect of the secured asset, issued by any competent Court of law, the possession of the secured asset shall be taken within 15 days from the date of receipt of certified copy of this order.

(RAKESH KUMAR JAIN)
JUDGE

November 27, 2019

Ess Kay

(SUVIR SEHGAL)
JUDGE

***Whether speaking / reasoned* : Yes / No**

***Whether Reportable* : Yes / No**