

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

139

**CWP No.18150 of 2019
Date of Decision: 08.07.2019**

Prabhat Sengar

.....Petitioner

Versus

Andhra Bank and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present : Mr. Gurmohan Singh Bedi, Advocate for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner has prayed for the issuance of a writ in the nature of mandamus seeking directions to the respondent bank to abide by its letter dated 18.01.2019.

Shorn off unnecessary details, the property in dispute is a residential house. The account of the borrower was declared as Non-Performing Asset (for short, "NPA") on 31.07.2017 and at the time of issuance of notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the Act") dated 05.08.2017, the outstanding amount was ₹6.8 crores. Since the borrower did not pay the amount, the proceedings were further initiated and ultimately vide order dated 04.09.2018 passed under Section 14 of the Act symbolic possession is alleged to have taken.

The matter is at the stage of sale of the property in question. It is submitted that the property was earlier put to sale by way of inviting offers from the intending buyers. Initially, the reserve price was fixed as ₹3.25 crores and thereafter reduced to ₹2.4 crores on

23.02.2018 which was further reduced to ₹1.92 crores on 09.05.2018.

It is not disputed that the petitioner being the father of the Director is in possession of the mortgaged property. The last auction could not be materialised despite the fact that there was a bidder who has given 10% and 15% respectively but ultimately defaulted and the property could not be sold. All that has been argued by the learned counsel for the petitioner is that the petitioner is ready and willing to purchase the property in question at the reserve price of ₹1,92,01,000/-. Thus, in this background, he has made this prayer for seeking a writ in the nature of mandamus for issuing directions to the respondent bank to abide by its letter dated 18.01.2019.

We have heard learned counsel for the petitioner and after going through the record, are of the considered opinion that the petitioner cannot seek the mandamus from this Court as a mandamus is issued when the petitioner has a right and the respondents have the corresponding duty which they fail to perform. So far as the right of the petitioner is concerned, the petitioner could not show any provision of law on the basis of which he is claiming that the property should be sold to him at the reserve price and there is no corresponding duty shown to have been casted upon the respondents to oblige the petitioner by selling the property in dispute at the reserve price.

Thus, in view of the failure of the auction, which has been conducted at the reserved price of ₹1.92 crores, the petitioner cannot claim the property in question because the petitioner is not amongst the bidders in that auction.

In view thereof, the preset petition is found without any merit and the same is dismissed.

(RAKESH KUMAR JAIN)
JUDGE

08.07.2019 Vinay	Whether speaking/reasoned	Yes/No
	Whether reportable	Yes/No