

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-37571-2018

Date of Decision: 6.5.2019

Bank of Baroda

...Petitioner

Versus

State of Punjab and others

...Respondents

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

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

Mr. Pankaj Gupta, Additional Advocate General, Punjab.

Mr. Vikas Bali, Advocate for respondent No.8.

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 respondents No.2 and 3 to decide the application dated 25.1.2017 (Annexure P-3) 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.4 to 8 took a loan of ₹ 759.78 lakhs in the year 2012 from the petitioner and mortgaged the immovable property as mentioned in para 2 of the writ petition. Since respondents No.4 to 8 failed to the repay the loan amount, their account was declared as Non-Performing Asset (NPA) on 29.7.2015. A notice dated 7.12.2015 under Section 13(2)

of the SARFAESI Act was issued to respondents No.4 to 8 raising a demand of ₹ 8,00,38,505.14 plus interest. Respondents No.4 to 8 failed to make the amount in question, the petitioner took symbolic possession of the mortgaged property by issuing notice dated 15.12.2016 (Annexure P-2) under Section 13(4) of the SARFAESI Act. Thereafter, the petitioner filed an application dated 25.1.2017 (Annexure P-3) under Section 14 of the SARFAESI Act before respondent No.2 for taking physical possession of the mortgaged property. Respondent No.3 vide order dated 19.6.2017 (Annexure P-4) adjourned the application *sine die* stating that the same would be processed upon the decision in the civil suit (Annexure P-5) filed by respondent No.9 against the borrower. In the said civil suit, the petitioner had been impleaded as a party defendant and status quo has been ordered by the Civil Court vide order dated 29.4.2016. The petitioner filed CWP-30900-2018 before this Court which was dismissed as withdrawn by this Court vide order dated 6.12.2018 (Annexure P-6) with liberty to file fresh one on the same cause of action by impleading proper and necessary party. 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 25.1.2017 (Annexure P-3) 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 parties, 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 25.1.2017 (Annexure P-3), 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
gbs

(MANJARI NEHRU KAUL)
JUDGE

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