

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-40288-2018

Date of Decision: 7.1.2019

PNB Housing Finance Ltd.

...Petitioner

Versus

District Magistrate, Panchkula and others

...Respondents

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

PRESENT: Mr. Nitin Grover, Advocate for the petitioner.

Mr. Ranjan Lohan, Advocate for respondents No.2 and 3.

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.1 to take over the physical possession of the mortgaged property and to hand over the same to the petitioner.

2. Respondents No.2 and 3 obtained total loan of ₹ 39,41,936/- from the petitioner by mortgaging the property as mentioned in schedule 'A' as mentioned in para 6 of the writ petition. Since respondents No.2 and 3 had failed to re-pay the said loan amount, their account was declared as NPA. The petitioner issued a notice dated 8.9.2017 (Annexure P-1) under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (In short "SARFAESI Act") raising a demand of ₹ 32,82,661.69P as on 8.9.2017 along with interest, but

SARFAESI Act was issued. Thereafter, the petitioner filed an application, Annexure P-2, under Section 14 of the SARFAESI Act before respondent No.1 for taking physical possession of the mortgaged property of respondent No.2 and 3, 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 moved an application, Annexure P-2 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.1 to take a decision on the application, Annexure P-2, moved by the petitioner, 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 certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

January 7, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No