

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-37491-2018

Date of Decision: 15.1.2019

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.

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 their application dated 1.11.2017 (Annexure P-3) filed under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (In short "SARFAESI Act") and to take over the physical possession of the mortgaged properties.

2. In the year 2013, respondents No.3 to 6 took a loan of ₹ 420 lakhs from the petitioner and mortgaged the property as mentioned in para 2 of the writ petition. Since respondents No.3 to 6 had failed to repay the said loan amount, their account was declared as NPA on 27.8.2015. The petitioner issued a notice dated 7.12.2015 (Annexure P-1) under Section 13

₹ 4,72,32,369.20. When respondents No.3 to 6 failed to make the payment of the aforesaid amount, the petitioner issued a notice dated 29.12.2016 (Annexure P-2) under Section 13(4) of the SARFAESI Act and took symbolic possession of the mortgaged property. Thereafter, the petitioner filed an application dated 1.11.2017 (Annexure P-3), under Section 14 of the SARFAESI Act before respondent No.2 for taking physical possession of the mortgaged property of respondents No.3 to 6. However, respondent No.2 adjourned the said application sine die vide order dated 19.12.2017 (Annexure P-4) in view of ad interim injunction granted by the Civil Judge (Junior Division), Ludhiana in a suit filed by respondent No.7 against respondents No.4 and 5. The said civil suit was dismissed by the trial court vide order dated 17.3.2018 (Annexure P-5) against which respondent No.7 filed an appeal before the lower appellate court. However, vide letter dated 1.5.2018 (Annexure P-6), the petitioner informed respondent No.2 about the dismissal of the suit and requested to decide the application filed under Section 14 of the SARFAESI, 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 dated 1.11.2017 (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 1.11.2017 (Annexure P-3), 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 15, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

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