2026:HHC:29033

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 3929 of 2025
Decided on: 16.07.2026

Pradeep Kumar .....**Petitioner**

Versus

State Bank of India and others ..**Respondents**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?[1]

For the Petitioner: Mr. Vikas Rajput, Advocate.

For the Respondents: Mr. Arvind Sharma, Senior Advocate with Ms. Kiran Sharma, Advocate, for respondents No. 1 & 2.

Ms. Menka Raj Chauhan, Deputy Advocate General, for respondent No.3.

Mr. Sanket Sankhyan, Advocate, for respondent No.4.

Jyotsna Rewal Dua, Judge

Petitioner's vehicle bearing registration No. HP01B-6363 was sold in an auction on 25.02.2025 by respondents No. 1 & 2- State Bank of India to respondent No.4. Petitioner assails the said auction proceedings and inter- alia seeks to recover the possession of his vehicle.

2. Petitioner purchased 06 vehicles under Hire Purchase agreements executed with respondent- Bank.

[1]Whether reporters of print and electronic media may be allowed to see the order? Yes.

Six different loans were obtained by the petitioner. For the vehicle in question, loan was obtained in February, 2019. Petitioner did not repay the loan as per settled terms and conditions. The respondent- Bank took over the possession of 04 vehicles including the vehicle in question. Out of these 04 vehicles, one vehicle bearing registration No. HP01B-6363, subject matter of the writ petition was sold to respondent No.4 in E-Auction conducted on 25.02.2025.

30 days notice dated 15.01.2025 was issued by the respondent-Bank to the petitioner about sale of asset in question.

3. Petitioner instituted Securitization Application No.378/2024 before the Debts Recovery Tribunal-I, Chandigarh, wherein following order was passed on 07.09.2024:-

> "07.09.2024
> Item No.7
> Present: Sh. Harinder Kumar, Counsel for the Applicant alongwith Sh. Pardeep Kumar/ applicant in person.
> Sh. Vivek Verma, Counsel for respondent bank alongwith Sh.Pardeep Arora, AGM, SBI, SARB; Shimla (on Vc).
>
> This is a Securitization Application for restraining the bank from auctioning the three vehicles on 09.09.2024, which the bank has taken the possession and which were financed by the bank to the applicant.
>
> Mr. Verma has filed short reply to the SA. Copy of the same has been supplied to counsel for the applicant. Mr. Verma states that the bank has

also filed an OA for the recovery of Rs.48 lacs and odd sum against the applicant. As per the bank, it has taken the possession of three vehicle i.e. two Innova Crysta and one Force Traveler. The case of the bank is that it has taken the possession of three vehicles under the hypothecation agreement and not under the Securitization Act. Mr. Verma, counsel for the respondent bank has argued that the bank has not taken any SARFAESI action in this case and accordingly, the present application is not maintainable.

Though, Mr. Harinder Kumar, counsel for the applicant has argued that the bank has no power to take the possession of the vehicles forcibly *dehors* the SARFAESI Act, yet, he has argued that applicant would deposit Rs.5 lacs today itself and another Rs.5 lacs by 12.09.2024 and another sum of Rs.5 lacs or or before 27.09.2024, provided the bank does not auction the vehicles on 09.09.2024. However, he has no objection that the vehicles remain in the possession of the bank.

On the other hand, Mr. Arora, AGM, SBI, states that the applicant has put digital locks on the seized vehicles and on account of this, the bank cannot move the vehicles to and fro and this is causing a lot of inconvenience to the bank as well as the yard manager. Applicant states that he, alongwith the bank officials, would visit the yard on 10.09.2024, at 12:00 noon. Mr. Arora states that he would also be present there and both the parties would settle the issue about the digital locks on the vehicles.

Subject to the honouring of the commitment by the applicant in respect of the payments, the bank is restrained from auctioning the vehicles on 09.09.2024, till the next date of hearing. To come up on 03.10.2024."

As per aforesaid order, the petitioner had undertaken to pay ₹5,00,000/- on 07.09.2024, ₹5,00,000/- on 12.09.2024 and another sum of ₹5,00,000/- on or before 27.09.2024 provided the bank would not auction the vehicles on 09.09.2024. In view of the commitment extended by the petitioner, the respondent-bank was restrained from auctioning the vehicles. It is an admitted position of the parties that petitioner did not fulfil his commitment, instead he withdrew the S.A filed by him on 19.02.2025.

On 18.02.2025, petitioner instituted Civil Suit No.38/2025 for restraining the bank from auctioning the vehicles including the vehicle in question. While the Civil Suit was pending, the petitioner instituted this writ petition on 17.03.2025 seeking to restrain the respondent-Bank from transferring the ownership of the vehicles in question to any other person and for restoration of possession of the vehicle. Prayer was also made to declare entire auction proceedings as illegal. During hearing of the case, learned counsel for the petitioner submitted that Civil Suit was withdrawn by the petitioner on 13.09.2025.

4. It is a matter of record that petitioner had not honoured the commitments extended by him before the learned Debts Recovery Tribunal-I, Chandigarh as recorded in the order dated 07.09.2024. Based upon the petitioner’s undertaking, the respondent-Bank was restrained from auctioning the vehicles, including the vehicle in question. The petitioner withdrew the S.A filed by him on 19.02.2025. Even before withdrawing the S.A, petitioner had instituted Civil Suit No.38/2025 seeking to restrain the respondent- Bank from proceeding ahead with the auction. It appears that petitioner is resorting to multiple, successive & simultaneous proceedings aimed for getting back the possession of the vehicle. It is not disputed that in the civil suit, interim relief and temporary injunction as prayed for was not granted in favour of the petitioner. Without seeking any liberty, petitioner simply withdrew the civil suit on 13.09.2025. This was when he had already instituted the instant writ petition on 17.03.2025. Pursuant to the auction conducted by the respondent- Bank on 25.02.2025, vehicle in question has been purchased by respondent No.4. Learned counsel for the petitioner could not demonstrate any illegality in the action of the respondent- Bank in auctioning the vehicle. Loan was advanced to the petitioner by the respondent-Bank under agreement of hire purchase. ***Anup Armah versus Bhola Nath Sharma and Others***[2] summarized the law that in an agreement of hire purchase, the purchaser remains merely a trustee/bailee on behalf of the financier/ financial institution and ownership remains with the latter. In case the vehicle is seized by the financier, no criminal action can be taken against him as

[2](2013) 1 SCC 400

he is repossessing the goods owned by him. ***Suryapal Singh versus Siddha Vinayak Motors and Another***[3] reiterates that under the hire purchase agreement, it is the financier, who is the owner of the vehicle and the person who takes loan retains the vehicle only as a bailee/trustee, therefore, taking possession of the vehicle on the ground of non-payment of installment has always been upheld to be a legal right of the financier.

In the given facts and circumstances, no interference is called for. The petition fails and is dismissed. Pending miscellaneous application(s), if any, to also stand disposed of.

Jyotsna Rewal Dua
Judge

July 16, 2026
yogesh

[3](2012) 12 SCC 355