

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**CMP(M) No.1533 of 2026 in
LPA No.557 of 2026
Date of Decision:- 28.09.2026**

Pradeep Kumar

....Appellant

Versus

State Bank of India & Others

....Respondents

Coram

***The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice
The Hon'ble Mr. Justice Bipin Chander Negi, Judge.***

Whether approved for reporting?¹

For the Appellant : Mr. Surinder Saklani, Advocate.

G.S. Sandhawalia, Chief Justice (Oral).

CMP(M) No.1533 of 2026

Keeping in view the averments made in the application, duly supported by the affidavit of the official, nominal delay of 1 day in filing the appeal is condoned.

2. The application stands disposed off accordingly.

LPA No.557 of 2026

3. Consideration in the present Letters Patent Appeal is sought of the order passed by the learned Single Judge in **CWP No.3929 of 2025**, titled as **Pradeep Kumar Vs. State Bank of India and Others**, decided on 16.07.2026, whereby the

¹ Whether reporters of Local Papers may be allowed to see the judgment?

petitioner's writ petition was dismissed by the learned Single Judge upon coming to the conclusion that the petitioner had not honoured the commitments extended by him before the learned Debts Recovery Tribunal, Chandigarh, as recorded in the order dated 07.09.2024 (which has been reproduced in paragraph 3 of the said impugned order).

4. It was noticed by the learned Single Judge that the petitioner had withdrawn the Securitization Application filed by him on 19.02.2025 and had also instituted Civil Suit No.38/2025 to restrain the respondent-Bank from proceeding with the auction of the vehicle in question, bearing Registration No.HP-01B-6363. The learned Single Judge had also noticed that as an interim relief was not granted in his favour, the petitioner had withdrawn the Civil Suit on 13.09.2025 without seeking any liberty to file afresh. Meanwhile, the writ petition had already been instituted on 17.03.2025, which was apparently after the withdrawal of the Securitization Application.

5. The vehicle in question was auctioned on 25.02.2025. Resultantly, while placing reliance upon the judgment of the Apex Court in **Anup Sarmah Vs. Bhola Nath Sharma and Others (2013) 1 SCC 400**, it was held that the purchaser was merely a trustee/bailee on behalf of the

financier/financial institution, that the ownership remained with the latter, and that repossession could be done.

6. Counsel for the appellant has vehemently submitted that the writ petition included an alternate prayer requesting that the monetary equivalent of the vehicle's market value, as specified in the insurance policy, be returned to the petitioner. Furthermore, the prayer sought the restoration of the vehicle's possession to the petitioner, along with directions to settle the entire loan account in a reasonable and time-bound manner after returning all of the petitioner's seized vehicles.

7. While referring to the account statement (**Annexure P-3**), counsel for the appellant has also submitted that the appellant had deposited an amount of Rs.4,21,000/- on 25.02.2025. Counsel has further argued that because the Bank had also received an amount of Rs.4,63,000/- from the auction purchaser, these amounts should be adjusted against the total vehicle loan of Rs.7,20,000/-. Resultantly, the bank cannot be permitted to enrich itself unjustly by retaining the funds received from both the appellant and the auction purchaser.

8. A perusal of the paper-book would go on to show that the auction had apparently taken place. The petitioner had represented to the Bank that he was ready to deposit the amount

and requested the postponement of the auction of the vehicle in question, a Mahindra Scorpio bearing registration number HP-01B-6363, which would be clear from **Annexure P-7** and **Annexure P-8**. Subsequently, on 28.02.2025 (**Annexure P-10**), the respondent-Bank informed the petitioner that the deposited amount had been appropriated under various heads. The Bank also mentioned that a further outstanding amount of Rs.23,55,843/- was still due towards the repayment of various loan accounts as of 27.02.2025, making due reference in the said letter to two Toyota Innova Crystas and a Force Traveller, along with their respective registration numbers.

9. In the reply in the writ petition filed by the respondent-Bank, it is stated that the Bank had filed an Original Application (OA No.989/2024) before the Debts Recovery Tribunal, Chandigarh against the petitioner for the recovery of Rs.48,03,178.25/-. However, the present appellant had failed to appear before the Tribunal.

10. In such circumstances, we are of the considered opinion that the arguments raised by the Counsel for the appellant that the amounts appropriated can always be effected and adjudicated in the Original Application (OA) before the Debts Recovery Tribunal, where the petitioner can put forward his

defense holds merit. It can be pointed out that the total outstanding amount and the justification of the adjustments made by the Bank can be properly determined there.

11. The relief prayed for in the writ petition by the petitioner-appellant herein, which sought the quashing of the e-auction dated 25.02.2025, cannot be granted in view of the reasoning given by the learned Single Judge also because there were other outstanding dues pending against him. Apparently, the appellant has been resorting to various forums on the same cause of action.

12. It is a settled principle that the writ Court exercises extraordinary jurisdiction, and here, disputed questions of fact are involved, leading the learned Single Judge to conclude that the appellant's conduct is suspect.

13. Resultantly, we do not find any plausible reason to entertain the appeal, except to make the necessary observations regarding the right of the appellant to have his amounts adjudicated and adjusted before the competent jurisdiction where the Original Application (OA) filed by the respondent-Bank is already pending.

14. Accordingly, the present appeal is dismissed. Pending miscellaneous application(s), if any, shall also stands disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

28th September, 2026

(Munish Thakur)