

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA No.189 of 2015(O&M)

Date of Decision: 17.01.2023

State of Punjab and others

.....Appellants

versus

Sukhdev Singh

.....Respondents

**CORAM: Hon'ble Mr. Justice G.S.Sandhawalia
Hon'ble Ms. Justice Harpreet Kaur Jeewan**

Present: Mr. Abhay Pal Singh Gill, DAG, Punjab
for the appellants.

Mr. Ashok Bhardwaj, Advocate
for the respondent.

Harpreet Kaur Jeewan, J.

1. Present Letter Patents Appeal filed by the State is directed against the judgment dated 09.4.2014 whereby the writ petition bearing No.6949 of 2011 filed by the respondent for quashing the impugned order dated 08.08.2008 (Annexure P-3) passed by the District Collector, Sangrur and notice dated 28.12.2009 (Annexure P-6) passed by Sub Registrar, Bhawanigarh was allowed.

2.1 Respondent (petitioner in CWP) has alleged that his grandfather Shri Jang Singh purchased a plot No.4 in Mandi Township Bhawanigarh in open auction on 13.11.1968 for a sum of

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Rs.10,200/- from Punjab Agricultural and Marketing Board. The allotment letter was issued in favour of the grandfather of the respondent(petitioner in CWP) on 01.09.1969 as per the provisions of Punjab New Mandi Township (D&R) Act, 1960. The grandfather of the respondent (petitioner in CWP) died on 13.04.1981 and he applied for No Due Certificate from the authorities. However, on 13.09.2005, he was informed that some amount is required to be paid for obtaining the No Due Certificate and accordingly, he deposited Rs.3,020/-. The conveyance deed was executed by the respondent(petitioner in CWP) on 03.02.2006 and the plot in question was transferred in the name of the respondent(petitioner in CWP). However, notice dated 20.06.2007 (Annexure P-1) was issued by the appellant herein demanding a recovery of deficiency of stamp duty by assessing the market value of plot @20,67,800/-.

2.2 The respondent(petitioner in CWP) had earlier filed a CWP No.10160 of 2007 against the said notice, *inter alia* on the ground that the Punjab Stamps (Dealing of under valued instrument) (1st amendment) Rules 2002 are ultra vires and against the settled law. The said writ petition was disposed of vide order dated 26.03.2008 and the matter was remanded back to respondent No.2-the District Collector Sangrur to decide afresh in the light of the judgment of the Hon'ble Supreme Court rendered in ***State of Punjab and others vs. Mahabir Singh and others, 1996(1) SCC 609***, whereby it was held that the Collector was obligated to hold a fact finding inquiry on the basis of relevant record and additional stamp

duty/registration fees merely cannot be imposed on the basis of Collector rates.

The District Collector, Sangrur passed the order dated 08.08.2008 (Annexure P-3) whereby he ordered to pay the deficiency of stamp duty and registration fee.

2.3 On 02.03.2009 (Annexure P-4), Government of Punjab, Department of Revenue and Rehabilitation issued a Notification No.16/1/2009- ST.II/1772 declaring that the consideration amount at the time of allotment of immovable property by any Government/Semi Government Organization shall be deemed to be the Collector's rate and the stamp duty shall be accordingly charged.

2.4 On 18.05.2009, the respondent (petitioner in CWP) filed a detailed representation (Annexure P-5) and prayed for the benefit of the said notification dated 02.03.2009, however, on 28.12.2009, the Sub Registrar, Bhawanigarh issued notice dated 28.12.2009 (Annexure P-6) under Section 47-A of the Act for recovery of the deficiency of stamp duty. Since the said notice is against the spirit of the order passed by this Hon'ble High Court in CWP No.10160 of 2007 dated 26.03.2008, as no inquiry was conducted to arrive at a conclusion as to whether the appellant is liable to pay additional stamp duty. Hence, the impugned order dated 08.08.2008 (Annexure P-3) and notice dated 28.12.2009 (Annexure P-6) were challenged in the writ petition.

3. Learned Single Judge allowed the writ petition and set aside order dated 08.08.2008 (Annexure P-3) and notice dated 28.12.2009 (Annexure P-6) by observing that the excess stamp duty cannot be recovered since the property has been allotted at the pre rate in the year 1968 and stamp duty cannot be sought on the basis of date of execution of the conveyance deed dated 07.02.2006 in view of the notification dated 02.03.2009. The same provided that the stamp amount fixed at the time of allotment of immovable property by any Government/Semi-Government Organization shall be deemed to be at the Collectors rate and the stamp duty shall be charged for registration of the document upon the consideration amount fixed by the Government/Semi-Government Organization. It is further observed that the benefit of notification dated 02.03.2009 (Annexure P-4) can be extended to the petitioner since the allotment was made in the year 1968. Reliance was also placed on the decision of the ***Mohali Club Mohali through its President Kuldeep Singh son of Shri Roshan Singh vs. State of Punjab and others*** passed in ***CWP No. 6387 of 2009 on 06.05.2010*** whereby the benefit of this notification was extended to the petitioner in the said case.

4. Learned counsel for the appellants has submitted that there is a specific provision for filing an appeal under Section 47-A (4) of the Indian Stamp Act, 1899 (hereinafter referred to as 'the Stamp Act') by a person aggrieved by an order of the Collector. Since the alternate remedy has not been availed, the writ petition was not maintainable.

5. Learned counsel for the appellants has further submitted that the learned Single Judge has wrongly placed reliance upon the notification dated 02.03.2009(Annexure P-4). In the present case, the entire payment was made prior to the issuance of notification, therefore, the case in hand is not covered under the said notification. Even otherwise as per the said notification it was one time benefit given to those allottees who had failed to deposit the instalments in time but in the present case the respondent (petitioner in CWP) had already completed the transaction way back in the year 2006.

Learned State counsel further stated that the reliance placed by the learned Single Judge in the case of ***Mohali Club Mohali case(supra)*** is wrongly placed as the facts of the said case were different.

6. On the other hand, learned counsel for respondent referred to the reasons recorded by the learned Single Judge submitted that the impugned order and the impugned notice have been rightly set aside by the learned Single Judge. Since the payment was made as fixed in the allotment letter, therefore, the market value as on the date of the execution of the conveyance deed cannot be levied.

7. We have considered the above said submissions and perused the paper book. It is not disputed that purchase of the plot in question was done in an open auction held on 13.11.1968, the allotment letter was issued on 01.09.2006 and the conveyance deed was executed on 03.02.2006 in favour of the respondent (petitioner

in CWP) after the death of his grandfather who purchased the said property.

8. Learned Single Judge has relied upon notification dated 02.03.2009 (Annexure P-4) for holding that the appellant is entitled to the benefit of the said notification and accordingly the market rate is to be treated as on the date of allotment of the property and accordingly the respondent is not entitled to claim additional stamp duty on the basis of treating the market value on the day of execution of the conveyance deed.

9. Section 47-A of the Stamp Act, provides a procedure for dealing with the instruments which are under valued. The said section as applicable to the state of Punjab provides that if the market value of property which is the subject of any instrument on which the duty is chargeable on market value is found less than even the market value as determined in accordance with the Rules made under the Act, the Registering Officer appointed under the Registration Act, 1908, shall, after registering the instrument, refer the same to the Collector for determination of the market value of the said property and proper duty payable thereon. It further provides that the Collector shall determine the value or consideration after giving opportunity of hearing to the parties and after holding an inquiry. The order passed by the Collector is also appealable, as such, and any person aggrieved by such an order passed by the Collector has a right to prefer an appeal before the Commissioner.

Section 47-A of the Stamp Act, 1899 reads as under:-

47-A. Instruments under-valued how to be dealt with:-

[1] If the market value of any property, which is the subject of any instrument on which duty is chargeable on market value as set forth in such instrument, is less than even the minimum value as determined in accordance with the rules made under this Act, the Registering Officer appointed under the Registration Act, 1908, shall, after registering the instrument, refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon; and

[2] On receipt of reference under Sub-section(1), the Collector shall, after giving the parties reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by the rules under this Act, determine the value or consideration and the duty as aforeaid, and the deficient amount of duty, if any, alongwith interest at the rate of twelve per cent per annum on such deficient amount, shall be payable by the person liable to pay the duty from the date of registraton of the instrument relating to such

property to the date of payment of deficient amount of the duty.

Provided that a person shall also be liable to pay penal interest at the rate of three percent per annum, if there was an intentional omission or laps on his part in not setting forth the correct market value of such peroperty.

[3] The Collector may, suo motu, or on the receipt of a reference from the Inspector General of Registration or Registrar of a District appointed under the Registration Act, 1908 (Central Act No. 16 of 1908), in whose jurisdiction the property or any portion thereof which is the subject matter of the instrument is situated or on the receipt of a report of audit by the Comptroller and Auditor General of India or by any other authority authorized by the State Government in this behalf or otherwise, within a period of three years from the date of the registration of an instrument, call for and examine any instrument for the purposes of satisfying himself as to the correctness of the value of the property or of the consideration disclosed and of all other facts and circumstances affecting the chargeability of the instrument or as to the true character and description thereof and the amount

of the duty with which it was chargeable and if after such examination, he has reason to believe that proper duty has not been paid, he may, after giving the person concerned reasonable opportunity of being heard and after holding an enquiry in the manner provided under sub-section (2), determine the value of the property or the consideration or the character or description of instrument and the duty with which it was chargeable and the deficient amount of duty, if any, would be payable by the person liable to pay duty;

Provided that a person shall also be liable to pay penal interest at the rate of three per cent per annum, if there was an intentional omission or lapse on his part in not setting forth the correct market value of such property.

[4] Any person aggrieved by an order of the Collector under sub-section (2) or sub-section (3) may, within thirty days from the date of that order, prefer an appeal before the [Commissioner] and all such appeals shall be heard and disposed of in such manner as may be prescribed by rules made under this Act.

Explanation.-For the purpose of this section, value of any property shall be estimated to be the price which in the opinion of the Collector or the appellate authority, as the case may be, such property would have fetched, if sold in the open market on the date of execution of the instrument relating to the transfer of such property.” (emphasis laid)

10. The Punjab Stamp (Dealing of Undervalued Instruments) Rules, 1983 provides the procedure which shall be adopted for fixation of minimum value of the land/property. Rule 3-A providing the said procedure reads as under :-

3A. Procedure to be adopted for fixation of minimum value of land/property. –

The Collector of district shall in consultation with Committee of experts consisting of officers of the department of Public Works (Building and Road), Department of Revenue and Rehabilitation, Punjab Urban Development Authority, Department of Local Government, Department of Rural Development and Panchayats Department of Horticulture/Forest/Town Planning/Industries or any other department as may be found desirable, fix the minimum market value of land/properties, located in his district, locality- wise and category-

wise and convey the same to the Registering Officer(s) for the purposes of levying of stamp duty on instruments of transfer of any property. The value of agricultural land will be fixed per acre/per bigha whereas for other lands/properties, it will be fixed per Marla, per square yards/per square feet/per square metre keeping in view the following factors :-

- (a) In case of agricultural land, -*
 - (i) Classification of land.*
 - (ii) Source of irrigation.*
 - (iii) Distance from roads, Bazars, Bus Stand, Railway Station, Factories, Educational Institutions, Hospitals, Government Offices and shopping complexes.*
 - (iv) Situation of land like urban/rural.*
 - (v) Number of crops per year sown.*
 - (vi) Any other special feature having bearing on valuation.*
- (b) In case of non-agriculture land, -*
 - (i) Distance from Roads, Bazars, Bus Stand, Railway Station, Factories, Educational Institutions, Hospitals Government Offices and Shopping Complexes.*
 - (ii) Situation of land like urban/rural.*
 - (iii) Purpose for which the land is being used presently*
 - (iv) Any other special features having bearing on the valuation.*
- (c) In case of buildings, -*
 - (i) for ground floor, ten percent of the cost of land; and*
 - (ii) for every consecutive floor, five percent of the cost of land;*
- (d) In case of gardens, -*
 - (i) Kind of land.*
 - (ii) Source of Irrigation.*
 - (iii) Cost of trees, according to their kind, value, size and age.*

(iv) Income being derived out of the garden.

(v) Whether situated in urban or rural area.

(vi) Any other special features having bearing on the valuation.

[Provided that the Chief Controlling Revenue Authority i.e. the Financial Commissioner Revenue, may issue policy directive to the District Collector with regard to fixing the quantum of the collector rates or the procedure for fixing the Collector rates of the property. Such Policy directive shall be binding on the District Collectors]

Note :- *The list of factors given above is only indicative and not exhaustive.*

The rates so fixed, will be revised by the Collector, once a year as far as possible in the month of March and to be effective from first April of each year or after one month of its fixation. Copies of rates so fixed/revised shall be made available by the Collector to the Government, Inspector General of Registration, Punjab, Commissioner of Divisions, Sub-Divisional Magistrates and the Registering Officers concerned. The Registering Officers will display the rate lists on the notice board for the information of general public. The value of land/properties so fixed/revised shall be deemed to

be the price, which it would have fetched if sold in public auction.]

Explanation:- *The consideration amount fixed at the time of allotment of immovable property by any Government/Semi Government Organization shall be deemed to be the Collector's rate and the Stamp duty shall be charged for registration of document upon the consideration amount fixed by the Government/Semi Government Organization, provided that document is got registered [upto 31st March, 2010] by the original allottee or to the persons whom such property is transferred by the original allottee through Governments/Semi Government Organization who is yet to pay full and final installments or legal heirs of the original allottees, in case of death of original allottee who is yet to pay full and final installment or by legal heirs as prescribed in Section 8(a) and Section 15(a) of the Hindu Succession Act, 1956, if such heirs have been included by the Allotting Agency subsequently in the allotment letter; or on re-allotment after cancellation of allotment of original allottee by the Allotting Agency; or*

within three months from the payment of last regular installments as per schedule of payment of such allotment.

11. Explanation to Rule 3-A as referred above was inserted vide Notification No.16/1/2009-ST.II/8674 dated 02.03.2009. The respondent has claimed the benefit of said notification as the learned Single Judge has allowed the benefit to the respondent by holding that the said notification is applicable to the case of the respondent.

12. Firstly, the respondent was aggrieved by notice dated 20.06.2007 (Annexure P-1) whereby the deficiency of stamp duty has been sought to be recovered by invoking Section 47-A of the Stamp Act. Sub Section 4 of Section 47-A of the Act provides an alternate remedy to the respondent by way of filing an appeal to assail the findings of the Collector. As already referred, the sub section (4) to Section 47-A of the Stamp Act provides that any person aggrieved by an order of the Collector under the sub-section 2 or sub-section 3 may within 30 days from the date of that order prefer an appeal before the Commissioner. In the present case, the alternate remedy was available to the respondent but without availing the said remedy he has invoked the writ jurisdiction. This aspect missed consideration before the learned Single Judge.

13. No doubt an alternate remedy by itself does not divest the High Court of its power under Article 226 of the Constitution of India in an appropriate case. Though, ordinarily a writ should not be

entertained when an efficacious alternate remedy is provided by law.

The issue as to whether a writ petition would be maintainable where an order has been challenged against which an alternate remedy lies has been considered by the Hon'ble Supreme Court of India in ***M/s Radha Krishan Industries vs. State of Himachal Pradesh and others*** in (2021) 6 SCC 771 decided on 20.04.2021. After discussing various decisions on this point, the principles of law were laid down regarding exercising powers under Article 226 of the Constitution of India in such cases. The relevant portion of the said decision reads as under:-

27. The principles of law which emerge are that :

(i) The power under [Article 226](#) of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well;

(ii) The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person;

(iii) Exceptions to the rule of alternate remedy arise where (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the

Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged;

(iv) An alternate remedy by itself does not divest the High Court of its powers under [Article 226](#) of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;

(v) When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under [Article 226](#) of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and

(vi) In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction,

such a view would not readily be interfered with.

28. These principles have been consistently upheld by this Court in Seth Chand Ratan v Pandit Durga Prasad, (2003) 5 SCC 399, Babubhai Muljibhai Patel v Nandlal Khodidas Barot, (1974) 2 SCC 706 and Rajasthan SEB v. Union of India, (2008) 5 SCC 632 among other decisions.”

14. In the light of said principles we have considered the facts of the present case. The respondent has not put forth any reason for not approaching the competent authority to assail the order passed by the Collector. The matter requires determination of the point as to whether respondent No.3 is entitled for the benefit of notification dated 02.03.2009 (Annexure P-2) and for that purpose the factual aspects needed to be scrutinized. The respondent has failed to establish that there has been a violation of principles of natural justice and the impugned order passed by the Collector dated 08.08.2008 (Annexure P-3) and notice dated 28.12.2009(Annexure P-6) are wholly without jurisdiction. Apart from this the vires of the legislation has not been challenged. Since the peculiar facts were required to be scrutinized in order to arrive to a conclusion as to whether the respondent can be granted the benefit of notification dated 02.03.2009 (Annexure P-4), in such circumstances it was in the

fitness of the things that the matter should have been decided by the Competent Authority in an appeal as provided under Section 47-A(4) of the Stamp Act instead of the learned Single Judge exercising jurisdiction under Article 226 of the Constitution.

15. It is a matter where public money is involved and the Collector has passed the order for recovery of the deficient of the stamp duty. Applying the ratio of decision of the Hon'ble Supreme Court in ***United Bank of India vs. Satyawati Tondon and others;*** ***2010 AIR (SC) 3413*** that in matters involving recovery of taxes, cess, fee, other types of public money wherein it has been held that High Court will ordinarily not entertain a petition under Article 226 of the Constitution of India if an alternate remedy is available to the aggrieved person. It was also held that while dealing with the petitions involving challenge to the action taken for recovery of the public dues etc., the High Court must keep in mind that the legislation enacted by the Parliament and the State Legislatures for recovery of such dues are code unto themselves in as much as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute. The relevant portion of the said decision reads as under:-

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17. There is another reason why the impugned order should be set aside. If respondent No.1 had any tangible grievance against the notice issued under [Section 13\(4\)](#) or action taken under [Section 14](#), then she could have availed remedy by filing an application under [Section 17\(1\)](#). The expression 'any person' used in [Section 17\(1\)](#) is of wide import. It takes within its fold, not only the borrower but also guarantor or any other person who may be affected by the action taken under [Section 13\(4\)](#) or [Section 14](#). Both, the Tribunal and the Appellate Tribunal are empowered to pass interim orders under [Sections 17](#) and [18](#) and are required to decide the matters within a fixed time schedule. It is thus evident that the remedies available to an aggrieved person under the [SARFAESI Act](#) are both expeditious and effective. Unfortunately, the High Court overlooked the settled law that the High Court will ordinarily not entertain a petition under [Article 226](#) of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial

institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc., the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, High Court must insist that before availing remedy under [Article 226](#) of the Constitution, a person must exhaust the remedies available under the relevant statute.

18. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under [Article 226](#) of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint

evolved by this Court, which every High Court is bound to keep in view while exercising power under [Article 226](#) of the Constitution. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under [Article 226](#) of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance. It must be remembered that stay of an action initiated by the State and/or its agencies/instrumentalities for recovery of taxes, cess, fees, etc. seriously impedes execution of projects of public importance and disables them from discharging their constitutional and legal obligations towards the citizens. In cases relating to recovery of the dues of banks, financial institutions and secured creditors, stay granted by the High Court would have serious adverse impact on the financial health of such bodies/institutions, which ultimately prove detrimental to the economy of the nation. Therefore, the High Court should be

extremely careful and circumspect in exercising its discretion to grant stay in such matters. Of course, if the petitioner is able to show that its case falls within any of the exceptions carved out in [Baburam Prakash Chandra Maheshwari v. Antanim Zila Parishad](#) AIR 1969 SC 556, [Whirlpool Corporation v. Registrar of Trade Marks, Mumbai](#) (1998) 8 SCC 1 and [Harbanslal Sahnia and another v. Indian Oil Corporation Ltd. and others](#) (2003) 2 SCC 107 and some other judgments, then the High Court may, after considering all the relevant parameters and public interest, pass appropriate interim order.

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24. [In City and Industrial Development Corporation v. Dosu Aardeshir Bhiwandiwalla and others](#) (2009) 1 SCC 168, the Court highlighted the parameters which are required to be kept in view by the High Court while exercising jurisdiction under [Article 226](#) of the Constitution. Paragraphs 29 and 30 of that judgment which contain the views of this Court read as under:-

"29. In our opinion, the High Court while exercising its extraordinary jurisdiction under [Article 226](#) of the Constitution is duty-bound

to take all the relevant facts and circumstances into consideration and decide for itself even in the absence of proper affidavits from the State and its instrumentalities as to whether any case at all is made out requiring its interference on the basis of the material made available on record. There is nothing like issuing an ex parte writ of mandamus, order or direction in a public law remedy. Further, while considering the validity of impugned action or inaction the Court will not consider itself restricted to the pleadings of the State but would be free to satisfy itself whether any case as such is made out by a person invoking its extraordinary jurisdiction under [Article 226](#) of the Constitution.

30. The Court while exercising its jurisdiction under [Article 226](#) is duty-bound to consider whether:

- (a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;*
- (b) the petition reveals all material facts;*

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.

The Court in appropriate cases in its discretion may direct the State or its instrumentalities as the case may be to file proper affidavits placing all the relevant facts truly and accurately for the consideration of the Court and particularly in cases where public revenue and public interest are involved. Such directions are always required to be complied with by the State. No relief could be granted in a public law remedy as a matter of course only on the ground that the State did not file its counter-affidavit opposing the

writ petition. Further, empty and self-defeating affidavits or statements of Government spokesmen by themselves do not form basis to grant any relief to a person in a public law remedy to which he is not otherwise entitled to in law."

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26. *[In Modern Industries v. Steel Authority of India Limited](#) (2010) 5 SCC 44, the Court held that where the remedy was available under the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993, the High Court was not justified in entertaining a petition under [Article 226](#) of the Constitution.*

27. *It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the [DRT Act](#) and [SARFAESI Act](#) and exercise jurisdiction under [Article 226](#) for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts*

will exercise their discretion in such matters with greater caution, care and circumspection.

28. Insofar as this case is concerned, we are convinced that the High Court was not at all justified in injuncting the appellant from taking action in furtherance of notice issued under [Section 13\(4\)](#) of the Act.

16. Consequently, the present appeal stands allowed. Order passed by the learned Single Judge is set aside and liberty is given to the respondent (petitioner in CWP) to avail the statutory remedy of appeal before the competent authority, within a period of two months from the receipt of certified copy of this order.

(G.S.Sandhawalia)
Judge

(Harpreet Kaur Jeewan)
Judge

17th January, 2023

Shivani Kaushik

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No