



CWP-13220-2025

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

CWP-13220-2025

Date of Decision : 27.05.2025

JASWANT SINGH

.....Petitioner

VERSUS**SATE OF HARYANA AND OTHERS**

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Ms. Satinder Kaur, Advocate,
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

KULDEEP TIWARI, J.(Oral)

1. Through the instant writ petition filed under Article 226/227 of the Constitution of India, a prayer is made for issuance of a *mandamus* upon the official respondents to take action against respondents no.3 and 4, who have illegally, and forcefully seized his truck Tip-Trailer bearing Registration No.HR-57A-2714, during the lock-down period, occurred due to Covid-19 pandemic, due to deficit of some meagre amount. He further seeks an interim stay with regard to the proceedings initiated against him in a complaint filed under the provisions of Section 138 of the Negotiable Instruments Act, 1881, by respondents no.3 and 4.
2. This Court is not going into the detailed facts of the instant petition, on account of the fact that the petitioner had earlier approached

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this Court by way of CWP bearing No.21633 of 2020, while throwing challenge to a notice dated 03.11.2020 (Annexure P-6), as issued by respondents no.3 and 4, by which the possession of the petitioner's vehicle was taken, which was disposed of by the Division Bench of this Court vide order dated 15.12.2020 (Annexure P-7), by relegating the petitioner to take the efficacious alternate remedy under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, before the Debts Recovery Tribunal. The relevant part of the said order is extracted hereinafter:-

“1. The present petition inter alia challenges a notice dated 3rd November, 2020, of the Respondent/Indusind Bank Ltd., by which possession of the Petitioner's vehicle is stated to have been taken by the Respondent/Bank.

2. It is seen that the Petitioner has an efficacious alternative remedy under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 before the Debts Recovery Tribunal.

3. In that view of the matter, leaving it open to the Petitioner to urge all the grounds urged in the present petition before the Debts Recovery Tribunal, the petition is disposed of.”

3. The petitioner, thereafter, availed the alternate remedy by filing an apt application bearing No.SA/134 of 2020, before the Debts Recovery Tribunal concerned, however, he opted not to proceed with that application, so as to get the final verdict, rather, the same was dismissed for default, vide order dated 15.11.2023 (Annexure P-8).

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4. The petitioner is also facing the prosecution for the commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881, which was initiated upon an complaint made by respondents no.3 and 4.

5. The instant petition, has been filed by the petitioner, with the sole impression that he does not have any alternate remedy except to approach this Court under Article 226/227 of the Constitution, and this is the only argument, which is raised by learned counsel for the petitioner that the petitioner is actually remediless, therefore, the instant petition is maintainable.

6. The aforesaid submission, as made by learned counsel for the petitioner is being recorded solely for the purpose of rejection, as the earlier petition for the same cause of action, has already been adjudicated by the Division Bench of this Court vide order 15.11.2023 (Annexure P-7), therefore, the petitioner, under the garb of instant petition, cannot reopen the issue which has already been adjudicated by relegating him to the apt authority/tribunal. Even the petitioner opted to avail that remedy by filing an apt application before the Debts Recovery Tribunal (DRT) concerned, however, he chose not pursue the same, and the same was dismissed for default, therefore, it is the act of petitioner himself, which rendered him remediless, not the law.

7. So far as, staying of the proceedings under Section 138 of the Negotiable Act, 1881, are concerned, is also a misconceived prayer. In case the petitioner is of the view that the said proceedings are required to

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be quashed, or are not maintainable, even then he has an alternate remedy to file an apt motion. Thus, by filing the instant petition carrying omnibus prayer, the asked for relief of staying further proceedings under Section 138 of the Negotiable Act, 1881, are not maintainable.

8. Therefore, the instant petition is, hereby, **dismissed**, being not maintainable.

9. However, the petitioner is at liberty to approach the Debts Recovery Tribunal concerned, for revival of the application, which was dismissed for default vide order Annexure P-8.

May 27, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No