HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Misc. Single No.481 of 2025

27 April, 2026

Savitri Devi --Petitioner

Versus

ICICI Bank Limited and Others --Respondents

Presence:-

Mr. Aakib Ahmed, learned counsel for petitioner.

Ms. Monika Pant, learned counsel for respondent No.1.

Dr. Kartikey Hari Gupta, learned counsel with Ms. Irum Zeba and Mr. Rafat Munir Ali, learned counsel for respondent Nos.2 and 3.

Mr. N.K. Papnoi, learned Standing Counsel for the State of Uttarakhand/respondent No.5.

Hon'ble Pankaj Purohit, J.

By means of the present writ petition, petitioner seeks following reliefs:-

1. To summon the complete record pertaining to the case.
2. To issue the Writ, Order or Direction in the nature of certiorari quashing seizure memo dated 11.10.2024 (Annexure P-3) vide which the vehicle bearing registration no.UP25DT7817 has been forcibly recovered.
3. To issue the Writ, Order or Direction in the nature of mandamus directing Respondent No.3 to restore the possession of vehicle bearing registration no.UP25DT7817 which was forcibly recovered on 11.10.2024.
4. To issue a Writ of Mandamus, directing the ICICI Bank Limited to issue a No Objection Certificate (NOC) in favour of the petitioner immediately.
5. To issue a Writ of Mandamus, directing respondent No.5 to Direct an inquiry into the unlawful repossession and take legal action against the erring officials and recovery agents.
6. To award compensation for the loss suffered by the petitioner due to the illegal acts of the respondents.

2. The facts of the case are that a loan facility was sanctioned on 30.12.2019 by respondent no.1- ICICI Bank

Ltd. for an amount of Rs. 17,60,000/- for the purchase of a commercial vehicle bearing registration no. UP-25-DT-7817. The loan was repayable in equated monthly installment over a tenure of 67 months in terms of the loan agreement executed between the parties. Pursuant to the sanction of loan, vehicle was purchased and the loan account was operated. Certain payments were made towards repayment of the loan. Disputes, however, arose between the parties in respect of outstanding dues under the loan account. On 30.04.2024, an amount of Rs. 7,45,109/- was paid to respondent No.1-Bank by respondent Nos.2 and 3. Consequent thereto, the loan account came to be treated as subrogated/assigned in favour of respondent Nos.2 and 3. Subsequently, vehicle in-question was taken into possession by respondent No.4 on behalf of respondent Nos.2 and 3. The repossession of vehicle gave rise to the present dispute.

3. Petitioner claims that the loan account stood settled and seeks issuance of a No Objection Certificate (NOC) in respect of the said vehicle. Petitioner has also questioned the repossession of vehicle. On the other hand, record reflects that the loan account was treated as irregular on account of non-payment of installments, and action was taken in relation thereto. In the aforesaid circumstances, disputes have arisen between the parties with regard to subsistence of liability under the loan account, the effect of transaction dated 30.04.2024, and the repossession of the vehicle, leading to the filing of the present writ petition.

4. Learned counsel for petitioner submits that the action of respondents in repossessing the vehicle in-question is wholly arbitrary, illegal and in complete violation of the settled principles of law. It is contended that the vehicle, which constitutes the primary source of

livelihood of petitioner, has been taken into possession without following any due process of law, thereby resulting in grave prejudice and hardship. HE further submits that the loan in-question stood duly settled and no amount remained outstanding. Despite such settlement, respondent no.1 has failed to issue a No Objection Certificate (NOC), which has resulted in continued harassment to petitioner. It is argued by learned counsel for petitioner that once the loan stood satisfied, respondents had no authority whatsoever to interfere with the possession of vehicle.

5. Learned counsel for petitioner contends that even otherwise, assuming without admitting that any amount was outstanding, respondents were bound to follow the procedure prescribed under law before taking any coercive action. He further contends that no notice, as contemplated under provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, was ever served upon petitioner prior to the repossession of vehicle. The mandatory requirements of issuance of demand notice and affording opportunity to the borrower have been completely bypassed.

6. It is further argued by learned counsel for petitioner that the repossession of vehicle has been carried out in a forcible manner through recovery agents, which is impermissible in law. He further argued that it is well settled that financial institutions cannot resort to extra-legal means or employ muscle power for recovery of their dues, and any such action is liable to be set aside.

7. Learned counsel for petitioner has also assailed the alleged assignment/subrogation of the loan account in favour of respondent Nos.2 and 3. It is contended by him that no valid or lawful assignment has been demonstrated

on record, nor was any notice of such assignment ever given to petitioner. It is further contended by him that in absence of a valid assignment, respondent Nos.2 and 3 had no authority to take any action in respect of the loan account or the vehicle in question. Learned counsel for petitioner also submits that respondents have acted in a manner which amounts to deprivation of property without authority of law, in violation of Article 300A of the Constitution of India. The action of taking possession of the vehicle without following due process is stated to be unconstitutional and unsustainable.

8. Learned counsel for the petitioner has also contended that objection raised by the respondents with regard to maintainability of the writ petition is misconceived. It is submitted that the present case is not a mere contractual dispute, but involves arbitrary and illegal action resulting in violation of constitutional and legal rights of the petitioner. In such circumstances, the writ petition is maintainable under Article 226 of the Constitution of India.

9. Learned counsel for respondent no.1–ICICI Bank Ltd. has raised a preliminary objection to the maintainability of the writ petition, contending that the dispute arises out of a purely contractual loan transaction between private parties. She submits that respondent no.1 is not “State” within the meaning of Article 12 of the Constitution of India, and therefore, no writ lies against it in matters of this nature. She further submits that petitioner has an efficacious alternative remedy and the present petition involves disputed questions of fact which cannot be adjudicated in writ jurisdiction. She also submits that the loan was duly sanctioned and disbursed, and the borrower had undertaken to repay the same in terms of the loan agreement. However, the borrower committed default

in repayment of installments, as a result of which the loan account became irregular and demand notices were issued.

10. Learned counsel for respondent No.1 further submits that on 30.04.2024, a sum of Rs. 7,45,109/- was paid by respondent Nos.2 and 3 to respondent no.1, pursuant to which the loan account stood subrogated/assigned in their favour. It is contended that thereafter respondent no.1 ceased to have any subsisting interest in the loan account or the vehicle in question, and no cause of action survives against it. Accordingly, the writ petition, insofar as it relates to respondent no.1, is liable to be dismissed.

11. Learned counsel for respondent Nos.2 and 3 submits that the borrower committed persistent default in repayment of the loan installments, as a result of which the loan account became overdue. He further submits that despite issuance of demand notices calling upon the borrower to clear the outstanding dues, the liability remained unpaid. He also submits that on 30.04.2024, respondent Nos.2 and 3 paid a sum of Rs. 7,45,109/- to respondent no.1 Bank, and consequently, the loan account stood validly subrogated/assigned in their favour. Upon such assignment, respondent Nos.2 and 3 stepped into the shoes of original lender and became entitled to enforce the rights arising under the loan agreement.

12. He also submitted that the repossession of vehicle was carried out in accordance with the terms of agreement and in view of the continued default, and denies that the same was forcible or illegal. It is contended that the dispute pertains to enforcement of contractual rights and outstanding dues, for which appropriate remedies are available before competent forums, and the present writ petition is therefore liable to be dismissed.

13. Having considered the submissions advanced by

learned counsel for the parties and having perused the entire material available on record, this Court finds that the central issue arising for determination is not merely the existence of a contractual relationship between the parties or the quantum of outstanding dues, but the legality, fairness, and procedural propriety of the manner in which the respondent- financial institution has proceeded to repossess or attempt to repossess the vehicles of the petitioners. At the outset, objection regarding maintainability of the writ petition deserves to be addressed. It is well settled that disputes arising purely out of contractual obligations ordinarily do not warrant interference under Article 226 of the Constitution of India, particularly when alternative remedies are available. However, this rule is not absolute. A well-recognized exception exists where the impugned action is arbitrary, unfair, in violation of statutory or regulatory norms, or results in deprivation of property without authority of law. In such circumstances, the dispute ceases to remain confined within the domain of private law and assumes a public law character warranting judicial review.

14. In the present case, petitioner has made specific allegations regarding repossession of the vehicle through recovery agents, allegedly in violation of the applicable guidelines governing recovery practices. Such allegations, if established, cannot be treated as mere breaches of contract, but would amount to arbitrary and high-handed action. Considering that the vehicle in-question constitutes a source of livelihood, such action also has serious civil consequences. Therefore, this Court is of the considered view that writ petition is maintainable, and the preliminary objection raised by respondents is liable to be rejected. It is not in dispute that respondent Nos.2 and 3 claim to have stepped into the shoes of the original lender pursuant to

the transaction dated 30.04.2024. The guidelines governing recovery practices are intended to ensure that recovery of loans is carried out in a manner consistent with fairness, transparency, and respect for the rights of borrowers.

15. Hon'ble Supreme Court in the case of **ICICI Bank Ltd. vs. Prakash Kaur & Ors.**, reported in **(2007) 2 SCC 711** has unequivocally deprecated the practice of employing recovery agents or musclemen for repossession, holding that such methods are impermissible in a civilized society governed by the rule of law. The said principle has been reiterated in **Citicorp Maruti Finance Ltd. vs. S. Vijayalaxmi & Anr., (2012) 1 SCC 1**, wherein, it has been emphasized that even in cases of default, repossession must be carried out strictly in accordance with law and through legally sanctioned procedures. These pronouncements leave no manner of doubt that self-help measures involving force, intimidation, or coercion are impermissible.

16. Applying the aforesaid principles to the facts of present case, this Court finds that petitioner has alleged that the vehicle was taken into possession by recovery agents. These allegations are serious in nature. However, respondents have not placed cogent material on record to demonstrate that possession of the vehicle was taken strictly in accordance with due process of law. Significantly, no material has been produced to indicate compliance with the procedural safeguards ordinarily required prior to repossession, including issuance of notice and affording opportunity to the borrower. In the absence of such material, the action of respondents in taking possession of the vehicle cannot be said to be in accordance with law. The existence of a repossession clause in the loan agreement does not authorize the respondents to take law into its own hands. It is trite that contractual terms cannot

override the requirement of legality and due process. Any enforcement of contractual rights must necessarily conform to law. Moreover, dispute regarding the quantum of outstanding dues remains contested. Such disputes require adjudication by competent forums on the basis of evidence and cannot justify unilateral action in the nature of repossession without following due process.

17. In view of the aforesaid discussion, this Court is of the considered opinion that the action of respondents in repossessing/attempting to repossess the vehicle without demonstrating due compliance with the procedure established by law is unsustainable. Such action amounts to deprivation of property without authority of law and is violative of Article 300A of the Constitution of India.

18. Accordingly, the writ petition is allowed in the following terms:

(i). The action of respondent Nos.2 and 3 in repossessing and/or attempting to repossess the vehicle in question, without adherence to due process of law, is declared illegal and unsustainable.

(ii). The respondents are directed to forthwith release and restore possession of the vehicle to the petitioner, if already repossessed.

(iii). The respondents, their agents and representatives are restrained from interfering with the peaceful possession and use of the vehicle except in accordance with due process of law.

(iv). It is clarified that this order shall not preclude the respondents from recovering their legitimate dues, if any, in accordance with law before the appropriate forum.

19. Pending applications stand disposed of.

(**Pankaj Purohit, J**.)
27.04.2026

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