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

**RA-CW-436-2025 in  
CWP-1951-2024  
Date of decision: 01.10.2025**

INDIAN BANK

....Petitioner

Versus

DISTRICT MAGISTRATE, KAITHAL

...Respondent

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE  
HON'BLE MR. JUSTICE SANJIV BERRY**

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Present: Ms. Jasleen Kaur, Advocate  
for the review applicant-petitioner.

Mr. Deepak Balyan, Addl. Advocate General, Haryana.

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**SHEEL NAGU, C.J. (Oral)**

1. Review petition bearing No.RA-CW-436-2025 has been filed by petitioner-Bank pointing out palpable error, which according to the petitioner has crept in final order dated 27.08.2025 passed in CWP-1951-2024, by which the said petition was disposed of extending liberty to review petitioner (Petitioner in CWP-1951-2024) to avail remedy u/s 17 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act for brevity).

2. This Court in a recently passed order dated 26.09.2025 in CWP-10989-2023 titled as '**M/S Encore Asset Reconstruction Company Private Limited vs. District Magistrate, Chandigarh And Others**' has held that the secured creditor cannot avail remedy u/s 17 of SARFAESI Act, since it is the recourse adopted by the secured creditor u/s 13(4) of SARFAESI Act against



which the aggrieved person including borrower can file an application u/s 17 of the Act.

2.1 The relevant extract of the aforesaid order dated 26.09.2025 rendered in CWP-10989-2023 is reproduced below:-

5. *Thus, it is evident from the textual and contextual interpretation of Section 17 of SARFAESI Act, that this provision makes available remedy for borrowers as well as any person adversely affected by any of the recourses taken by secured creditor u/s 13 (4). Secured creditor, thus, cannot fall in the category of aggrieved person. In other words, perpetrator of crime cannot be allowed to wear the robes of a victim.*

5.1 *Learned counsel for U.T. Administration has relied upon a decision of the Apex Court in 2011 (2) SCC 782, titled as 'Kaniyalal Lalchand Sachdev and others vs. State of Maharashtra and others', where, it was held that since Section 14 of SARFAESI Act is one of the recourses contemplated u/s 13(4) of SARFAESI Act, the remedy against such a recourse adopted by secured creditor is before the Debt Recovery Tribunal u/s 17 of SARFAESI Act. However, the facts of Kaniyalal' case (supra) reveal that it was the borrower, who had approached the High Court by invoking writ jurisdiction, whereafter, the matter went up to the Apex Court. Thus, the said case is founded on distinct set of facts. As such, the decision cited by learned counsel for the respondent/U.T. Chandigarh, i.e. Kaniyalal case (supra), is of no avail.*

6. *Therefore, the crux of the aforesaid discussion is that remedy u/s 17 of SARFAESI Act is available to any aggrieved person including the borrower and the expression 'aggrieved' cannot include the secured creditor. The powers u/s 14 of the SARFAESI Act conferred upon District Magistrate/Chief Judicial Magistrate are one of the recourses available to the secured creditors, to adopt for enforcement of security interest."*



3. In view of the above, review petition No.RA-CW-436-2025 is allowed, since the order under review dated 27.08.2025 passed in CWP-1951-2024 suffers from impalpable error.

4. CWP-1951-2024 is restored to its original number, to be listed on 04.11.2025.

**(SHEEL NAGU)**  
**CHIEF JUSTICE**

**(SANJIV BERRY)**  
**JUDGE**

**01.10.2025**  
*mohit goyal*

Whether speaking/reasoned : Yes / No  
Whether reportable : Yes / No