

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF FINANCIAL SERVICES
LOK SABHA

UNSTARRED QUESTION NO. 2053

ANSWERED ON Monday, March, 13, 2023/Phalgun 22, 1944 (Saka)

Harassment under SARFAESI Act

2053. SHRI RAJIV RANJAN SINGH ALIAS LALAN SINGH:

Will the Minister of FINANCE be pleased to state:

- (a) whether the Government is aware that Banks, NBFCs or Cooperative Institutions harass their customers in the garb of SARFAESI Act, 2002;
- (b) if so, whether the said institutions take possession of the property of the customers and misuse it if its value is more than the remaining loan amount;
- (c) if so, the details thereof along with the details of the time limit fixed for disposal of the seized property under the provision of the SARFAESI Act, 2002;
- (d) whether the remaining amount after disposal is returned to the customers or not; and
- (e) if so, the details thereof?

ANSWER

The Minister of State in the Ministry of Finance
(Dr. Bhagwat Karad)

(a) to (c): The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, provides an enabling legal framework for banks and financial institutions to recover their dues exceeding one lakh rupees by proceeding against secured assets of the borrower/guarantor without the intervention of the court/tribunals. In order to address any concerns regarding property valuation, there are adequate provisions under Rule 8 (5) of the Security Interest (Enforcement) Rules, 2002 under the SARFAESI Act, that cast a duty on the Authorised Officer of the secured creditor (bank or financial institution) to obtain the valuation of the property from an approved valuer, which is taken in to consideration while fixing reserve price in consultation with secured creditor before putting the property on sale. Any aggrieved debtor/borrower has recourse to filing of Securitisation Application in the Debts Recovery Tribunal (DRT) against action of secured creditor/financial institution under the SARFAESI Act. The decision of DRT can be challenged before the Debts Recovery Appellate Tribunal (DRAT).

(d) & (e): Section 13(7) of the Act provides that, where any action has been taken against a borrower under the provisions of sub section (4), all costs, charges and expenses which in the opinion of the secured creditor, have been properly incurred by him or any expenses incidental thereto, shall be recoverable from the borrower and the money which is received by the secured creditor shall , in the absence of any contract to the contrary, be held by him in trust, to be applied firstly, in payment of such costs, charges and expenses and secondly in discharge of the dues of the secured creditor and the residue of the money so received shall be paid to the person entitled thereto in accordance with his rights and interests.
