

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

UNSTARRED QUESTION NO. 2889

TO BE ANSWERED ON Monday, August, 7, 2023/Sravana 16, 1945 (Saka)

SARFAESI Act , 2002

**2889. SHRI T.N. PRATHAPAN
SHRI BENNY BEHANAN
ADV.ADOOR PRAKASH**

Will the Minister of FINANCE be pleased to state:

(a) Whether the Government is cognizant about the increasing unethical loan recovery practices by various loan recovery companies by selling the mortgaged property of borrowers/guarantors at less than the guidance value in total violation of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act); and

(b) if so, the steps taken and being taken by the Government to check unethical loan recovery practices by financial institutions, banks and private Non-Banking Financial Companies, despite the RBI regulations that prohibit any coercion or harassment?

ANSWER

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

(a) The Central Government administers the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 which allows 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. The Government is not involved in commercial decisions or recovery proceedings of banks or financial institutions. As per the existing provision of SARFAESI Act, there is no prescription regarding any "guidance value" for loan assets.

As such, to address any concerns about 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 (as defined in the Rules) and in consultation with the secured creditor, fix the reserve price of the property before putting the property on sale.

(b) All financial institutions, banks and private Non-Banking Financial Companies are required to comply with the guidelines issued by RBI from time to time. Compliance to provisions of the SARFAESI Act is examined on sample basis by RBI during the Supervisory Assessment and any noncompliance observed are taken up with the concerned Financial Institution/Bank/NBFC for rectification apart from initiating supervisory/enforcement action, as deemed fit by RBI.

Further in order to address any concerns regarding misuse of powers under SARFAESI by any secured creditor (Banks/Financial Institutions/NBFCs) there are adequate provisions under Section 17 and 18 of the SARFAESI Act, 2002, wherein any person (including borrower) aggrieved has recourse to filing of Securitisation Application (SA) in the Debts Recovery Tribunal (DRT) against the action of secured creditor under the SARFAESI Act. The decision of DRT can be challenged before the Debts Recovery Appellate Tribunal (DRAT).
