

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

UNSTARRED QUESTION NO:1678
ANSWERED ON:10.12.2004
SPECIAL POWER TO BANKS
Meghwal Shri Kailash

Will the Minister of FINANCE be pleased to state:

- (a) whether the Government has given approval for a Bill for giving special power to the banks to sell the objects being mortgaged by the customers to recover outstanding loans;
- (b) if so, the details thereof;
- (c) whether attention of the Government has been drawn to the fact that at the time of auction, banks by way of making pools of bidders sell the goods at a nominal price and the amounts are distributed among bank officials and bidders; and
- (d) the steps taken by the Government for protection of the property owners who have taken loan from such irregularities?

Answer

MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI S.S. PALANIMANICKAM)

(a) & (b): The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act which was enacted in 2002, inter alia, provide for enforcement of security interest for realisation of dues without the intervention of Courts or Tribunals. As per section 2(l)(zf) of the said Act, the security interest, inter alia., covers mortgage.

(c): In terms of Rule 6 and sub-rule (5) of rule 8 of the Security Interest (Enforcement) Rules, 2002 framed under the above Act, the authorised officer shall obtain the valuation of the movable / immovable asset from the approved valuer and in consultation with the secured creditor fix the reserve price of the property before effecting the sale and the property may not be sold below the reserve price.

The sale of whole or any part of the secured movable/immovable asset can be effected by adopting any of the following methods :-

- (i) obtaining quotations from parties dealing in the secured assets or otherwise interested in buying such assets; or
- (ii) inviting tenders from the public; or
- (iii) holding public auction; or
- (iv) by private treaty.

(d): Section 19 of the above Act provides that if the Debt Recovery Tribunal or the Appellate Tribunal, as the case may be, on an appeal filed under Section 17 or Section 18, holds the possession of secured assets by the secured creditor as wrongful and directs the secured creditor to return such secured assets to the concerned borrower, such borrower shall be entitled to payment of such compensation and costs as may be determined by such Tribunal or Appellate Tribunal.