

Title: Consideration and passing of the Registration and Other Related Laws (Amendment) Bill, 2000.

19.15 hrs

MR. CHAIRMAN: Now, we take up item No. 18. Shri Arun Jaitley.

...(Interruptions)

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS AND MINISTER OF SHIPPING (SHRI ARUN JAITLEY): Sir, I beg to move:

"That the Bill further to amend the Registration Act, 1908, the Transfer of Property Act, 1882 and the Indian Stamp Act, 1899, be taken into consideration."

It has been noticed both by the Central Government and the State Governments that in relation to the Registration Act, there is no uniformity all over the country. Some State Governments have amended the law. One of the provisions of the Registration Act relating to sale of immovable property has been that properties are sold without proper documentation merely under agreements, and in part performance of those agreements, possessions are handed over and they become effectively the final title documents. These documents are not required to be registered throughout the country. Some States have made their amendment. Wherever they are not required to be registered, it leads to States' losing a large amount of revenue on stamp duty.

The purpose of this Bill is the following that in whichever cases the possession is handed over along with all agreements to sell, the registration will be compulsory.

The second issue that had arisen was that property transactions all over the country could be got registered in the four metropolitan cities in India. Therefore, a large number of cases used to evade by only registering properties from all over the country in four cities. Now, it is intended to be confined to the places where it is to be registered.

The third effect is that barring presidency towns, they will only register properties relating to those towns and not transactions all over the country.

The fourth effect is that an enabling provision for electronic and computerised documentation at the Registrar's Office is sought to be created. There is also a requirement of fingerprints and photographs of both the seller and the buyer.

This matter was referred to departmentally-related Standing Committee. The Standing Committee, in fact, improved upon the earlier Bill by suggesting that photographs not only of the seller but also of the buyer must be there so that frauds in relation to the transactions were not there. The effect of this Bill, therefore, would be that there will be uniformity all over the country. The properties will be required to be registered in their State rather than transactions where people can be deceived because nobody buying a property in one part of the country will go to Mumbai and Delhi to check up whether it is registered there or not. The registration will also imply payment of stamp duty because a large part of the State's revenue was being taken away. In fact, one of the Ministers from Bihar, who deals with this, came to me today to suggest that the State is losing a large amount of revenue and this should be done as far as the entire country is concerned.

In addition to this, there are two corresponding changes that will be required to the Transfer of Property Act and the Stamp Act.

I may mention that the Stamp Act is a State subject. Therefore, the amendment which we make to the Stamp Act is that at the stage of agreement to sell, because it requires compulsory registration, ninety per cent stamp duty is payable; at the time of sale deed, the balance 10 per cent will be payable. This is intended to stop the leakage of the stamp duty as far as the State is concerned. But because it is a State subject, the parliamentary jurisdiction will only be to the Union Territories. Therefore, the amendment to the Stamp Act will only be an amendment that will apply to the Union Territories. Then, all States would have to follow up by respective amendments, if they so desire, to the State Stamp Acts.

With these observations, I move that the Bill be adopted by this House and approved.

MR. CHAIRMAN : Motion moved:

"That the Bill further to amend the Registration Act, 1908, the Transfer of Property Act, 1882 and the Indian Stamp Act, 1899, be taken into consideration."

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Mr. Chairman, Sir, as the hon. Minister pointed out, over the years, there has been a widespread practice of transferring immovable property in one form or the other without getting it registered. This was for a variety of reasons.

Two prominent of those were, restriction by the various State Governments or the Administration on transfer of property allotted to a person by a Development Authority or some similar authority for a number of years. A person who got a property allotted from that Development Authority was not entitled to transfer it for a number of years for any reason whatever, including the financial constraints in the family. These may compel a person to transfer the property, but since the law forbids that transfer, people have resorted to this practice of GPA.

Now, when we have a Bill like this before us, it was imperative for us to go into the genesis of the problem. That, somehow is not the subject of the hon. Minister, but those problems or issues have not been tackled with.

My first point here is that when the Government was wanting to bring about this amendment, which is, of course, a welcome measure, the first thing that the Government should have done was to have called the meeting of the Chief Ministers, which was called, to have discussed in detail to do away with those archaic laws. There was a time when the Government considered that it had the right over the transfer of property for a certain number of years. But now with the liberalisation that we are talking of, such retrograde provisions, I should say, should be done away with. If a person is able to get a house allotted to him from any authority today, what should really stop him from selling it tomorrow if he wishes to sell it off? That is the first thing that I wanted to point out.

The second and that has been our normal experience, is the high incidence of stamp duty. We have seen that one particular piece of property has been transferred not once but a number of times by a general power of attorney repeatedly. Why? Because every transaction would otherwise entail a heavy stamp duty. Since the hon. Minister says that this matter, the amendment, which he is now incorporating is primarily directed against such transactions in the Union Territories, I would give example of my Union Territory.

Union Territories come directly under the administration of the Government of India. The amount of stamp duty fixed in Chandigarh is exorbitant. They take the example of Punjab. Punjab had once raised it to 20 per cent and so. We followed suit. Punjab has come down, but we will not. It is essentially, as I have seen with my experience, that it is high incidence of stamp duty which keeps people back from getting their property registered and they resort to measures like getting it transferred on power of attorney.

These are the two things, which I think, the Government should have done immediately to ensure that people do not resort to such practices. The hon. Minister should create a congenial environment for the people to come and opt for transfer based on, what is to some extent, genuine or reasonable stamp duty. We should see why people are really evading that.

Since, this amendment has been made, I certainly would urge upon the Government, whether the Minister of Law or Minister of Urban Development, to take this matter seriously and to ensure that the genesis of the problem is knocked out. Simple amendment to law would not really help and people may find other means, but this certainly is a good amendment to deter people from taking recourse to these measures where you do not get the power of attorney or agreement registered and somehow get the property transferred. Now, they are putting a levy of 90 per cent of the normal stamp duty in case of this agreement as such. This would certainly help to an extent.

The other thing, which I, of course, must welcome is the measure to put an end to that prevalent practice of getting the transfers registered in the metropolitan cities as also Delhi here. We have seen over the years that land mafias, which have cropped up in different parts of the country, buy and sell property without the original owner knowing anything about it. Somebody else would step in his shoes, maybe after the death of the person who owned some property, he dies in intestate, leaves back some property, some other people lay claim to it getting into some sort of collusion or some agreement with anti-social elements and get the land registered in Delhi. That would cause and lead to many difficulties. That has certainly been done away with.

Sir, the Minister did explain that this present Amendment Bill is limited to the Union Territories. ...(*Interruptions*)

SHRI ARUN JAITLEY: Only the stamp part ...(*Interruptions*)

SHRI PAWAN KUMAR BANSAL: Sir, I wonder why this was missed out earlier when the Bill was presented. I never see this thing happening in the case of Shri Arun Jaitley. I have had experience where Bills were brought to the Parliament, and even if we tried to point out some mistakes, the arrogant and haughty bureaucrat who had framed the Bill would just not accept it and it had to be passed. I do not know how this has crept in. If I do not sound technical about it, such an amendment in the form of an amendment to the Bill by the Minister even goes beyond the scope of the Bill as such. I am not really raising an objection to that. But, certainly care should be taken that such things do not happen and we come with one flawless piece of legislation, as we have had from the hon. Minister, and he should live up to his reputation.

Mr. Chairman, Sir, I find that you are quite eager to see that I sit down. Well, I do.

Sir, I support the Bill.

श्री रवि प्रकाश वर्मा (खीरी) : सभापति महोदय, सरकार द्वारा रजिस्ट्रीकरण और अन्य संबंधित विधियां संशोधन विधेयक प्रस्तुत किया गया है, इसके मूल उपबन्धों से सहमत होते हुए, मैं दो बातें कहना चाहता हूँ।

महोदय, सरकार का रेवेन्यू बढ़ाने का भी लक्ष्य है और यहां पर बहुत सी प्रापर्टीज खाली एग्रीमेंट पर ही ट्रांसफर हो रही थी और उससे लीगल काम्प्लिकेशन्स पैदा हो रही थीं। इस व्यवस्था को साफ सुथरी रूपरेखा देने के लिए और रेवेन्यू को बढ़ाने के लिए यह व्यवस्था रखी गई है। मैं एक खास बात इंगित करना चाहता हूँ। मैंने देखा है कि ग्रामीण क्षेत्रों में खासकर उत्तर प्रदेश में जो आबादी वाले स्थान हैं, उनमें प्रापर्टीज का प्रापर डाक्युमेंटेशन नहीं है। इससे भी समस्याएँ खड़ी होती हैं। रैजिडेंशियल प्रापर्टीज जहां आम तौर पर परम्परागत सिस्टम चला आ रहा है, किसके कब्जे में कितना क्षेत्र है, उसी को आधार मान लिया जाता है। इससे जो झगड़े पैदा होते हैं, वे बरसों तक अदालतों में चलते हैं और उससे ग्रामीण जनों का शोण होता है और न्याय प्रणाली की व्यवस्था है, उसमें परिणाम मिलने में बहुत देरी लगती है। इसलिए मेरा आपसे अनुरोध है कि जो ग्रामीण क्षेत्रों में रिहायशी प्रापर्टीज हैं, उनके प्रापर डाक्युमेंटेशन की व्यवस्था कराई जाए।

जहां तक स्टैम्प ड्यूटी का सवाल है, हालांकि यह मामला स्टेट्स का है, लेकिन आपने प्रावधान किया है कि यह यूनियन टैरिटरिज पर ही लागू होगा। मेरा अनुभव रहा है कि स्टेट्स में भी जमीनों को रेट्स तय किए जाते हैं, उनमें कहीं-न-कहीं तय करने वाली मशीनरी उन पर प्रापर्टी डीलर का प्रभाव रहता है। हमने देखा है कि एक ही लोकैलिटी के अन्दर दो किस्म के रेट लिए जाते हैं। एक जगह एक रेट लगा और उसी जगह दूसरे का रेट कुछ और लगा हुआ होता है। डिस्प्यूट होता है, तो पूरी की पूरी मशीनरी को गुनाहगार ठहरा दिया जाता है और लोगों को परेशानी होती है। सिस्टम बनाया गया है कि दस प्रतिशत बेनामी एग्रीमेंट चैक किए जायेंगे। यह अपने आपमें एक मैकेनिज्म बन गया है, उनमें छॉट-छॉट कर केसेज को लिया जाता है और इस काम में भी दलाल लगे हुए हैं। उसके बाद जो दस प्रतिशत टैस्ट होते हैं, उनमें 10 प्रतिशत से 100 प्रतिशत पैनल्टी का प्रावधान है, इसमें भी जनता का शोण होता है।

सरकार ने जो विधेयक प्रस्तुत किया है, उसको ध्यान में रखते हुए, हमारा आपसे अनुरोध है कि इन विशेष उपबन्धों पर विचार करते हुए, अपनी व्यवस्था देने की कृपा करेंगे।

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : सभापति महोदय, मंत्री जी अदभुत विधेयक लाए हैं। मैं इसलिए अदभुत कह रहा हूँ क्योंकि उसमें एक कानून सौ वां पुराना है, एक 109 वां और एक 92 वां पुराना है। इस विधेयक का नाम रजिस्ट्रीकरण और अन्य संबंधित विधियां रखा है। एक ही विधेयक में तीन विधेयक हैं - एक रजिस्ट्रीकरण अधिनियम 1908, दूसरा संपत्ति अंतरण अधिनियम 1882 और तीसरा भारतीय स्टाम्प अधिनियम 1899। इसमें मंत्री जी ने दावा किया है कि सन् 1998 में वित्त मंत्रियों की बैठक हुई थी और उसी में एतद् संबंधी निर्णय हुआ, जिसके कार्यान्वयन के लिए यह विधेयक लाए हैं। इसमें एक क्लॉज़ स्वागत योग्य है कि अब तक कोलकाता, दिल्ली, मद्रास, चेन्नई आदि चारों जगहों में देश भर की जमीनों की रजिस्ट्री हो जाती है। हम लोगों की बिहार की ज्यादातर रजिस्ट्री वहीं चली जाती थी। बिहार राज्य का टैक्स मारा जाता था। उस प्रावधान को इन्होंने समाप्त कर दिया, जो स्वागत योग्य है।

इन्होंने दावा किया है कि जितने दस्तावेज पुराने जमाने में लिखे रहते थे, उन सब की लोग नकल लेते थे, अब ये कहते हैं कि हम सब कंप्यूटर में डाल देंगे। अब जब कम्प्यूटर में गड़बड़ी होगी तो उसका इलाज कौन करेगा - यह बताइए। कंप्यूटर में भी गड़बड़ी होती है- कभी वाई टू के की गड़बड़ी, कभी कुछ अन्य गड़बड़ी हो जाती है। अब दस्तावेज़ रखा रहेगा। उसमें खसरा नम्बर, खाता बदल जाएगा, हेरा-फेरी हो जाएगी। उसका आपके पास क्या इलाज है। पहले हाथ से लिख कर जमा होता था। अब ये कहते हैं कि सब कुछ कंप्यूटर में डाल देंगे, उसमें डालने से जो खतरा होगा उसका क्या इलाज है।^(व्यवधान)

मंत्री जी जवाब दीजिए। ये कहते हैं कि धारा 32 के आधीन कार्यालय में समुचित रजिस्ट्रेशन, दस्तावेज प्रस्थापित करने वाला प्रत्येक व्यक्ति उस दस्तावेज पर अपना पासपोर्ट आकार का फोटो और उंगली छाप लगाए। महोदय, जो दस्तावेज बनता है, उसे खरीदने वाले और रजिस्ट्री करने वाले पहले साक्षर थे। वे दस्तखत करते थे और अंगूठे के भी निशान लगाते थे - बाएं अंगूठे का निशान। इन्होंने कानून में लिखा है कि उंगली छाप लगाएगा।^(व्यवधान) कानून साफ होना चाहिए। इन्होंने लिखा है कि उंगली छाप लगाएगा, पहले उंगली का निशान था।^(व्यवधान) आप पहले मेरी पूरी बात सुन लीजिए। अब ये कहते हैं कि फोटो भी रहेगा। गांवों में कहां से फोटो खींचने वाला आएगा? वे लोग पहले फोटो खींचाएंगे, फिर जाएंगे। क्या कारण है, आप ऐसा क्यों कर रहे हैं? ^(व्यवधान) इसमें क्या खराबी है? अभी सौ वां पहले जो कानून बना, सौ वां में यह विवाद कहां आया? क्या कारण है, क्या परिस्थितियां उत्पन्न हुईं, यह बताएं, जिससे मंत्री जी को बाध्य होना पड़ा कि फोटो भी लगानी पड़ेगी और फिर उंगली छाप का निशान। कानून मंत्री बताएं कि यह झंझट वहां उठेगा या नहीं, यह बात साफ होनी चाहिए। उंगली मतलब कौन सी उंगली? पहले था लैफ्ट हैंड, मतलब अंगूठे वाला। अब कौन सा होगा - तर्जनी वाला, मध्यम वाला, अनामिका वाला, कनिठिका वाला, बाएं वाला या दाएं वाला।

यह बात साफ होनी चाहिए। गड़बड़ कानून बनेगा तो वकील लोगों की बन आयेगी।^(व्यवधान)

इसलिए माननीय मंत्री जी स्पष्ट करें कि इस क्लॉज़ में फोटो वाला प्रावधान क्यों जोड़ रहे हैं, अंगुली की छाप की बात क्यों जोड़ रहे हैं और इसको अनिवार्य क्यों कर रहे हैं? कम्प्यूटर वाली बात जो मैंने कही है वह भी मंत्री जी स्पष्ट करें। रजिस्ट्री जो होती है तो उसमें एक खरीदने वाला होता था वह लिखने वाले को दही-चूरा खिलाता था। दाम खेत का ज्यादा है और लिखवा दिया कम। फिर रजिस्ट्री में लेट फाइन लगता है तो वह क्या है? लेट फाइन जो लगता है वह घूस है। रजिस्ट्रार साहब कहते हैं कि देर से आया है तो फाइन लाओ तो यह कानून में ही प्रावधान क्यों नहीं कर देते हैं। पहले तो करोड़ों रुपये की खरीद केवल दस्तखत से ही हो जाया करती थी आज आप अंगुली और फोटो की बात करते हैं। एक तरफ कम्प्यूटर की बात और एक तरफ अंगुली के निशान की बात, यह क्या है। या तो नयी बात, कम्प्यूटर की बात रहे या पुरानी परम्परागत बात रहे। एक तरफ कहते हैं कि कम्प्यूटर लागू कर रहे हैं और दूसरी तरफ अंगुली वाली बात, तो माननीय मंत्री जी इसको स्पष्ट करें।

SHRI ADHIR CHOWDHARY (BERHAMPORE, WEST BENGAL): Hon. Chairman, Sir, the hon. Minister of Law, Justice and Company Affairs, who is also a legal luminary, has brought a Bill for consideration and passing by this

House. The Bill is intended to incorporate into and bringing together three existing Acts – the Registration Act, 1908 under one umbrella; Transfer of Property Act, 1882 and the Indian Stamp Act, 1899. To this end, the Bill is sought to amend and in tandem insert a few Sections. So, the Bill consists of a parallel amendment.

The fact is that the practices prevailing as of now facilitate the unscrupulous dealers to transfer properties without having a proper registration and thereby circumvent the tax net. The Bill is also doing away with the much mis-used practice that allows registration of immovable property across the country, in any of the four metros. However, I would like to draw the attention of the hon. Minister of Law, Justice and Company Affairs to some articles.

First, I will come to article 23A which is being inserted. It reads:

"23A. CONVEYANCE IN THE NATURE OF PART PERFORMANCE, Contracts for the transfer of immovable property in the nature of part performance under section 53A of the Transfer of Property Act, 1882. "

It is also inserted that ninety per cent of the duty will be chargeable as a conveyance. Here, suppose a person has entered into a contract. As per the provisions of this article, whenever a person enters into a contract, he has to furnish 90 per cent of stamp duty as a conveyance. When that very person conducts his search a few days later to determine the status of the property, he may find that such property is not free from legal intricacies. At that time, if the concerned person refuses to honour the agreement, how will the stamp duty of 90 per cent, which has already been paid, be recuperated? This point must be clarified.

Second, a provision has been inserted in this Bill whereby whenever a person presents a document before the Registrar, his finger-print and photography would be required. I would suggest to the hon. Minister that photograph of both the executant and the affixed must be attached because you are going to devise some mechanism so that unscrupulous elements could be identified because at present, the real estate industry has become a safe conduit for pouring black money. Due to this, a parallel economy has already been generated in our country and the amount of black money in this parallel economy is as equivalent as 50 per cent of that of our real Indian economy.

I would like to ask one more clarification. In my State, West Bengal, there is a practice(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): What is this? This is unfair. If they are not interested, they can go. Why are they disturbing?

संसदीय कार्य मंत्री तथा सूचना प्रौद्योगिकी मंत्री (श्री प्रमोद महाजन) : इतना गुस्सा क्यों कर रहे हैं? माननीय सदस्य अपनी बात कह रहे हैं।

SHRI ADHIR CHOWDHARY: Sir, in my State, whenever you go to register an immovable property, you have to pay stamp duty in the form of bank draft to the Registrar. Therefore, I think, the Central Government is being deprived by this way. Furthermore, there is no Valuation Chart anywhere in my State. So, if the hon. Minister introduces a provision which provides that a gazette notification must be issued, it will help the common people a great deal to determine the stamp duty payable in the said area. It is a practice continuing in West Bengal and it is a vexed issue as far as my State is concerned.

Sir, I do not want to upset the applecart driven by our Law Minister. I would support this Bill because the Bill is intended to plug a loophole of the illegal transfer of property.

Sir, if you consider the entire scenario, then you will find that because the security environment is not congenial, this construction industry and the real estate industry are accruing huge profit by unfusing black money of drug trafficking and arms dealers and thereby the State Governments are deprived of their exchequer, which should be the main concern of our country. So, I am very much in agreement with the Law Minister that this Bill will help a lot to fatten the coffers of the State Governments.

I am supporting this Bill with some reservations, which need to be clarified by the hon. Law Minister. With these words, I conclude.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS AND MINISTER OF SHIPPING (SHRI ARUN JAITLEY): Sir, some very valuable suggestions have been made and some issues have been raised. I will just respond to some of the very vital points, which have been raised in the course of this discussion.

One of the principal objects of this legislation has been that States are the recipients of the Stamp Duty. Stamp Duty is evaded from the review of the States in two manners. One, you go to the four Presidency towns – they get the Stamp Duty; the States lose the Stamp Duty. Second, your documentation is so prepared that even though

agreements are entered into, possessions are handed over, they still remain only tentative agreements on paper, even though they create irreversible relationships, particularly because of the provisions of Section 53 (A) of the Transfer of Property Act. Final sale documents are never executed. So, the States never receive the Stamp Duty revenue.

The principal object of this Bill was that whenever possession is handed over along with this documentation, this will require compulsory registration, and every State will have its own chart of Stamp Duty payable. In the context of Union Territories, we have fixed it at 90 per cent. The balance 10 per cent would be payable at a later stage.

A very valid question was raised that what if you seek to reverse the registered documents. Well, this is not only applicable to this situation of agreements to sell, reversal of registered documentation, cancellation of sale deeds is a process, which is independently provided for. What is the quantum of Stamp Duties, which are refundable at that stage, is independently provided for in the law itself. There is no new situation, which is created. The law is already there which deals with such a situation. ...(*Interruptions*)

SHRI ADHIR CHOWDHARY : I had raised one question. Suppose, a person has entered into a contract. At that time, he has to pay 90 per cent Stamp Duty. Later, it was found that the property, which has been purchased, is in a defective situation, I mean, it is not free from any legal intricacies. Then, how would that person recuperate that money? Therefore, I would suggest to you that at least you should maintain a stipulated period so that the registration of conveyance could be managed within that period to avoid this situation. ...(*Interruptions*)

श्री शीशराम सिंह रवि (बिजनौर) : क्यों समय बेकार कर रहे हो? ...(*Interruptions*)

MR. CHAIRMAN : Please do not use such words.

SHRI ARUN JAITLEY: It is a very valid suggestion which the hon. Member has made. I will certainly look into this issue. But I must also mention that with regard to the period prescribed within which the documents are entered into, that also is independently provided for in the Act. Therefore, these are all situations which the existing law covers. In case, any lacuna in the existing law is brought to our notice, I will look into it. I will certainly examine the suggestion which was made and certainly consider it with the spirit in which it has been made. ...(*Interruptions*)

SHRI E.M. SUDARSANA NATCHIAPPAN (SIVAGANGA): It is actually a very welcome step. Except for the 10 per cent reduction in the Stamp Duty that has to be paid, in all respects, it becomes a sale deed.

Section 53A itself has been removed.

SHRI ARUN JAITLEY: No, it has not been removed.

SHRI E.M. SUDARSANA NATCHIAPPAN : Except for that ten per cent, it has been removed.

SHRI ARUN JAITLEY: No. It has not been removed. I will explain the position. Under the existing law, an agreement to sale simpliciter will not require a registration unless there are some State amendments which makes it compulsory. But if agreement to sell in part performance of the agreement to sell, possession is also given, then that delivery of possession becomes irreversible because of section 53A and the possession is protected on account of the provisions of 53A of the Transfer of Property Act. In such a situation you have an agreement to sell and possession as part of the agreement to sell. Because of section 53A, it becomes as good as a final sale document as you have rightly said. So, when you have a document which has a character of finality, then is it fair that the State gets a stamp duty of only Rs. 2/- or not even that it could be on a plain piece of paper? So, the States, when you have a document of this kind, will get 90 per cent revenue and therefore, there will be a pressing need to have a final document for which you pay the balance ten per cent. This is applicable only in case of Delhi and other Union Territories. If some State Governments feel that they do not require Stamp Duty, then they are free not to do so. But I am quite certain, taking a cue from this legislation, that the States will not allow people to get away without paying Stamp Duty. To give them this concession of getting a title of property, getting possession of a property but not contributing any Stamp Duty to the State revenue that is the reason why this has been made.

Sir, the question raised by Shri Bansal is also a very valid question. Today, in this Parliament we are not in a position to fix it because it is a State subject but at places where the rate of Stamp Duty has become very high, in fact, this is a deterrent on the over all objective of encouraging housing. It adds to the cost and if it adds to the cost, it adds to the rentals and it adds to the cost of immovable property going up and thus it becomes a deterrent towards giving a fillip to the housing sector as such. This is an independent question that the States would have to consider because the States are confronted with a situation where on the one hand we are telling them to bring the revenue down, on the other hand the States are already starved of revenue. Therefore, the States also are in a difficult situation. It is a question that has to be independently examined.

AN HON. MEMBER: What would happen in case of power of attorney?

SHRI ARUN JAITLEY: The same principle will apply. If it is coupled with transfer of possession and comes within section 53A, then it is required to be compulsorily registered. The name of the document is immaterial. The character of the document is the real issue. If the character of the document is that you are taking possession and you are having an agreement or a power of attorney, then you do not execute the sale deed, you can dupe the States of crores of rupees of revenue. That is what has been happening. That is what every State has insisted that this aberration should be corrected.

रघुवंश बाबू ने कुछ प्रश्न किये थे। मुझे लगता है कि कई बार आप बहुत ही गंभीर विषय उठाते हैं जिनमें परेशानी होती है। अगर आप इसकी धारा - 16A को देखें तो उसमें स्पष्ट रूप से लिखा है कि जो रजिस्ट्रेशन ऐक्ट के तहत रजिस्ट्रार के ऑफिस में आज भी ट्रेडीशनल डॉक्यूमेंटेशन जो कागज़ पर होगा वह चलेगा। उसकी जो पुस्तकें हैं, वह उसी प्रकार से रहेंगी जो पहले से हैं, लेकिन कभी आपने वहां जाने का अनुभव किया है तो सेल डीड उसी कागज़ पर होगी, स्टैम्प ने अभी कंप्यूटर की शेष नहीं ली है तो जो स्टैम्प ड्यूटी लगेगी, वह भी कागज़ पर लगेगी, लेकिन कभी वहां जाकर इस्पैक्शन करने का आपको अवसर मिला है तो 10000 किताबें आपके सामने रखी जाएंगी और इनमें से एक-एक पन्ना पलटिये और उसकी इस्पैक्शन करने का प्रयास करिये। इसलिए सैक्शन 16A में लिखा है एक शब्द जो शायद आपसे छूट गया notwithstanding anything contained in section 16 और सैक्शन 16 कहता है कि books will be maintained. जो कागज़ पर होंगे the books provided under sub-section 1 of that section, may also be kept into the computer. तो जो ट्रेडीशनल डॉक्यूमेंटेशन होगा, उसके अतिरिक्त कंप्यूटर भी होगा।

सभापति जी, इसलिए जो ट्रेडीशनल डाक्यूमेंट होगा, उसके अतिरिक्त कंप्यूटर भी होगा। जो आपका ट्रेडीशनल ओरिजनल कागज़ होगा, वह ट्रेडीशनल डाक्यूमेंटेशन के ऊपर होगा, स्टाम्प पेपर पर होगा, उसकी रजिस्ट्रेशन होगी क्योंकि कंप्यूटर के ऊपर रजिस्ट्रेशन का सिस्टम अभी तक शुरू नहीं हुआ है, लेकिन वही दस्तावेज़ कंप्यूटर के ऊपर भी होगा। कभी आप किसी प्रेसीडेंसी टाउन में या किसी और शहर में जाकर इसकी जानकारी करना चाहें कि इस खसरा नंबर का रजिस्ट्रेशन किसी ने पहले तो नहीं करा लिया, तो आपको 10 हजार कागज़ नहीं पलटने पड़ेंगे। आप कंप्यूटर पर तहकीकात कर सकते हैं कि इस जमीन का सेल ट्रांज़ैक्शन हुआ है या नहीं और यदि हुआ है तो किस व्यक्ति के नाम हुआ है। इसलिए जिस प्रकार के फ्रॉड संपत्ति के संबंध में होते रहे हैं, दोनों प्रकार के कागज़ बनाने से, उसकी गति काफी कम हो जाएगी।

सभापति महोदय, रघुवंश बाबू ने दूसरा प्रश्न यह पूछा कि कंप्यूटर पर अंगूठा कैसे लगेगा। मैं आपको बताऊं कि जब यह बिल विशेषा स्टैंडिंग कमेटी में गया, तो श्री चौधरी ने जो प्रश्न अभी उठाया था, वही प्रश्न कमेटी में भी उठा था। इसमें यह प्रस्ताव था कि जे व्यक्ति वहां दस्तावेज़ लेकर जाता है उसकी फोटो भी हो, उसकी अंगुली का निशान भी हो। अंगुली के निशान का अर्थ यह नहीं होता है कि वह किस अंगूठे का निशान होगा या वह किस अंगुली का होगा। मान लीजिए किसी का लैफ्ट थम्ब कटा हुआ है, तो कौन सा अंगूठा लगेगा ? यह पार्लियामेंट के ऐक्ट में लाने की आवश्यकता नहीं है। यह तो कानून के तहत जो नियम बनते हैं, उनके अंतर्गत लिखा जाता है। इसलिए इस बात को इस कानून के अंतर्गत जो नियम बनेंगे उनमें स्पेसिफिकेशन के रूप में अवश्य लिखा जाएगा। यह इसलिए कहा गया है कि कोई व्यक्ति जाता है और रजिस्ट्रेशन करवाना चाहे, तो कोई जिस स्थान की रजिस्ट्री करा रहा है, उस स्थान पर तो जाकर देखता नहीं है कि वह किसकी है या वहां कौन काबिज है, कौन मालिक है। मान लीजिए मैं किसी की संपत्ति जाली दस्तखत कर के अपने नाम करा लूं तो इस प्रकार की अनेक फोरजरी चलती थीं और कई प्रकार की एक्टिविटीज होती थीं। इसलिए सुझाव था कि उस व्यक्ति का फोटो भी लगेगा कि कौन व्यक्ति है, किसने रजिस्ट्री कराई है और उसकी अंगुली का निशान भी देखा जाएगा। स्टैंडिंग कमेटी ने इसमें कहा कि केवल बेचने वाले का नहीं बल्कि खरीदने वाले का भी फोटो लगे और उसकी अंगुली का निशान भी लगे ताकि कल को जिस प्रकार से संपत्ति के झगड़े होते हैं, उस प्रकार के झगड़े न हों। इस सुझाव को हम लोगों ने स्वीकार किया है और इसकी आफिशियल एमेंडमेंट हमने इसके साथ ही रखी है कि खरीदने और बेचने वाले दोनों व्यक्तियों के फोटो लगे और उनकी अंगुलियों के निशान भी होंगे।

कुंवर अखिलेश सिंह (महाराजगंज, उ.प्र.) : मंत्री जी, उत्तर प्रदेश में यह प्रावधान पहले से ही है।

श्री अरुण जेटली : कई प्रान्तों में इस प्रकार का सिस्टम पहले से ही है, लेकिन इससे पूरे देश के अंदर यूनिफार्मिटी आएगी। जो उद्देश्य था वह यह था कि जिस प्रकार से संपत्ति के झगड़े होते हैं, चीटिंग होती है, बेईमानी होती है वह रुक जाए। इसलिए स्टैंडिंग कमेटी का सर्वसम्मत सुझाव हमने स्वीकार किया है।

Sir, I propose to the hon. House that this be adopted.

MR. CHAIRMAN: The question is:

"That the Bill further to amend the Registration Act, 1908, the Transfer of Property Act, 1882 and the Indian Stamp Act, 1899, be taken into consideration. "

The motion was adopted.

MR. CHAIRMAN: The House shall now take up clause-by-clause consideration.

Clauses 2 to 4

MR. CHAIRMAN : The question is:

"That clauses 2 to 4 stand part of the Bill."

The motion was adopted.

Clauses 2 to 4 were added to the Bill.

Clause 5 Insertion of new

Section 32A

Amendment made:

Page 2,—

after line 21, insert

"Provided that where such document relates to the transfer of ownership of immovable property, the passport size photograph and fingerprints of each buyer and seller of such property mentioned in the document shall also be affixed to the document. " (3)

(Shri Arun Jaitley)

MR. CHAIRMAN: The question is:

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clause 6 was added to the Bill.

Clause 7 Amendment of Section 52

Amendment made:

Page 2, line 26,—

for "photograph"

substitute "photographs" (4)

(Shri Arun Jaitley)

MR. CHAIRMAN: The question is:

"That clause 7, as amended, stand part of the Bill."

The motion was adopted.

Clause 7, as amended, was added to the Bill.

Clauses 8 to 10 were added to the Bill.

20.00 hrs

Clause 11 Amendment of Schedule I of Act 2 of 1899

Amendments made:

Page 3, line 4,--

for "transaction"

substitute "transaction in any Union territory". (5)

Page 3, line 10, --

for "performance"

substitute "performance in any Union territory". (6)

(Shri Arun Jaitley)

MR. CHAIRMAN : The question is:

"That clause 11, as amended, stand part of the Bill."

The motion was adopted.

Clause 11, as amended, was added to the Bill.

Clause 12 was added to the Bill.

Clause 1 Short title

Amendment made:

Page 1, line 6, --

for "2000"

substitute "2001" (2)

(Shri Arun Jaitley)

MR. CHAIRMAN: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

Amendment made:

Page 1, --

for "Fifty-first"

substitute "Fifty-second" (1)

(Shri Arun Jaitley)

MR. CHAIRMAN: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

SHRI ARUN JAITLEY: I beg to move:

"That the Bill, as amended, be passed".

MR. CHAIRMAN: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

MR. CHAIRMAN: The House shall now take up item no. 19.

SHRI PRIYA RANJAN DASMUNSI: Sir, we can take up the rest of the items tomorrow.

MR. CHAIRMAN : Okay. The House stands adjourned to meet tomorrow, the 29th August, 2001 at 11 a.m.

20. 03 hrs.

The Lok Sabha then adjourned till Eleven of the Clock

on Wednesday, August 29, 2001/Bhadra 7, 1923 (Saka)

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