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Title: Further discussion on the motion for consideration of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011 (Discussion concluded and Bill passed).

MR. DEPUTY-SPEAKER: The House shall now take up Item No. 13 – Shri Shailendra Kumar to continue.

**श्री शैलेन्द्र कुमार (कौशाम्बी):** माननीय उपाध्यक्ष महोदय, प्रतिभूति हित का प्रवर्तन और ऋण वसूली विधि (संशोधन) विधेयक, 2011 के बारे में मैं पिछली बार बोल रहा था और लगभग सारी बातें समाप्त हो चुकी थी। चूंकि आज कन्टीन्यू करना है इसलिए आज ज्यादा कुछ न कहकर इतना ही कहना चाहूंगा कि मैंने जो सुझाव पूर्व में दिए हैं, उनका सरकार भली प्रकार से पालन करे। जिन बड़ी कंपनियों या बड़े घराने के लोगों को विभिन्न बैंकों से ऋण दिए जाते हैं, उनके कर्ज की वसूली में सख्ती नहीं बरती जाती है। यह बड़ा दुर्भाग्य है। ऐसा प्रतीत होता है कि भारतीय बैंक उनके लिए लिबरल है और उन्हीं के लिए खजाने रखे गए हैं। मैंने एक-दो कंपनियों का उदाहरण भी दिया था। दूसरी तरफ किसान किसी भी बैंक बैंक ऑफ बड़ौदा, ग्रामीण बैंक, कोऑपरेटिव बैंक या कहीं से भी 10, 20 या 50 हजार या लाख का लोन ले लेता है तो उस पर इतनी सख्ती होती है कि कचहरी से आरसी इश्यू हो जाती है। यहां तक कि उसे लॉकअप में रखा जाता है, उसे जेल जाना पड़ता है। आज यह स्थिति है। भारत की अर्थव्यवस्था को देखते हुए देश के किसानों के लिए इस प्रकार की सख्ती बरतेंगे तो मेरे ख्याल से भारतवर्ष की इकनॉमी पर बहुत प्रतिकूल प्रभाव पड़ेगा।

महोदय, मैं आपके माध्यम से माननीय मंत्री जी से मांग करना चाहता हूं कि इस पर सरकार गंभीरता से सोचे कि जितने बड़े देनदार हैं, जो वसूली से मुक्त हुए हैं, उनसे वसूली क्यों नहीं की गई? क्या कारण था? ऐसे लोगों को बचाने में सरकार ने एक विशेष पहल क्यों नहीं की, यह मैं मंत्री जी से पूछना चाहूंगा।

दूसरी बात मैं कहना चाहूंगा कि अगर उनसे ऋण के कर्ज की वसूली हो जाए तो मेरे ख्याल से देश की इकनॉमी जो अरबों-खरबों रुपये में है, इसके आने से देश का विकास हो सकता है। ... (व्यवधान) किंगफिशर के बारे में मैं उस दिन बोल चुका हूं। इस प्रकार से ऐसे कई घराने हैं, जिनका मैं नाम नहीं लेना चाहूंगा, चूंकि वह दूसरे सदन में सम्मानित सदस्य भी हैं। यह बहुत चिंता का विषय है। मैं ज्यादा कुछ न कहकर आपके माध्यम से यही कहना चाहूंगा कि मंत्री जी इस तरफ विशेष ध्यान दें। जिस तरह से किसानों की ऋण वसूली पर आप सख्ती करते हैं, वैसे ही जो बड़े-बड़े बकायेदार हैं, उन पर भी सख्ती कीजिए, कार्रवाई कीजिए और कर्ज की वसूली कीजिए।

PROF. SAUGATA ROY (DUM DUM): Sir, I rise to speak on the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011. It is a combined law incorporating amendments to two Acts; The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Recovery of Debt due to Banks and Financial Institutions Act, 1993.

Before I speak on Bills itself, I must remember that the nationalization of banks in 1969 was a major step taken by the then Prime Minister, Shrimati Indira Gandhi. For the first time, bank deposits came in the hands of the public. And, for the first time banks went into priority sector and agricultural lending. Further, in 1980 Shrimati Gandhi nationalized six more banks taking the total to 20. Our banking system, our regulator has stood the test of time. In 2008, when there was a global melt down, banks like the Lehman Brothers of USA, the Citi Bank had to receive support from the American Government to survive, none of our banks closed down. So, it is in the interest of all of us that the banking system as such and the regulating system led by the Reserve Bank of India remained strong and remained unaffected. It is in the interest of the nation because in banks on the one hand the security of depositors is concerned and on the other hand the loans to the poorer sections of people are ensured. I remember when Shrimati Gandhi nationalized the banks there were processions in Delhi of the cycle rickshaw pullers. For the first time, they were hopeful that they would get loans from the banks for their needs. So, when we look at any banking law, we must keep this basic purpose in mind. There is no doubt that in the 40 years or more since the first nationalization – the State Bank was nationalized and 15 years before that the Imperial Bank was transformed into the State Bank – the banking system has expanded vastly. The total deposits and the loans have increased manifold. Our banks have to compete in the global market place to survive. If I may mention, earlier the Government had taken two very important steps. Firstly, the SARFAESI Act – as it is called – brought in a new concept called the asset reconstruction company which would take over and realise the secured assets of the banks.

Secondly, the Bank Recovery of Debts due to Banks and Financial Institutions Act, 1993, was also a good step. Under this Act, the Debt Recovery Tribunals were set up which would dispose of cases relating to bank loans and their non-realisation expeditiously. So, I think both these were strong steps to strengthen the banking system as a whole.

Now, the hon. Finance Minister has taken some more steps. In the present drive of the Government towards the so called liberalisation and reforms, what did the Government do? They did not only increase the FDI in multi-brand retail to 51 per cent but the other aspects of the banks were also opened to Foreign Direct Investment. For instance, the asset reconstruction companies have been allowed FDI up to 49 per cent. I am not in favour of this. I do not understand why to reconstruct assets in India, we need Foreign Direct Investment to come in.

With regret, I would say that once the Congress was known for *Swedeshi*. It agitated against import of foreign cloths. Now it seems that the Congress is becoming *Videshi* Congress. It feels that foreign investment is the panacea for all economic ills facing the country. I hope that the Finance Minister who has been the Finance Minister earlier also in the

United Front regime in 1996 and then in the first part of UPA-I and has extreme knowledge about this whole financial sector would explain the rationale behind giving asset reconstruction companies 49 per cent.

The other thing that has been done by the 19<sup>th</sup> October Resolution - on which I would speak in more details when we would discuss the Banking Bill - is that in private sector, 74 per cent Foreign Direct Investment has been allowed. So, our deposits will be controlled by foreign companies and you would be shocked to hear that the public sector banks which Mrs. Gandhi had created by taking them away from the big monopolies in the country, in their equity also, 20 per cent Foreign Direct Investment has been allowed.

I think, these are retrograde steps and ought not have been done. If our banking system can withstand the pressure of global melt down of 2008, then why in 2012 we are exposing our banking system to Foreign Direct Investment where it will be subject to global risks? We know what has happened to banks in the European zone? We know what happened to the banks in America? So, this is something which is not desirable. I would like to request the hon. Finance Minister to re-consider his decision about opening up our banking system to Foreign Direct Investment.

Sir, this Bill unfortunately was not referred to the Standing Committee on Finance headed by Shri Yashwant Sinha. This was violative of the general convention that we have adopted in the House. Otherwise, in a short debate in the House we are not able to consider all aspects in an expert manner.

Sir, you would be surprised to know that the List of Business changes everyday. Earlier two Bills relating to education were listed for discussion in the House. Suddenly the hon. Finance Minister must have thought that he must pass the banking Bills quickly. The List of Business was changed and the Banking Bill and this Bill was prioritised. We did not even get time to submit amendments to these Bill. Many Members approached the Finance Minister and on their request he postponed the discussion on the Banking (Companies) Bill so that some Members could find time to submit their amendments. But we had no opportunity to submit amendments on this Bill. You, as a guardian of the rights of the Members, please ensure that in future all Bills are referred to the Standing Committee on Finance and also that Members get adequate time to study and submit amendments to all Bills.

Sir, apart from this, the Bill has no other objectionable features. The Bill provides for permission to Asset Reconstruction companies and securitisation companies to convert loans of borrower companies into equity shares; it permits banks to purchase immovable assets of borrower companies in lieu of their loan obligations; it includes multi-State Cooperative banks within the definition of banks but if that will disturb the concept of cooperative which are more liberal with distributing loans to poor people is something that has to be considered by the hon. Finance Minister. Currently, banks and financial institutions need to respond to representation from borrowers within 7 days, the Bill makes provision to increase this to 15 days. It enables banks or any person to file a caveat if they are hurt by the DRT before granting a stay. It enables the Central Government to require by notification the registration of all transactions of securitisation or asset reconstruction, or security interest which is subsisting before the creation of the Central Registry. The Bill provides the Central Government with the power to direct in public interest that the provision of the SARFAESI may not apply, or may apply with modification to a class of (Interruptions)

MR. DEPUTY-SPEAKER: Please conclude now.

प्रो. सांगत राय : अभी एकदम खत्म कर रहा हूँ।

उपाध्यक्ष महोदय : जल्दी खत्म कीजिए।

PROF. SAUGATA ROY: Sir, I feel that this Bill should still be sent to the Standing Committee.

Sir, finally, I was discussing the issue of Foreign Direct Investment in the banking sector. Today, one very interesting news came to my attention. This was in the first page of a newspaper which read 'Walmart spent 25 million in last four to lobby for India entry'. This is not only regarding FDI in multi-brand retail. Walmart has officially submitted that it spent so much money in lobby with the US Senate, US House of Representatives, US trade representatives and the US Department of State. Why did it do so? It wants to enter the Indian retail market because the retail market is estimated to be worth about \$ 500 billion currently and is pegged to cross \$ 1 trillion mark by 2020.

If Wal-Mart has spent so much money in lobbying to get into the Indian market – something which we opposed tooth and nail in this House – I would like to know whether the Wal-Mart has also spent money in lobbying with the Indian law makers. If so, how much and what are the details? I do think that Lok Sabha should discuss this issue of Wal-Mart trying to get into India through illegal means because we are discussing FDI in Asset Reconstruction Companies. Why Wal-Mart has spent so much money is for all of us to think about.

With these words, I end my speech.

**श्री गोरखनाथ पाण्डेय (भदोही):** माननीय उपाध्यक्ष जी, आपने प्रतिभूति हित का पूर्वतन और ऋण वसूली विधि (संशोधन) विधेयक, 2011 पर बोलने की मुझे अनुमति प्रदान की, इसके लिए मैं आपका आभारी हूँ।

महोदय, मैं आपके माध्यम से माननीय मंत्री जी का ध्यान दो-तीन बिन्दुओं की तरफ आकृष्ट करना चाहूँगा। बैंक एक ऐसी संस्था है जो झुग्गी-झोपड़ी में रहने वाले लोगों से लेकर देश के बड़े पूंजीपतियों से सीधे संबंध रखती है। बैंक के माध्यम से ही बड़े व्यापारी, उद्योगपति, और झुग्गी-झोपड़ी में रहने वाले सामान्य लोग कर्ज़ लेकर जीवन यापन करने की व्यवस्था में लगे हैं। लेकिन, बड़े दुख के साथ यह बात कहना पड़ रहा है कि इसमें भेदभाव स्पष्ट रूप से दिखता है। जो व्यवस्था है, उसमें बड़े उद्योगपतियों के साथ तो उदारता का भाव होता है और निचले स्तर के लोगों को ऋण लेने में कठिनाई होती है। अगर वे छोटे-मोटे उद्योग के लिए, कृषि के लिए, अपने अन्य जीविकोपार्जन की व्यवस्था के लिए ऋण लेना चाहें तो बैंक में उन्हें दर्ज़नों बार चक्कर लगाने पड़ते हैं और उन्हें ऋण नहीं मिलता है जब तक कि बित्तौतियों का उन्हें कोई सहाय न मिले। जब वसूली की बात आती है तो ठीक इसके विपरीत बात होती है। झुग्गी-झोपड़ी में सामान्य ढंग के गरीब परिवार और किसानों को जहां ऋण लेने में कठिनाई होती है, वहीं जब वसूली की बात आती है तो बड़े घरानों को सारी सुविधाएं हैं। वे जैसा चाहेंगे, हर तरह से डील कर लेते हैं। हर तरह की व्यवस्था देखने को मिलती है। एक तरफ बड़े घराने हैं, बड़े उद्योगपति हैं, या देश की वित्तीय व्यवस्थाओं से सीधे जुड़े लोग हैं और दूसरी तरफ सामान्य किसान हैं। यदि उससे ऋण वसूली में कोई कठिनाई होती है तो उस पर आर.सी. लागू होते हैं। वे जेलों में बंद कर दिए जाते हैं। उन पर मुकदमे कायम हो जाते हैं। महोदय, यह दोहरी नीति बहुत ही कष्टकारी है।

महोदय, एक तरफ तो यह कठिनाई है ही, दूसरी तरफ माननीय मंत्री जी विदेशी बैंकों को आकर्षित करके यहां स्थापित करने में लगे हैं। उन बैंकों की तुलना में हमारे देश के बैंक कहीं नहीं टिक पाएंगे। उनकी वसूली उनके नियमों के अनुसार होगी। हमारे जो छोटे-मंझोले व्यापारी, किसान या काश्तकार हैं, वे कहीं भी उन सुविधाओं से अपने को जोड़ नहीं पाएंगे और निश्चित रूप से उन्हें और भी कठिनाई होगी।

महोदय, मैं आपके माध्यम से माननीय मंत्री जी से गुजारिश करना चाहूँगा कि जहां एक तरफ इस नियम में संशोधन की बात हो रही है, वहीं जो निचले स्तर के लोग हैं, जो गरीब हैं, जो झुग्गी-झोपड़ी में रहते हैं, जो सामान्य किसान हैं, जो छोटे स्तर के व्यापारी हैं, उनको ऋण प्रदान करने की सुविधा कैसे दी जाए? कहने के लिए तो सूक्ष्म, लघु, मध्यम उद्योग के माध्यम से, प्रधानमंत्री ऋण योजना और कई ऐसी योजनाओं के माध्यम से बहुत सारी योजनाएं चल रही हैं, लेकिन किसान, गरीब तक उन योजनाओं का लाभ नहीं मिल पाता। झुग्गी-झोपड़ी में रहने वाला वह किसान उन योजनाओं से लाभ नहीं ले पाता। कहने के लिए तो यह भी सुविधा है कि बिना किसी प्रतिभूति के उन्हें ऋण मिलेगा। पांच लाख या उससे कम, अब तो दस लाख की बात कही गई, लेकिन बैंकों में जाने के बाद सामान्य वर्ग को ऋण की सुविधा नहीं मिल पाती, जब तक कि कोई बित्तौतिया उन्हें न मिले, अन्य सुविधाएं उन्हें देने के लिए बाध्य होना पड़ता है।

उपाध्यक्ष महोदय, मैं आपके माध्यम से माननीय मंत्री जी से कहना चाहूँगा कि जहां इसमें संशोधन लाया जा रहा है, वहां ऋण देने और ऋण वसूली, जो बड़े घराने एवं उद्योगपति हैं और जो निचले स्तर के लोग हैं, उनमें भी साम्यता होनी चाहिए। निचले स्तर के लोगों को ये सुविधाएं विशेष रूप से मिलनी चाहिए ताकि उन्हें समय पर ऋण मिले और ऋण वसूली के समय उनके सामने जो कठिनाईयां आती हैं, उन्हें पकड़ कर जेलों में डाल दिया जाता है, उन पर भी कोई ऐसे सामान्य नियम की व्यवस्था की जाए ताकि उन्हें उसकी सुविधा और लाभ मिल सके। मैं चाहूँगा कि इस पर पुनर्विचार करते हुए फिर से उन स्तर तक के लोगों को लाभ पहुंचाने की योजना बनाई जाए।

SHRI A. SAMPATH (ATTINGAL): Mr. Deputy-Speaker, Sir, while speaking on the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011, I would like to point out certain matters which have been brought to my notice by some persons who are having some complaints regarding some authorities of the banks.

Sir, our country has entered an era where lakhs and lakhs of farmers are committing suicide. Now, on the one part, it has become very difficult for the people to get a loan, to avail of a loan either from a private bank or a nationalized bank and on the other part, if there are any arrears and default of repayment of the loan, the attitude displayed by the bank authorities towards the common people is something different from the attitude displayed towards the large industrial houses.

First of all, I would like to request the hon. Minister, through you, Sir, to consider our views that this Bill needs a thorough introspection, a detailed study by the Standing Committee of Parliament concerned. The dispossession of dwelling houses as a part of the immovable property happens as a part of the Act which is at present existing. A party is dispossessed from the dwelling house with the assistance of the police as well as the revenue authorities and the other paraphernalia as per the order of the Metropolitan Magistrate Court or the Chief Judicial Magistrate Court. There have been instances where the parties have committed suicide, even the whole family has committed suicide. It is an unpardonable sin. I may be excused for using such a term that our law has put upon such type of a burden, such type of a capital punishment on the citizens of India.

As a part of the procedure of this existing Act, the procedure followed in the Securitisation Act is that normally there are four numbers of notices published in the newspapers – two numbers of possession notices and two numbers of sale notices. Normally, what I understand from the various cases is that all these notices put together including the

advertisement in the newspapers come to around Rs. 1 lakh. So, a person who has availed of a loan of Rs.10 lakh is put to an additional burden of Rs. 1 lakh towards the advertisement charges and other So that he is not able to pay back also. What happens is that, this particular person is put from the frying pan to the burning pan. I am not going to make any political speech; I don't want to punch or pinch any of my friends from the Treasury Benches. I genuinely feel that they also will be supporting me in certain matters.

There have been reports in various newspapers, especially in today's newspapers, regarding some report about NABARD. Some of the private companies are getting loans for a very small rate of interest, 6.5 per cent of interest, with additional cash refunds; while farmers are getting it for seven percent and above. Not only that, what is the purpose of NABARD? I was one of the applicants who has written the examination and attended the interview at the time when the NABARD constituted but I did not join that job. ...(*Interruptions*) I am more lucky because I have got the company of all these learned friends, Sir. Our hon. Minister would be happy because I am also from the same feather, even though I am much junior to him, and in the profession as lawyer. What is the use of giving advertisements for Rs.37 crore by NABARD? Even a single *naya paisa* need not be spent for advertisement by NABARD.

The prime purpose for which the NABARD was constituted was refinancing the cooperative movement and State Governments and also to undertake certain flagship programmes of the Government of India. If this is correct, I feel ashamed of it. Are our banks misutilised by some of the top bureaucrats and executives for their luxury by spending Rs.37 crore for advertisements and spending crores of rupees for the so-called modifications of their offices? This has to be looked into very seriously and necessary action should be taken by the Government of India. This cannot be tolerated.

Today, there are other reports also. The Government of India is now, I understand, trying its best to bail out an Indian multi-national corporation from one of our neighbouring countries. I am not going into any bilateral discussion or name any company; I am not going to add any fire into bilateral relations that we have with that country but through you, Sir, I want to invite the attention of the House to this.

You see the amendments moved by the hon. Finance Minister, at Sl. No.6, Clause 13 –

"6. Page 6, *after* line 15, *insert* –

(ac) *after* sub-section (5), the following sub-section shall be *inserted*, namely:-

"(5A) After hearing of the application has commenced, it shall be continued from day-to-day until the hearing is concluded:

Provided that the Tribunal may grant adjournments if sufficient cause is shown, but not such adjournment shall be granted more than three times and where there are three or more parties, the total number of such adjournments shall not exceed six:"

Sir, this is imposing something upon the Presiding Officer or a Tribunal. It is just like handcuffing the Tribunal. It is performing a judicial function. It is not fair for this Parliament to handcuff the Judiciary or a Tribunal or a quasi-judicial body.

MR. DEPUTY-SPEAKER: Please conclude.

SHRI A. SAMPATH : Sir, I am going to conclude.

Sir, this is a very serious matter. This concerns the life and death of people. ...(*Interruptions*) Of course, I understand the difficulties faced by the banks also because the banks say that as equitable mortgage for the loan amount is usually created with any immovable property and since agricultural properties are exempted from the purview of the Act, again inordinate delay is caused for the realization of the amount due to banks. This is the argument of the banks. I am not saying that this is the argument of the hon. Finance Minister. But this is the argument of the banks. We have heard such arguments in the DRTs also. Section 14 of the Act deals with the possession taken by the revenue authorities or the CJM courts. So, either the revenue authorities or the CGM court is empowered to take physical possession over the secured asset and hand it over to the banks. Here, the banks say that since the revenue authorities are involved, there are inordinate delays. This is their argument.

Sir, I would like to mention one thing about the jurisdiction of the DRT and the DRAT because the number of litigations are on the rise. I am coming from the State of Kerala. We are having only one Bench of the DRT there. I would like to make a request to the hon. Minister, through you, that for Kerala and Lakshadweep, another Bench of the DRT should be considered and allowed; not only that, we do not have a DRAT in Kerala. So, a DRAT should also be considered and it should also be sanctioned because the number of cases are increasing and in the coming days it will be even more. So, why should we put a burden upon the litigants on the one hand and on the banks on the other? We want a speedy trial. But as

you know, justice hurried is justice buried. I hope our hon. Minister may also agree with me on this that justice hurried is justice buried.

MR. DEPUTY-SPEAKER: Please conclude.

SHRI A. SAMPATH : Sir, I am going to conclude.

Sir, the hon. Minister was a very senior lawyer of the Supreme Court of India and his career was in flying colours. So he will understand this better. I would like to humbly submit, through you, that this is not a very good practice to put all these Bills in the House to ensure that they get passed without any discussion or deliberation or evidence taking by the concerned Standing Committee on Finance. So, once again, I would request that this Bill should be sent to the Standing Committee on Finance for a thorough consideration, study and deliberation and only after taking into consideration the evidence collected by the Standing Committee on Finance and a thorough discussion, this Bill should be passed.

SHRI PINAKI MISRA (PURI): Mr. Deputy-Speaker, Sir, I thank you for giving my party, the Biju Janata Dal, an opportunity to speak on this very important piece of legislation which is sought to be brought to the House by the hon. Finance Minister.

Sir, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 has been amended in 1995, in 2000 and then in 2004.

Similarly, the present Act, which is the other Act, which is sought to be amended, which is the SARFAESI 2002 has also been amended in 2004. It was first brought about in 2002 to give the 1993 Act more teeth and then had to be amended again in 2004.

Despite all these repeated amendments, the Finance Minister in a reply to the Question in the other House, on 23<sup>rd</sup> of August 2012, has admitted that the NPAs of all nationalised banks in India stand at a staggering figure of Rs.1,23,462 crore. It is a staggering figure. Out of this, the State Bank of India alone has an NPA of Rs.40,756 crore. This, Mr. Deputy-Speaker, Sir, I am sure the hon. Finance Minister will agree, is the GDP of many small countries.

It raises some very serious questions as to the kind of accountability that our public sector banks today offer the public. From the Chairman down to the Peon, it appears nobody is accountable once they are appointed. Let me tell you, Mr. Deputy-Speaker and let me tell the hon. Finance Minister that I am one of the victims who has had to actually remove my account from public sector bank because I was so disgusted with their way of functioning. I moved to a private bank now. This is a personal experience of mine.

Therefore, if this kind of lack of accountability continues in public sector banks, I do not understand the point of another amendment being sought to be brought today. The hon. Finance Minister would be advised to also remember that the year 2011-12 has seen the highest NPA in the last five years. This is how bad things have become. This is prior to his taking over, I admit. But I do not know if after August when it was Rs. 1,23,000 crore, I think we must have added another Rs.5,000 crore to Rs. 7,000 crore of NPAs over the last five months.

Plus the absolute lack of efficacy of both these pieces of legislation is clear from the fact that 67,524 cases are pending before the Debt Recovery Tribunals. That is how completely non-eficacious these pieces of legislation have become and this is despite the fact that efforts have been made to dispose of these cases within 180 days, which is the mandate of the Government.

Now, the reason for this, may I say, Mr. Deputy-Speaker, and this is where I really have to be one with the suggestions made by several Members of this House from all shades of political colour, Shri Dushyant Singh, Shri Shailendra Kumar, Prof. Saugata Roy, Shri A. Sampath, myself, and my leader, Shri Bhartruhari Mahtab, who made the same offer and the same request. I do not know why the hon. Finance Minister feels that this is really a way of derailing this. This is not a way of derailing this because what he has brought by way of these amendments is far too little and he will soon have to bring another amendment within the next six months. So, out point was that he should take it to the Standing Committee and a proper deliberation can take place, we could come up with a more holistic amendment.

May I, as somebody who has practised some law on this side of the fence, tell the hon. Finance Minister certain practical problems which today beset both these pieces of legislation and which really could have been corrected by way of this if we would have the chance to go to the Standing Committee and tell the Standing Committee that this is what is required? But we have not had the opportunity and taking the opportunity now, Mr. Deputy-Speaker, that you have given me in this House to ask the Finance Minister again to consider from the other side of the fence as to what are the problems.

The banks will only give you piecemeal advice that little tinkering here, little tinkering there and that is enough. But

really what is the leitmotif? The fundamental of these pieces of legislation is that the Act provides for setting up of Asset Reconstruction Companies which are empowered to take possession of secured assets to the borrower, including the right to transfer by way of lease, assignment or sale and realise the secured asset.

This is the bulwark of this. If this is the bulwark, I want to ask the hon. Finance Minister why the current enactment does not permit *inter se* assignment of debt by one ARP to another. The purposive intent of SARFAESI is to ensure the expeditious recovery of debts. Therefore, if Section 5 of SARFAESI could be suitably amended and there could be an *inter se* re-assignment of debt, this could be much more expeditious and efficacious way of settling these issues.

Now, I come to the second issue. There has to be a codified structure by which banks show complete transparency in their assignment of debts to ARCs. So far, this has been done in an extremely cloak and dagger fashion, in an obfuscatory fashion, in a fashion which does not at all give anybody, inspire anybody any confidence.

Thirdly, one of the difficulties being faced by the secured creditors under SARFAESI Act is the determination of the priority of debts. I hope, the Finance Minister will pay some attention to this because this is a very important aspect. I do not have his attention now. I hope, at some point I will get his attention....(*Interruptions*)

The provisions of SARFAESI Act for liquidation of debts have come into play but there is a priority of claim to statutory authorities which is coming in the way repeatedly. There is a complication because the State Sales Tax Act, as the hon. Finance Minister knows, always have a provision in their various State enactments that there shall be a first charge on the assets. Therefore, on realization of debts what happens is that the secured creditors are left high and dry and the purpose of SARFAESI Act is not served. Therefore, it would be very important that an amendment is brought about that SARFAESI Act shall have overriding effect over all statutory dues including Sales Tax, Income Tax, Central Excise so that other secured creditors will have priority in realization of debts, of course, *pro rata* with workers, which is most important....(*Interruptions*)

I read out your report that 67,000-odd cases are pending in DRTs. This does not take into account the number of petitions that are pending in writ petitions. It is because, I have personally had to appear in many matters in the High Court where writ jurisdiction has been invoked. Therefore, some amendment has to be brought about by which writ courts are enjoined from entering into these sort of litigations because this is supposed to be a summary procedure under a summary enactment. There is problem about uniformity of Stamp Act which must be uniform in all the States where SARFAESI Act is there. Therefore an amendment needs to be brought about.

Now I come to a very important point. In respect of Section 18 C, which is a new provision sought to be enacted today by amendment, why should there be a caveat in this day and age? This is a typical nationalized bank mentality. This is the mentality of the nationalized banks which unfortunately the Finance Minister, I am surprised with his kind of forward looking vision that he should fall prey to this that any person by whom the caveat has been lodged shall serve notice of the caveat by registered post, acknowledgement due. In this day and age, who deals with registered post, acknowledgement due any more? With great respect, I mean, is this the manner in which we are going to function in the 21<sup>st</sup> Century? Where are we? There are e-mails, there are faxes, there are speed posts, and there are couriers. What kind of enactment is this? It is basically intended to ensure that there will be no compliance.

Therefore I say with great respect, there are several other amendments I could suggest. Straightaway, I would be happy to suggest it. People like me,

would be happy to bow before the Standing Committee and suggest it to them. But unfortunately the Finance Minister is keen that this be passed in its present shape and form. We are unhappy with this. If the Finance Minister would reconsider, we would be very grateful. That is all.

SHRI ANANDRAO ADSUL (AMRAVATI): Mr. Deputy-Speaker, Sir, thank you very much for giving me an opportunity to speak on this Bill. I welcome some of the amendments which are suggested by the Minister of Finance in the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

First of all, the amendment suggested in the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 does not allow securitization or reconstruction companies to convert the debt on the borrower company into equity. This amendment proposes to provide for the conversion of any part of the debt into shares of a borrower company. Definitely it will help the banks and also the financial institutions.

Secondly, the Bill proposes to include multi-State cooperative banks in the definition of banks in the existing Act. I would request the hon. Finance Minister to pay his attention to my suggestions. If you have added the multi-State cooperative banks in the definition of banks, then, why have you not added the other cooperative banks into it? Multi-State cooperative banks means the banks which have opened their branch or branches in other States. They have registered under the Cooperative Societies Act of those particular States and done the business in one or more than one States. If you are allowing the multi-State cooperative banks; if they have opened their branches in other States; then why not other cooperative banks can do that? They are also working under the Banking Regulation Act since 1965. Therefore, it is my humble request to you to do that.

I know the importance of this Act. Whenever, we are doing the business of banking or financial institutions, there are two types of defaulters. One is the simple defaulter and the other is wilful defaulter. In case of defaulter, some unavoidable circumstances forced him not to pay the amount of the bank or financial institution. But there are some defaulters who are deliberately not paying the amount that they have got from the bank or institution. If this purpose is there, then, what the cooperative banking is doing? They are doing the same business under the Banking Regulation Act. There is a statutory audit and also an inspection from the Reserve Bank of India. Again, my humble request to you is that to add all the cooperative banks in this Act as you have added them in the Banking Regulation Act. I will be thankful to you for this thing.

The other amendment, which will also help to the banking industry and financial institutions, is that banks are not empowered to accept any immovable property in realisation of the claim against the defaulter borrower in the situation where banks are unable to find a buyer for such assets. It is a fact. That is why you have allowed, by way of amendment, to take into possession the immovable property to the banking industry and the financial institutions.

My colleague has told regarding caveat. He is a lawyer of the Supreme Court of India, that is why, I could not comment on it. The Central Government may exempt the clause or clauses of the banks or the financial institutions from the provisions of this Act on grounds of public interest. It is also a good amendment. It will help in the public interest. Definitely there will be some relief to the public.

There is another amendment to be welcomed. It will propose to enable banks and financial institutions to enter into settlement of compromise with the borrower. It also seeks to empower the Debts Recovery Tribunal to pass an order acknowledging any such settlement or compromise. It will also be helpful. If there is any chance for settlement before an order passes from the tribunal or court, then, it will also help the bank.

In totality, definitely, good amendments are there. They will help to the banking industry and financial institutions.

I convey my sincere thanks to you, Sir.

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SHRI GURUDAS DASGUPTA (GHATAL): Mr. Deputy-Speaker, Sir, I must tender my unqualified apology because at the beginning I did not realize the implications of this Bill. But on going into it, it appears that it is a toothless superfluous Bill.

Sir, the ARC was set up many years back. That was done to realize the defaulted sum, to realize the NPA and to clean artificially the balance sheet of the banks.

A number of times the Act was changed or amended. At the end of the day, let the hon. Finance Minister tell this House the reason. It is not a question of numbers. You can get the Bill passed. We can realize; that is not the issue. Despite all the Bills that they had passed, despite all the amendments that they had passed, and despite the all powerful Finance Minister, who is at the helm today and more so, he is a lawyer, even then the fact remains that the NPA is increasing. Today, my friend is saying that it is Rs.1,17,000 crore. No, it is nearly Rs.2,00,000 crore because the banks never disclose the NPA. The people who have stolen the money are the criminals of this country but the law of contract is so sacrosanct that they abide by that and they never let the country know who are the defaulters. Only suit filed cases are made public. The NPA is increasing. I would like to tell the Members of the Government and the Ruling Party as to why the NPA is increasing and who the defaulters are. The defaulter is Kingfisher. The firms like Kingfisher are the defaulters. The owner of Kingfisher has a free access to the Government. But a small peasant, who might have defaulted the payment of his bank loan because of his bad harvest, has no access even to the orderly of a nationalized bank. This is the class society, I am telling you.

Kingfisher has an access and it is reported, whether it is right or wrong, I do not know. The Government was using all its political clout to tell the banks to reconstruct the liability and to give him further loan. I am told that the State Bank of India directly said: "We will not give them a loan." This is the situation.

Despite your powerful Act, which Parliament has supported, you have not been able to take care of the increasing social malady of not paying back people's money. Whose money is in the bank? The big landlords do not keep their money in the bank. We keep our money in the bank. The common people keep their money in the bank.

People's money are being misused and allowed to be defaulted, and the Government has clearly and criminally defaulted in enforcing any law to bring to book those who have stolen people's money, and has totally failed.

This Act is again being amended. How is it going to help to realize the NPA?

**15.04 hrs** (Shri Francisco Cosme Sardinha *in the Chair*)

Sir, the point is that the NPA undisclosed, the NPA unknown, the NPA covered up by the Government and RBI is nearly Rs. 2,00,000 crore. Over and above, there is a large NPA. I do not know how to describe it. Just see the linguistic fervour. Corporate loan adjusted as 'good' loan. It is shown like that in the balance sheet. What is the amount? It is more than Rs.1,00,000 crore? If we take these categories, then what is the NPA? It is nearly Rs. 3 lakh crore.

Therefore, Sir, the point is that the Government has miserably failed despite all the weapons they had armed them with, with the total support of the Parliament, to realise the NPA and to reduce the NPA. Why is it so? The Government will never accept their liability.

Sir, the paradox of the Indian Parliamentary System is that the Ministers and the Government never speak out the reason of their failure. They will make a statement; they will use their strength and number; and get the Bill passed. But I would like to know from the Minister, why despite all the Bills that they had passed, all the laws that they had enacted, all the weapons that they had in their armoury, they failed to reduce the NPA. How is this going to help them?

What is the matter? ARC will become the shareholder of a sick company. That is a new thing. Why should he become a shareholder? Can they change the policy? Can they change the management? Even if they change the management, today the corporates know the technology as to how to manoeuvre. Not only the Government knows the manoeuvre to manage their number, the corporates also know the capacity as to how to manage and manoeuvre with the loans.

Therefore, Sir, the point is that the country needs a strong law. I demand a special court; I demand a special court and expeditious trial of all the wilful defaulters of the country, who have stolen our money and cheated the country. If you are serious, have a special court. If you are serious, have a special court, special trial within an expeditious time.

They are no less dangerous to the country than the terrorists. Yashwant Sinhaji, may I draw your attention? You had been a Finance Minister as he is. What is the problem in having a special court? You try the terrorists. They are terrorists because they had fired on you. Similarly, these defaulters are also terrorists because they have fired on the viability of the Indian economic system. We are overburdened with the bad debts; and the Government comes innocently every time to make a law, to show how serious they are! But there is always a gap between the cup and the lip.

Therefore, Sir, the criminality of the corporates, who did not pay their loan, cannot be condoned. At the same time, the salinity of the Government in not being able enforce a law also cannot be condoned. ...(*Interruptions*)

PROF. SAUGATA ROY : Are you talking to Mr. Chidambaram or Mr. Sinha?

SHRI GURUDAS DASGUPTA : I am talking about the Government. Mr. Chidambaram is a very friend of mine. Why should I tell this to him?...(*Interruptions*)

MR. CHAIRMAN: Hon. Members, please do not disturb him. He knows what to speak.

SHRI GURUDAS DASGUPTA : He believes that this law will be changed. Therefore, he is optimistic. But I am saying the salinity of the Government, salinity of the political system. Why should I separate a person from the collective responsibility? Collectively, the Government is responsible.

Sir, I agree with my colleagues that it should be referred to the Standing Committee. That is the simplest way. But at the same time, I say that the Minister of Finance owes an explanation. I hope he begins his statement by this. He owes an explanation as to why despite all the steps they have taken, the NPA is increasing. That is number one.

Number two, what prevents the Government from disclosing the names of the defaulters? Number three, why will the Government not consider it? I do not want him to give an assurance. The Government has tremendous corporate pressure on them, I know. I know under whose pressure and what amount of pressure, the Ministries and the Finance



Minister have to work. I sympathies with them. There will be a pressure. Therefore, I do not want an assurance. But let them say whether they are ready to consider a special court, a special law, for an expeditious trial.

Lastly, what prevents the Government from disclosing the names of the people who have stolen our money? If we can disclose the name of a thief, why can we not disclose the name of a person, who has stolen people's money from the banks? Let the Government show its goodwill. सरकार आम आदमी की बात कहती है। देखा जाएगा कि आम आदमी के लिए आपके आंसू में कितना पानी है। हम इसे देखना चाहते हैं। आप दिखाइए, करके दिखाइए, हिम्मत से दिखाइए। केवल भाषण से नहीं होगा। I have seen this Government for many years. It is the eating that tastes the pudding. Let us see what the Government wants to do. Therefore, innocence is a veil but consequence is the truth. The Government is innocently saying, pass the Bill because there is nothing in it. Why should we pass it? How is it going to help us? There is the innocence that comes as a veil but it is the consequence which will prove the *bona fide* of the Government who swears by *aam admi*.

**डॉ. रघुवंश प्रसाद सिंह (वैशाली):** सभापति महोदय, विधेयक का नाम बिना कागज देखे पढ़ा ही नहीं जा सकता है। विधेयक का नाम वित्तीय आस्तियों का प्रतिभूतिकरण और पुनर्गठन तथा प्रतिभूति हित का प्रवर्तन अधिनियम है। यह विधेयक का नाम है। अंग्रेजी में इसका नाम the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act है। अंग्रेजी में विधेयक का यह नाम है। जब आम आदमी विधेयक का नाम नहीं ले सकते हैं, तो यह कानून कैसा होगा, इसे समझा जा सकता है। मेरा मंत्री जी से पहला प्रश्न है कि क्या आपकी मेधा इसमें कागज नहीं है कि इस विधेयक का सहज नाम हो, जो आम आदमी की जुबान पर कानून का नाम लिया जा सके। मैं कहता हूँ कि एक भी माननीय सदस्य बिना कागज देखे विधेयक का नाम नहीं बता सकता है। जब कानून का नाम याद करना कठिन है, तो कानून का प्रावधान कैसे लागू कर सकते हैं?

इसमें सरकार ने दावा किया है कि बैंक द्वारा दिए गए लोन की वसूली सही ढंग से हो जाए, उसके लिए इस कानून से सहायता मिलेगी, इसलिए कानून में दो संशोधन लाए हैं। एक प्रतिभूति हित का प्रवर्तन और ऋण वसूली है और दूसरे विधेयक का नाम बैंक और वित्तीय संस्थाओं को शोध्य ऋण वसूली अधिनियम है। यह भी ऐसा ही नाम है, जिसे पढ़े बिना नहीं बोला जा सकता है, तो यह कानून कैसे बनेगा और इसका क्या लाभ होगा, क्योंकि लोग इसे जानेंगे ही नहीं। इसके नाम के उच्चारण में ही कठिनाई है। इसलिए मेरा कहना है कि इसे सरल बनाए और इसमें सुधार करें। इसमें एक साधारण वलॉज है कि बैंक की जगह पर बहुपक्षीय मल्टी स्टेट कारपोरेटिव, फिर इसका भी बैंक की तरह इस्तेमाल करेंगे। सभी माननीय सदस्य इससे सहमत होंगे कि बैंकों का व्यवहार आम आदमी के साथ कैसा है और पूंजीपतियों के साथ कैसा है। मेरा दूसरा सवाल है कि बैंक का व्यवहार बड़े पूंजीपतियों के लिए प्रो है, बैंक प्रो-कारपोरेट हैं, प्रो-पुअर, प्रो-फार्मर नहीं हैं। इसका कैसे समाधान होगा, इसके लिए कौन-सा कानून है। वसूली के लिए कानून लाए हैं।

हमारा यह भी सवाल है कि जो गरीब आदमी है, किसान है, बेरोजगार है, उसके साथ क्या व्यवहार है और दूसरी तरफ जो कंपनी है, कॉर्पोरेट है, बड़े आदमी हैं, उनके साथ बैंक का क्या व्यवहार है? यह भी देखा जाना चाहिए। हम सभी माननीय सदस्य इस बात से सहमत हैं कि बैंक का प्रो-पुअर, प्रो-फॉर्मर, प्रो-बेरोजगार इन सबके साथ भी वैसा ही व्यवहार होना चाहिए जैसा कि कंपनी और बड़े आदमी के साथ है। यह सारा कंपनी का कब्जा है, यह बात कैसे साबित होती है? नॉन-पफार्मिंग एसेट पहले कहां था? नॉन-पफार्मिंग एसेट बढ़ गया है। कैसे चालाकी से नाम दिया गया है? नॉन-पफार्मिंग एसेट-यानी जो पफार्म न करे। यह चालाकी आप देखिए कि उसका पैसा डूब गया और नॉन-पफार्मिंग एसेट नाम रख दिया- यानी ऐसा एसेट जो पफार्म न करे। लेकिन हमारा सवाल है कि जो पफार्म न करे, वह फिर एसेट कैसे हुआ?...(व्यवधान) प्रसिद्ध अर्थशास्त्री जो दुनिया में हैं, सभी ने चालाकी से ऐसा नियम बनाया है। गरीब आदमी या किसान कोई थोड़े ही नॉन-पफार्मिंग एसेट वाला काम करता है? बड़ा बड़ा आदमी ही नॉन-पफार्मिंग एसेट बनाता है। जो अभी 1,11,600 करोड़ नॉन-पफार्मिंग एसेट है, इसमें माननीय मंत्री जी बताएं कि कंपनी कॉर्पोरेट के यहां कितना है और हमारे गरीब किसान या गरीब आदमी के यहां कितना है? मंत्री जी अभी बताएं कि 1,11,000 यानी 85 फीसदी एनपीए में बढ़ोतरी की गई है? यानी जितना लोन हुआ, उसका यह चार प्रतिशत है और री-स्ट्रक्चरिंग अलग है तथा नॉन-पफार्मिंग और ज्यादा होगा। री-स्ट्रक्चरिंग 2,16,000 करोड़ रुपये की हुई है।...(व्यवधान) नाम बदलकर यह सब हो रहा है। आंसू में धूल झांकने का काम किया जा रहा है।...(व्यवधान)

जहां तक बैंकिंग प्रणाली का सवाल है, गांवों में ऐसा होता है कि जिस गरीब किसान ने कर्जा नहीं दिया है तो वह गर्दन में गमछा लगाए, रातभर गमछा लगाकर रखना है और उनको जेल में भी डाल दो। जेल में डालने का भी क्या कानून है? अपराधी, डाकू और आतंकवादी जाएगा तो वह सरकार का खाएगा और यदि वह किसान जो बैंक का पैसा वापस नहीं कर पाया, यदि वह किसान जेल चला गया तो उसको जेल में डाल देंगे और जो जेल में वह खाएगा तो सब उसके कर्जे में और बढ़ेगा। यह कानून किसने बनाया? मैं यह सवाल पूछना चाहता हूँ। गांवों में यदि किसी किसान ने नॉन-पफार्मिंग एसेट कर दिया तो उसको गर्दन में गमछा लगाना है और उसकी चौखट उखाड़ तो तथा उसके बैल जब्त कर लो लेकिन धारा 302, 395 के तहत जो अपराधी जेल में जाएगा तो वह सरकार का खाएगा। यह प्रोविजन है। अगर किसान जेल में खाएगा तो उसके नाम पर कर्जा बढ़ेगा।...(व्यवधान)

कोई कहे कि बैंक के बिना गरीबी कैसे हटायी जा सकती है और जितने अर्थशास्त्री दुनिया भर में हुए, सबने महसूस किया कि बैंक की स्थापना होगी तब बिना पैसे वाले लोगों को बैंक से लोन मिल जाएगा, महाजनी से छुटकारा मिल जाएगा। लेकिन मैं देख रहा हूँ कि कहीं वैसा व्यवहार नहीं है।

सरकार की तरफ से ढिंढ़ोय पीटा जा रहा है कि नगद राशि खाते में जाएगी। आपने भी देखा होगा कि 120 करोड़ में से 20 करोड़ यू.डी.कार्ड बन गये और सबके खाते में भेजे, कहा जा रहा है। लेकिन मैं पूछना चाहता हूँ कि बैंक कितने खुले हैं? बैंक की शाखा गांव में गई ही नहीं तो नगद राशि कहां से दे देंगे? इसलिए यह जो बिना सोचे-समझे ज्ञान की बातें कही जा रही हैं, इन सब पर नियंत्रण रखना चाहिए। किसान के साथ व्यवहार अच्छा हो। किसान क्रेडिट कार्ड का क्या हाल है, क्या पूछना नहीं चाहिए? शिक्षा के बारे में सरकार ने एलान किया कि पढ़ने के लिए बैंक लोन देगा। आप देख रहे हैं कि यहां घोषणा कुछ होती है और वहां कुछ नहीं मिलता है। यह बड़ा खतरनाक है कि यहां घोषणा हो लेकिन सरजमीं पर काम न हो। बिहार में यही हुआ है, राज्य सरकार ने घोषणा की, अब जनता ऊब गई है और वहां उलट-पलट करने के लिए तैयार है। भारत सरकार सावधान, देश की या राज्य की सरकारें सावधान, घोषणा बंद करो और जनता को वाजिब बात बताओ, सही काम करो। अब केवल घोषणा से काम नहीं चलेगा। प्रो-पुअर, गरीब आदमी, ग्रामों के साथ बैंक का क्या व्यवहार होगा? नॉन-पफार्मिंग एसेट्स और रिस्ट्रक्चरिंग का हिसाब साफ होना चाहिए। नहीं तो ऐसे काम नहीं चलने वाला है। आप किसान के मामले को नहीं देखते हैं। किसान के मामले में लोग घालमेल करते हैं। नहीं चलेगा, अब जनता खड़ी हो रही है। अब जनता जागरूक और संगठित है, अब धोखा नहीं दिया जा सकता है। बैंक को देखना चाहिए कि प्रो-पुअर, प्रो-पुअर को कैसे सहायता मिले, पूंजी मिले। बेरोजगार और पढ़ने वाले गरीब आदमी के पास पैसा नहीं है, उसका बैंक साथ न दे। "पवन जगावत आग को, दीप ही देत बुझाए"। बड़े आदमी की मदद के लिए बैंक है और गरीब आदमी के लिए नहीं है। कानून की बात को साफ करें, तभी कानून पास होगा, नहीं तो कानून लाइए हम ठीक करेंगे। काम उलटा हो रहा है।

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\*SHRI PRASANTA KUMAR MAJUMDAR (BALURGHAT) : Respected Chairman Sir, there are two objectives of this Bill. One is recovery of bad loan and another is enforcement of security assets. The bill has been amended many times but recovery of loans is not taking place. Thus NPA has lauched about two lakhs ie more than 4%. As per Reserve Bank directives, anything more than 4% amounts to bad loan. Who have taken these loans? What is the reality? The reality is that loans are taken by common people, small and marginal farmers, labourers as well as big business houses, companies and rich industrialists. Even the foreigners are taking loans and the foreign banks are doing brisk business. We have public sector banks, private sector banks, commercial banks, foreign banks and financial institutions who have lent money to people. This huge amount of money lies idle and is not being recovered. This is public money. The Government is indifferent. Laws are in place but are never implemented. The bureaucrats are inactive and there are many supporters in the political circle also. In the years 2002, 2003, 2005 and again in 2012, amendments have been brought but to no avail.

The poor, marginal farmers do take loans from the banks but there are also rich agriculturists who take credit but never repay. When small cultivators or labourers default, immediate action is taken against them and they are put behind bars. Their securities are grabbed and are rendered homeless. The land which is attached by the law enforcing agencies might be growing commercial crops. So the farmers also lose the produce along with the land. Thus the law should not be enforced on these poor peasants. The Government always talks about 'aam admi' or common people. The banks should allow them to take loans on easy terms which might improve their economic health and help them to survive.

I request the Government to take care of these hapless people and shield them from the Debt Recovery Tribunal because it actually works in favour of the wealthy people and the poor farmers are left in the lurch.

Another point is that the state cooperatives should be included in its ambit. There are cooperatives who lend small amounts to the common people, marginal farmers for agricultural activities. There are other minor institutions also which lend to poor peasants on easy terms. These loans can also be recovered easily. The Government should look at the poor and not only at the rich. We know that the poor people actually do not have huge amount of overdue. There are 67,000 default cases which have been registered in the country. But only the downtrodden people are harassed and punished. The strictness of law is compelling the farmers to commit suicides. When the big industrial houses and foreign companies are given relaxation, it is they who feel the pinch. So the banking system should be strengthened for the progress of our economy. When late PM Smt. Indira Gandhi nationalized the banks, the Congress party campaigned that the banks would help the ordinary citizens or aam admi of the country. But actually that did not happen. Only the well-to-do people were benefitted by the banking system. They got the privileges and facilities while the innocent farmers were driven to suicides gradually. The Bill must be referred to the standing committee where erudite members can discuss and deliberate upon the provisions of the Bill. This would help the Government get a clear picture of the ground reality and come out with a much better and effective law.

With these words I thank you for allowing me to participate in this discussion on Enforcement of Security Interest and Recovery of Debt Laws (Amendment) Bill, 2011, and conclude my speech.

SHRI

KUMAR (JAMSHEDPUR): Mr. Chairman, Sir, many of my colleagues have spoken on this issue. So, I am not going to repeat what has already been said, but I want to bring to the attention of the hon. Minister a few points.

One, the sense of the House is that it is a very important Bill and it should go to the Standing Committee on Finance before we get it approved in this House. I think, this is what everybody feels very strongly about.

Sir, if you look at this piece of legislation, as usual, it is very short on details. Since the BIFR was not working, you created and gave the responsibility to the Debt Recovery Tribunal. My esteemed colleague has said that the Debt Recovery Tribunal has got 65,000 cases pending. There is no mention of how you are going to expedite them.

Then, there is no mention of why there are non-performing assets worth Rs. 74,000 crore and who is responsible for them. Like a typical legislation, what we want to do is that every time we bring an amendment thinking that the problem should be shifted because the accountability of the executing agency is not there in our country. There is no time spent on

focusing on who is accountable. There is a Debt Recovery Tribunal case pending with the stock market scam for the past seven years. There is no work done on that. So, we believe that suddenly giving this power to the banks will solve the problem.

The other problem is that when you take a loan in this country of less than rupees one crore, it is my problem and for a loan above rupees one crore, it is a problem of the bank. Like so many speakers have correctly said, we will continue to harass the small people. Sir, through you, I would like to know whether there is a provision where the Government will continuously come with a report on non-performing assets. If you look at the number of non-performing assets, you will find that 20 per cent of the people take 80 per cent of the loan. What action are we taking? We will focus only on 80 per cent poor people and will be wasting our time in courts. A very good example is that in one of the courts in Delhi there are 12 lakh cases pending. Out of the 12 lakh cases, 8 lakh cases are small amounts of cheque bouncing. Similarly, in the Debt Recovery Tribunal we will get into this because the amendment is extremely short on details.

So, my request, through you, is this. First of all, why did the BIFR fail? What steps are you taking? What are the steps that you are going to take with the BIFR? How are you going to get the Debt Recovery Tribunal to be more efficient? Will you submit a report on the Non-Performing Assets (NPAs)?

It is correctly said that the NPA is much bigger, and over Rs. 200,000 crore has been restructured. Now, if this is the way the Government continues to restructure the loan, then it is going to lead to a very serious situation. So, my request to you is once again that we need details on this. How are you going to have a time-bound provision for Debt Recovery? Are you going to go after the big people instead of wasting your time only after the small people?

I would request you and request the Government that we need to put more meat in our legislation in terms of accountability. Why it is that Debt Recovery Tribunal is having 65,000 cases pending? Why are these cases pending for seven years? Further, they believe that they have shifted the problem from BIFR to Debt Recovery Tribunal, and the country will become very performing and all assets will start working. It is actually walking away from the fundamental fact that you are not executing at the ground level and taking action. We believe that the piece of legislation will hold the Executive more accountable in terms of execution; come out with a White Paper as to who are the NPA and whom do they belong to; and also in the restructuring of loans, which happened of over 2 lakh crore, what steps the Government is taking?

I want to conclude by saying that if you are a small farmer / transporter, then immediately your properties will get seized and this is where we need to focus as peoples' representatives. What action is the Government taking? In conclusion, I would say that we need to give it to the Finance Committee to put more meat in the legislation. The legislation is very thin on details. We have just said that the Debt Recovery Tribunal will solve all our problems. It has not solved all our problems as 65,000 cases are pending, and most of them are pending for seven years. The White Paper of the RBI should give a Performance Report every year on the NPAs. It is 50,000 crore, 70,000 crore, and next year, it will become 100,000 crore despite this legislation. So, I would request the Government to kindly consider this.

Sir, I thank you very much for the opportunity to speak.

**श्री कौशलेन्द्र कुमार (नालंदा):** माननीय सभापति महोदय, आपने मुझे प्रतिभूति हित परिवर्तन और ऋण वसूली विधि (संशोधन) विधेयक, 2011 पर बोलने का मौका दिया है, इसके लिए आपका बहुत-बहुत धन्यवाद।

मैं अपनी पार्टी जनता दल (यूनाइटेड) की तरफ से इस बिल पर बोलने के लिए खड़ा हुआ हूँ। इसका मुख्य उद्देश्य बैंकों को अपने लोन को चुकता करवाने के लिए विशेष शक्तियाँ दिए जाने के बारे में है। इससे बैंकों की गैर-निष्पादन कार्य संपत्तियाँ, एनपीए भी कम होंगी। एनपीए को कंट्रोल करने में बैंकों द्वारा रिकवरी और अन्य माध्यमों से किया जाता है। केंद्रीय बैंक भी इसका अनुसरण करता है। केंद्रीय बैंक इसका अनुसरण बैंकों की वार्षिक जांच में और बैंकों के नियामक रिटर्न, जो कि स्वयं जा कर जांच से प्राप्त होता है और बैंकों के साथ अंतरकाल मॉनिटरिंग में करता है।

बैंकों के लोन प्राप्त करने के मामले के तीन चैनल हैं। पहला सॉफ्टी कानून है। द्वितीय आस्तियों और विभूतिकरण और पुनर्गठन तथा प्रतिभूति हित का परिवर्तन अधिनियम, 2002, दूसरा संशोधन ऋण वसूली अधिनियम, 1993, तीसरा लोक अदालत है। लेकिन इन तीनों चैनलों से लोन रिकवरी का मामला हल नहीं हो पाता है। यही रिज़र्व बैंक ऑफ इण्डिया के जून, 2012 के उपलब्ध आंकड़ों से प्राप्त कुल एनपीए 1 करोड़ 23 लाख 462 करोड़ रुपये है। जिसमें भारतीय स्टेट बैंक के 40 हज़ार 756 करोड़ रुपये हैं। एसबीआई भारतीय बैंकिंग सेक्टर का 25 प्रतिशत हिस्सा है। यह कुल 33 प्रतिशत होता है। सन् 2011-12 में कुल एनपीए में सबसे ज्यादा बढ़ा है।

डेट रिकवरी ट्रिब्यूनल में 67524 मामले लंबित हैं, इसलिए बैंकों को यह अधिकार दिया गया है कि वे एआरसी के थू अपनी कंपनी की प्रतिभूति को ही अपने में समाहित करें, लेकिन यह एक क्षणिक समाधान है। समाधान यह होना चाहिए कि लोन लेने वाली कंपनी तथा कार्पोरेट सेंटर की पूरी बायींकी से जाँच हो तथा विदेशी बैंकों की तर्ज पर इसकी कैटागरी 'क', 'ख' और 'ग' लाई जाए, जिसमें जाँच के बाद कैटागरी 'क' और 'ख' को लोन दिया जाए। इससे लोन रिकवरी का मामला सुगम होगा। लोन लेते समय संपत्ति मॉर्टगेज की जाती है। जिसका जो वैल्यू कंपनी बनाकर देती है, उसको बैंक वाले भी जाँच कर सही वैल्यू लगाकर लोन दें, ताकि बाद में यह न हो कि 5000 करोड़ रुपये की संपत्ति ट्रिब्यूनल में 200 करोड़ रुपये की हो जाए। यह साबित करना होगा। इससे वार्षिक बैलेंसशीट भी बिगड़ती है। अभी केन्द्रीय बैंक ने यह निदेश दिया है कि जो संपत्ति मूल्य एक्चुअल है, उसे बैलेंसशीट में दर्ज किया जाए। इतना कहकर मैं अपनी बात समाप्त करता हूँ।

MR. CHAIRMAN: Shri Yashwant Sinha.

SHRI S. SEMMALAI (SALEM): Mr. Chairman, Sir, please allow me to say a few words about my Party's stand regarding this matter.

MR. CHAIRMAN: Okay.

SHRI S. SEMMALAI: Sir, I am not going to make any speech, and I will only be stating my Party's stand on this matter.

Mr. Chairman, Sir, as far as this Bill is concerned, it should have been referred to the Standing Committee on Finance. Though the Bill has been taken up for discussion, it is not too late. At any time, the Bill could be referred to the Committee. So, my humble request is that the hon. Chairman may be pleased to refer this Bill to the Standing Committee on Finance.

SHRI YASHWANT SINHA (HAZARIBAGH): Thank you, Sir. I did not wish to intervene in this debate and I am not going to speak on the merits of the Bill. I am just going to reiterate the suggestion which has just been made by the hon. Member. This Bill was introduced in the last Winter Session, and it is coming to this House for consideration and passing exactly after one year. Even if it had been referred to the Standing Committee on Finance, I am sure the Standing Committee would have given its report and the Bill would have been then available for consideration of the hon. Members of this House in all its aspects and ramifications because the Standing Committees do apply their mind to the Bill.

I would even now earnestly appeal to the Government, Sir, in view of the fact that it has taken one year to bring the Bill before the House, to refer it to the Standing Committee on Finance, accept the sense of the House which has emerged after this discussion, and let the Bill be considered, again, by this House after it has been deliberated upon by the Standing Committee. This is the appeal that I wanted to make, through you, to the Government. Thank you.

SHRI GURUDAS DASGUPTA : Sir, this is the appeal of the entire Opposition. Let us see how far the Government responds to the opinion of the Opposition. ...(*Interruptions*)

PROF. SAUGATA ROY : This is the opinion of our Party also.

MR. CHAIRMAN: Please sit down. Please do not disturb now. The hon. Minister is on his feet.

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): Mr. Chairman, this is an Act which was first passed in the year 2002. When Dr. Raghuvansh Prasad Singh said that it has a very complicated name, all I can say is that this name came in the year 2002 and, that is why, in common parlance, this is referred to as SARFAESI Act because otherwise the name is a very long name. Otherwise, the name is a very long name. It is like some South Indian names which are very long. This Act has been amended once by Act 30 of 2004 and then in the working of this Act, some difficulties were experienced. The Bill was drafted. The Bill was introduced in the Lok Sabha on 12<sup>th</sup> December, 2011 by my distinguished predecessor. Immediately, he wrote a letter to the Speaker requesting that the Bill be taken up in the Winter Session which was on-going or in the Budget Session and it should be passed before the end of the Financial Year. The hon. Speaker in her discretion accepted the suggestion and, therefore, did not refer this Bill to the Standing Committee. So, there is a history why this Bill did not go to the Standing Committee. And I agree with hon. Shri Yashwant Sinha that if this request had not been made or if the Speaker had turned down the request, this Bill would have gone to the Standing Committee and perhaps, it would have been reported by now. But now to tell me or to tell the House or tell you, that in December, 2012,

when the Bill finally has found an opportunity to be discussed in this House, let us refer it to the Standing Committee, I submit, would defeat the very purpose for which this Bill was sought to be introduced in December, 2011 with the request that it be taken up in that Session and to be passed in that very session, and if not, in the Budget Session.

I think when the objection was raised by hon. Member Prof. Saugata Roy, on the instructions of the Speaker, a ruling has already been given. The Speaker in her discretion has decided that the Bill will be discussed and passed in this House. So, my respectful request is that while I do appreciate the views expressed by the hon. Members that perhaps in 2011, this Bill could have been referred to the Standing Committee, my respectful appeal is please do not press that argument now. We have got this Bill finally listed for a debate in 2012 and it is necessary in the interests of the very banking system that everybody was keen to protect that this Bill should be passed now. These are purely technical amendments. And I am willing to explain each amendment to say that no major changes are being brought about except to fill the gaps which have been found in the working of the Act.

The second point is that this Bill does no harm to any farmer or to any poor lender because by definition, these Bills do not apply to loans of less than Rs. 10 lakhs. The Debt Recovery Act does not apply to loans of less than Rs. 10 lakhs. And I will read Section 1 sub-section (4). It says that the provisions of this Act shall not apply where the amount of debt due etc. is less than 10 lakh rupees. And in the case of SARFAESI Act by virtue of section 31, the Act does not apply to any security interest created in agricultural land. Therefore, these Acts really do not mean any harm to any poor farmer or any poor borrower. These Acts are intended to recover large loans especially loans from the Corporate Sector, the loans which have been borrowed and then there is wilful default in paying these loans. So, there has been extensive consultation with banks and the RBI and with the DRT, because the DRT is the one that deals with these cases and therefore, after that, these amendments were drafted in the year 2011 and that is how, the Bill has been brought forward.

Now, Shri Adsul has asked the question. I did not want to interrupt him. He asked a very valid question. Why is the multi-state cooperative bank notified and why are other banks not notified? The answer is that they have been notified. Under Section 2(i)(c) "banks" means, such other banks which the Central Government may by notification specify. By notification dated 28<sup>th</sup> January, 2003, Cooperative banks have been notified and by notification dated 17<sup>th</sup> May, 2007, Regional Rural Banks have been notified. So, all the banks have been notified.

I am very grateful to you for your support. This is the only issue on which you wanted a clarification. I am happy to give the clarification.

Yes, NPAs are a problem. But NPAs in this country have been well under control when the economy was doing well. Between 2006 and 2011, the NPAs have been controlled to below three per cent. In 2006 March, it was 3.48 per cent gross NPA. Since then, for five years, it was below three per cent....(*Interruptions*)

SHRI GURUDAS DASGUPTA : May I ask the number?

SHRI P. CHIDAMBARAM: Let me finish....(*Interruptions*)

MR. CHAIRMAN : Nobody disturbed you when you were speaking.

...(*Interruptions*)

SHRI GURUDAS DASGUPTA : I am not disturbing. I am only asking. Hon. Minister may be delighted to let us know the volume. It is a jugglery of words....(*Interruptions*)

SHRI P. CHIDAMBARAM: Let me finish. I heard everyone of the 13 Members. Let me finish and then you can ask any question.

It was 2.66 per cent, 2.39 per cent, 2.44 per cent, 2.5 per cent and 2.37 per cent. If the volume goes up, and if the percentage of NPA remains the same, that means the total lending has gone up substantially. That is why the percentage remains the same or roughly around two and a half per cent. The two and a half per cent gross NPA in a developing country is not unusual. The two and a half per cent gross NPA in a developing country is not unusual because there will be a certain number of defaulters in different sections – farmers and even self-help groups. Among the best repaying groups, there is an NPA of between one per cent to two per cent. Do you then say that the entire self-help group movement is a willful defaulter? You do not say that. There will be an NPA of one or two per cent. If everybody pays the loan, there will be no NPA. But I know of no country where everybody repays the loan. And net NPAs were well under control, a little over one per cent, because the banks were providing for it and the regulator has been strict for many years. I do not take any credit for this. Every successive Finance Minister can take credit for this because the regulator has been very strict and provision has been made to keep net NPAs only to a little over of one per cent.

What has happened in the last couple of years is that because of the challenges to the economy, because of the stress in the economy, several sectors are not doing well. And because several sectors are not doing well, gross NPAs have indeed risen above three per cent. It is now about approximately 3.5 per cent. But even so, because we make provision, because the RBI is very strict in requiring the banks to make provision, the net NPA is still only 1.62 per cent. The gross NPAs are over three and a half per cent but the net NPA is only 1.62 per cent. The effort is to ensure that sectors which are under stress are helped to get out of this difficult time and from units which are making money, we must recover the loans. Units which are genuinely stressed must be helped. I did answer a question. I said that there must be some hand-holding in a time of stress so that they all do not become bankrupt or insolvent. They come out of the stress. We have to protect employment; we have to protect jobs; and we have to protect manufacturing. They will come out of the difficulty, once the economy recovers. We are going through a difficult time. And it is this difficulty which is reflected in this rising gross NPAs. But let me tell you, thanks to the RBI, thanks to the strict vigilance, thanks to the provisions made, the net NPAs are well under control. There is no reason to think that our banking system is in difficulty. In fact, many Members rightly complimented the banking system. When over a thousand banks failed in the United States, not one bank in India failed....(*Interruptions*) Because of good regulation, good governance, good provisioning and the growth of the banking system, more people are depositing money and more people are able to borrow money.

Banks are expanding. When banks expand into newer areas there would be some difficulty in the early years. In fact in 2009-10 we opened 5,192 new branches; in 2010-11, 5,314 new branches; and in 2011-12, 6,503 new branches. We are opening new branches at the rate of about 20 per day. Twenty branches per day is not easy to open, 20 branches per day are being opened. Even so, there are many parts of India which are un-banked and we must open many more branches. It is our intention to open many more branches.

Frankly, as Mr. Adsul rightly pointed out, there is nothing controversial about any section. The sections are self-explanatory. In fact nobody had any serious quarrel about any of the amendments, the substance of the amendments. So, it is perhaps not necessary for me to detail each amendment. There is nothing very controversial about any amendment.

There were some larger general issues raised. Who are the ARCs? There are 14 ARCs. One ARC actually has 60 per cent of the business and this is an ARC, Arcil, promoted by the public sector banks. So, the biggest ARC in the country is promoted by the public sector banks and that has almost 60 per cent of the business. Other ARCs have now come into being and they will of course get their share of business. But there are 14 ARCs.

Next question is: Is there a regulator for ARCs? Yes. The Reserve Bank of India is the regulator for ARCs. They have to get a licence from the Reserve Bank of India and the Act provides how the Reserve Bank will lay down guidelines to regulate the ARCs.

Mr. Sanjay Nirupam asked about a report on the working of the ARCs. Yes, there was a Committee which looked into the working of the ARCs. They pointed out that certain accounting methods followed by the ARCs were not in conformity with the standards. That report has been accepted and Arcil's accounts were recast in accordance with the recommendations, and RBI has accepted the recast accounts.

There was some reference to adjournments, by Mr. Sampath. I think he is pleading for poor lawyers who want more adjournments. In one breath he is saying that he is pleading for the banks who have to recover and in the same breath he is pleading for the defaulter. Mr. Pinaki Mishra said that 64,000 cases are pending. Why are 64,000 cases pending? One reason is inadequate number of DRTs. I agree, more DRTs must be opened. We will open more DRTs. That requires infrastructure, finding judges, etc., but we will open more DRTs. I will look into your request that one more DRT should be opened in Kerala.

But cases are pending because the cases drag from weeks to months and from months to years. Therefore, we are limiting the number of adjournments a case can take. All these cases are where the security interest has been secured by a number of documents. There is really nothing by way of evidence to be given. It is all documented loans. Any number of documents are there to show that the person has taken the loan and the person has defaulted. Therefore, we are putting a cap on the number of adjournments a person can take.

How many adjournments should a case take? We said if there are 'x' number of respondents, limit the adjournments to six. Otherwise, limit the adjournments to three. What is wrong with that? One day or the other, these cases have to be decided. We cannot go on giving adjournments for the sake of asking. Then, why 64,000, 640,000 cases will start pending. These cases can and should be disposed of in one or two hearings because these are all perfectly documented cases. There is really no great controversy about these cases. Therefore, I think the provision limiting the number of adjournments is a wholesome provision. It does not deny the borrower the right of a complete inquiry. Six adjournments, is that not enough to dispose of a case?

I would respectfully request my fellow-lawyer Member, Shri Sampath not to make an issue as to why I am limiting the

adjournments. In fact, we should limit the adjournments so that the cases are disposed of.

Then there was a question about pendency, about which I said. SARFAESI Act has overriding effect. If you have looked at section 35 – this was asked by Shri Pinaki Misra again – of the SARFAESI Act, it does give this Act overriding effect over other laws. He said that we must take away even the writ jurisdiction. That is not possible. He knows better than I do. ...(*Interruptions*)

MR. CHAIRMAN : Please do not disturb now.

SHRI P. CHIDAMBARAM: You cannot take away the writ jurisdiction. ...(*Interruptions*)

MR. CHAIRMAN: What is this? Nothing will go on record. Nothing will go on record, except what the hon. Minister says.

*(Interruptions)\** €

SHRI P. CHIDAMBARAM: We cannot take away the jurisdiction of the High Court or the Supreme Court, under article 226 and article 32; we can only take away the powers of the civil court. The powers of the civil court can be restricted, but we cannot restrict the powers of the High Court . ...(*Interruptions*) Please listen to me. I know you are an eminent lawyer, but please listen to me. ...(*Interruptions*) I do not claim that at all. ...(*Interruptions*) We cannot restrict the powers of High Court and the Supreme Court. Therefore, we have to leave the power under article 226 and article 32 in tact, but the powers of the civil court have been overridden. This Tribunal will have the powers to decide these cases.

There were some references to a couple of companies – individual cases. It may not be proper to discuss any individual cases. But let me assure you that in no case, will I allow any special favour to be shown. A particular case was mentioned, where there was a huge NPA; the strictest action is being taken by the banks, in asking them to put up the money upfront before any kind of accommodation can be given; no fresh loans are being given. In fact, the Tax Department has taken severe action in attaching those assets. So, no favours are being shown to any one, irrespective of whoever he may be. The law is taking its course.

Sir, as far as the merits of the amendments are concerned, I respectfully submit this. Perhaps it is not necessary to discuss the merits of the amendments. These amendments are purely amendments which have been made to make the Act more effective in its working, and to plug the loopholes that have been discovered in the application of the Act. These amendments are intended to help the banks; the banks have been fully consulted. These amendments have been intended to help the DRTs to quicken the process; the DRTs have been fully consulted.

I would, therefore, request that these amendments be adopted. If, at the stage of third reading, any hon. Member has any difficulty about any particular amendment, I am willing to explain the amendment. But otherwise, these amendments are self-explanatory. I would respectfully request the House to kindly pass these amendments. ...(*Interruptions*)

MR. CHAIRMAN: No. All the hon. Members cannot speak at the same time. Please let him speak.

*... (Interruptions)*

SHRI YASHWANT SINHA : Sir, a very reasonable suggestion has been made that the Bill be referred to the Standing Committee. It is not even accepted; so, we walk out. ...(*Interruptions*)

**15.58 hrs.**

*At this stage, Shri Yashwant Sinha and some other*

*hon. Members left the House.*

SHRI BASU DEB ACHARIA : What is the difficulty in referring the Bill to the Standing Committee? ...(*Interruptions*) We are also walking out.

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**15.58 ½ hrs**

*At this stage, Shri Basu Deb Acharia and some other*

*hon. Members left the House.*

SHRI GURUDAS DASGUPTA : Sir, we are walking out in protest. ...(*Interruptions*)

**15.59 hrs**

*At this stage, Shri Gurudas Dasgupta and some other*

*hon. Members left the House.*

MR. CHAIRMAN: The question is:

"That the Bill further to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, be taken into consideration."

*The motion was adopted.*

MR. CHAIRMAN: The House shall now take up clause by clause consideration of the Bill.

The question is:

"That clause 2 stand part of the Bill."

*The motion was adopted.*

*Clause 2 was added to the Bill.*

**16.00 hrs**

### **Motion Re: Suspension of Rule 80 (i)**

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): Sir, I beg to move:

"That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No.3 to the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011 and that this amendment may be allowed to be moved. "

MR. CHAIRMAN: The question is:

"That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No.3 to the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011 and that this amendment may be allowed to be moved. "

*The motion was adopted.*

### **New Clause 2A Amendment of section 5**

*Amendment made:*

Page 2, *after* line 8, *insert*"

**2A.** In section 5 of the principal Act, *after* sub-section (4), the following sub-section shall be *inserted*, namely:-

"(5) On acquisition of financial assets under sub-section (1), the securitization company or reconstruction company, may with the consent of the originator, file an application before the Debts Recovery Tribunal or the Appellate Tribunal or any court or other Authority for the purpose of substitution of its



name in any pending suit, appeal or other proceedings and on receipt of such application, such Debts Recovery Tribunal or the Appellate Tribunal or court or Authority shall pass orders for the substitution of the securitization company or reconstruction company in such pending suit, appeal or other proceedings.".'. (3)

(Shri P. Chidambaram)

MR. CHAIRMAN: The question is:

"That new clause 2A stand part of the Bill."

*The motion was adopted.*

*New clause 2A was added to the Bill.*

*Clause 3 was added to the Bill.*

#### **Clause 4 Amendment of section 13**

*Amendments made:*

Page 2, after line 31, insertâ€œ

'(c) in the opening portion of sub-section (9), and in the Explanation thereto, for the words "three-fourth", occurring at both the places, the words "sixty per cent" shall be *substituted*.".'. (4)

(Shri P. Chidambaram)

MR. CHAIRMAN: The question is:

"That clause 4, as amended, stand part of the Bill. "

*The motion was adopted.*

*Clause 4, as amended, was added to the Bill.*

*Clauses 5 to 11 were added to the Bill.*

#### **Motion Re: Suspension of Rule 80 (i)**

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): Sir, I beg to move:

"That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No.5 to the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011 and that this amendment may be allowed to be moved. "

MR. CHAIRMAN : The question is:

"That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No.5 to the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011 and that this amendment may be allowed to be moved. "

*The motion was adopted.*

### **New Clause 11A Amendment of section 15**

*Amendments made:*

Page 5, *after* line 34, *insert*—

**11A.** In section 15 of the principal Act, in sub-section (2), the following proviso shall be *inserted*, namely:—

"Provided that the Central Government, during the pendency of the inquiry against the Presiding Officer or a Chairperson, as the case may be, may, after consulting the Chairperson of the Selection Committee constituted for selection of Presiding Officer or Chairperson, pass an order suspending the Presiding Officer or the Chairperson, if it is satisfied that he should cease to discharge his functions as a Presiding Officer or Chairperson, as the case may be." (5)

(Shri P. Chidambaram)

MR. CHAIRMAN: The question is:

"That new clause 11A stand part of the Bill."

*The motion was adopted.*

*New clause 11A was added to the Bill.*

*Clause 12 was added to the Bill.*

### **Clause 13 Amendment of section 19**

*Amendments made:*

Page 6, *after* line 15, *insert*--

'(aa) *after* sub-section (3), the following sub-section shall be *inserted*, namely:-

"(3A) If any application filed before the Tribunal for recovery of any debt is settled prior to the commencement of the hearing before that Tribunal or at any stage of the proceedings before the final order is passed, the applicant may be granted refund of the fees paid by him at such rates as may be prescribed.";

(ab) *for* sub-section (5), the following sub-section shall be *substituted*, namely:-

"(5) The defendant shall, within a period of 30 days from the date of service of summons, present a written statement of his defence:

Provided that where the defendant fails to file the written statement within the said period of 30 days,

the Presiding Officer may, in exceptional cases and in special circumstances to be recorded in writing, allow not more than two extensions to the defendant to file the written statement.":

(ac) *after* sub-section (5), the following sub-section shall be *inserted*, namely:--

"(5A) After hearing of the application has commenced, it shall be continued from day-to-day until the hearing is concluded:

Provided that the Tribunal may grant adjournments if sufficient cause is shown, but no such adjournment shall be granted more than three times to a party and where there are three or more parties, the total number of such adjournments shall not exceed six:

Provided further that the Presiding Officer may grant such adjournments on imposing such costs as may be considered necessary.".'. (6)

(Shri P. Chidambaram)

MR. CHAIRMAN: The question is:

"That clause 13, as amended, stand part of the Bill. "

*The motion was adopted.*

*Clause 13, as amended, was added to the Bill.*

*Clause 14 was added to the Bill.*

*...(Interruptions)*

**Motion Re: Suspension of Rule 80 (i)**

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): Sir, I beg to move:

"That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No.7 to the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011 and that this amendment may be allowed to be moved. "

MR. CHAIRMAN : The question is:

"That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No.7 to the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011 and that this amendment may be allowed to be moved. "

*The motion was adopted.*

**New Clause 15 Amendment of section 36**

*Amendments made:*

**15.** In section 36 of the principal Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely:-

"(cc) the rate of fee to be refunded to the applicant under sub-section (3A) of section 19 of the Act.". (7)

(Shri P. Chidambaram)

MR. CHAIRMAN: The question is:

"That new clause 15 stand part of the Bill."

*The motion was adopted.*

*New clause 15 was added to the Bill.*

### **Clause 1 Short title and commencement**

*Amendment made:*

Page 1, line 6, for "2011", substitute "2012". (2)

(Shri P. Chidambaram)

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, line 1, for "Sixty-second", substitute "Sixty-third". (1)

(Shri P. Chidambaram)

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 Long Title was added to the Bill.*

MR. CHAIRMAN: The Minister may now move that the Bill, as amended, be passed.

SHRI P. CHIDAMBARAM: I beg to move:

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

MR. CHAIRMAN: Motion moved:

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

PROF. SAUGATA ROY : Sir, at this stage, I want to say something. ...(*Interruptions*)

MR. CHAIRMAN: Please do not disturb him. Let him say.

...(*Interruptions*)

MR. CHAIRMAN: Hon. Member, I have allowed you . You please address the Chair.

...(*Interruptions*)

PROF. SAUGATA ROY : Sir, I just want to make one point. Firstly, we are not happy with the explanation which the Finance Minister gave for not referring the Bill to the Standing Committee on Finance. Secondly, I did not hear any explanation from him as to why they have decided to bring 49 per cent FDI in asset re-construction companies. What is the need for raising the cap on FDI as far as asset re-construction companies are concerned for reviving companies which have given sick or bad loans? He has not explained that. I hope that he clarifies it or is it just to show that he is for reform and for opening the door to FDI?

SHRI P. CHIDAMBARAM: Sir, as far as the first point is concerned, I have already explained why a Bill introduced in 2011 by my distinguished predecessor with the request that it need not be referred to the Standing Committee should not be referred now after 12 months. I have given my explanation. Some are satisfied and some are not but that is life.

As far as FDI in ARCs is concerned, this is not being brought for the present Bill. The Reserve Bank of India by a circular dated 11<sup>th</sup> of November, 2005, has permitted FDI in equity in ARCs up to 49 per cent. This has been the FDI since 2005. However, you will be happy to know that the actual FDI in only one company is about 31 per cent. In about nine of the companies, there is no FDI at all. In Arcil which is the biggest company, there is only an FDI of 15 per cent and in other companies there is a small amount of FDI.

Now the question is why do we need FDI. Nobody is imposing FDI. It is quite possible that a re-construction company can be run without FDI but asset re-construction and securitization are extremely technical subjects. First of all, we did not have any re-construction companies in India. We do not have securitisation companies in India until this Act was passed. So, we have no experience of securitisation and asset reconstruction. When the first one was floated by public sector banks at the instance of the Government, perhaps they thought that it may be useful to draw upon the experiences of other countries which have successfully done asset reconstruction and securitisation. Therefore, a window was opened for FDI and that window has been used only partially in a few companies. It is quite possible that window will be closed. As we gain experience we may not require FDI. But I think since asset reconstruction and securitisation are extremely advanced instruments, extremely sophisticated instruments, perhaps the RBI felt at that time that it is wise to allow a window for FDI. But as I said, the window has not been exploited; the window has not been misused. In fact, many companies do not have FDI.

MR. CHAIRMAN : The question is:

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

*The motion was adopted.*

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