

FIDC

Finance Industry Development Council

(A body incorporated as a Self Regulatory Organization for Registered NBFCs)

101/103, Sunflower, 1st Floor, Rajawadi Road No.2, Ghatkopar (East), Mumbai – 400 077 (India)

Tel: 022 21027324/9820035553 · E-mail: maheshthakkar45@yahoo.in website:

www.fidcindia.org

July 14, 2017

To

Dr. Ranjeet V. Patil,
Minister of State for Law & Judiciary,
5th Floor, 540, Extension Building,
Madam Cama Road, Mantralaya,
MUMBAI 400 032.

Respected Sir,

REPRESENTATION TO HIGHLIGHT THE SHORTAGE OF CMM/DMS COURTS IN MUMBAI AND DELAY IN GETTING APPROPRIATE ORDERS UNDER SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 “SARFAESI” FROM THE COURTS OF CMM/DMS IN OTHER PARTS OF MAHARASHTRA.

Introduction:

Finance Industry Development Council (FIDC) is a Self-Regulatory Organization (SRO) cum Representative Body of the NBFCs, registered with the Reserve Bank of India and engaged in Asset Financing. FIDC was formed 12 years ago, at the behest of the then RBI Governor and is the recognized face of NBFCs, specially, those engaged in asset financing. We have been engaged in regular interactions both with Reserve Bank of India and Ministry of Finance, which include pre-budget meetings with the Hon’ble Finance Minister and also important policy related meetings with the Governor and Deputy Governor of RBI. Almost all the leading NBFCs and a large number of small and medium sized NBFCs are our members.

Issue:

It is pertinent to mention here that vide Notification dated 05-08-2016, the Finance Ministry has allowed certain Finance Companies to invoke the provisions of SARFAESI. This was done to bolster the efforts of NBFCs to recover its dues from the defaulting customers thereby reducing their Non-Performing Asset “NPA”. Copy of the Notification dated August 5, 2016 is annexed herewith as Annexure-A.

SARFAESI is one of the most potent tools in the hands of Banks/Financial Companies for recovering its NPAs. Being part of Financial sector, notified NBFCs have a few concerns with regard to SARFAESI Proceedings in the CMM/DM’s Court and the same are highlighted below:

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- As per Section 14 of the SARFAESI, the CMM/DM has to pass an Order within one month from the date of presentation/filing of the Application for taking possession of the secured assets. In case of delay, then the CMM/DM shall pass the Order within another 30 days specifying reason(s) for delay. However, in reality the CMM in Mumbai and in other parts of Maharashtra are taking much more than one month time to pass an Order under section 14. The CMM/DM Courts are giving dates of around 1-2 months just for verification of documents. At times, CMM/DM Court takes six months to one year to pass an appropriate order under section 14 of SARFAESI.
- In Delhi, the CMM passes an order within 1-10 days, since they have around 12 CMM/DMs. Due to availability of more CMM/DMs we are getting quick orders. In Mumbai, in spite of being the commercial and financial capital of India, we have only one CMM, who is dealing with jurisdiction of Mumbai u/s 14 of SARFAESI. There is a huge pendency of matters with the CMM Court and SARFAESI applications are one among them. It usually takes around 4-6 months to get orders under section 14 of the SARFAESI resulting in considerable delay. There is an urgent need to have more CMM/DMs Courts in Mumbai to ease the burden of the existing CMM court.
- SARFAESI was enacted by the Parliament as a tool for recovery of secured asset of the Banks and NBFCs. But due to the delay in passing the appropriate orders by CMM/DMs, there is delay in recovery proceedings thereby resulting in increase of NPAs of NBFCs and Banks.
- Application under Section 14 of the SARFAESI is a summary procedure. However, borrowers are increasingly delaying the matter and finding it easy to do so since the CMM/DM Courts are giving longer dates and are overburdened as well.

Suggested:

Our humble request to the appropriate authority would be to increase the number of CMM Courts in Mumbai and other parts of Maharashtra and also ensure that steps are

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taken by CMM/DMs to pass orders under section 14 of SARFAESI within the timeliness specified in SARFAESI.

Thanking you in anticipation

Regards

For **FINANCE INDUSTRY DEVELOPMENT COUNCIL**

MAHESH THAKKAR
Director General

- Cc: 1. Shri Devendra Fadnavis,**
Hon'ble Chief Minister of Maharashtra,
6th Floor, Main Building,
Dr. Madam Cama Road,
Mantralaya,
MUMBAI 400 032.
- 2. Dr. Manjula Chellur,**
Hon'ble Chief justice of Bombay High Court,
The Registrar General,
Bombay High Court,
Fort, MUMBAI 400 032.