

amounts to "domestic violence" within the meaning of Section 3 of the D.V. Act and therefore women is also entitled for compensation under Section 22 and 23 of D.V. Act, thus we can say safely that live-in or marriage like relationships is neither a crime nor a sin though still socially unacceptable in this country. The decision to marry or not to marry or to have a heterosexual relationship is intensely personal though law of the land come to rescue to legalise such relationships hence partners can also draw a live-in together agreement about how they share their property.

In my humble view live-in-relationship has its own challenges so far as compatibility and societal acceptance is concerned despite supreme courts green signal as it has been held that such type of relationships are legalized hence we can say that it completely requires change of mind-set and attitudinal change towards such couple.

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BRIEF OVERVIEW OF SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST (SARFAESI) ACT, 2002

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Since the financial sector always plays a very important role in the progress of a nation and the recovery of loans was very slow in India and our existing legal framework relating to commercial transaction is not at par with the legal framework of other developing countries and in order to reform the financial and banking sectors, the Govt. of India two expert committees under the Chairmanship of M. Narasimham (an Ex-RBI Governor) which are widely credited for spearheading the financial sector reform in India. The first Narasimham Committee (Committee on the Financial System-CFS) was appointed by Manmohan Singh as India's Finance Minister on 14th of August 1991 and the second committee (Committee on Banking Sector Reforms) was appointed by P. Chidambaram as Finance Minister in December, 1997. The first Committee (subsequently known as Narasimham Committee-I) submitted its report to the Finance Minister in November, 1991 which was tabled in Parliament on 17th December, 1991.

On the basis of the recommendations of the aforesaid Committee, one of the measure undertaken by the Govt. is that the Govt. of India passed the "Recovery of Debts due to Banks and Financial Institutions Act, 1993" in order to facilitate and speed up the recovery of debts due to the Banks and financial institutions. Six Special Recovery Tribunals have been set up and an Appellate Tribunal has also been set up at Mumbai.

The Second Committee known as Narasimham Committee-II (Committee on Banking Sector Reforms) submitted its report to the Govt. in April, 1998 and

recommended various measures required to be taken for further strengthening the financial system of India. Amongst other recommendations, the committee also recommended that there was an urgent need for reviewing and amending main laws governing Indian Banking Industry like Reserve Bank of India Act, Banking Regulation Act, State Bank of India Act, Bank Nationalisation Act etc. The committee also recommended faster computerization, technology up-gradation, training of staff, depoliticizing of Banks, professionalism in Banking, review Bank recruitment etc.

The Govt. of India in the year 1998 constituted another committee in which T.R. Andhyarujina was the Chairman of the Committee known as Andhyarujina Committee. On the basis of the recommendations of the Committee, the Govt. of India enacted Securitisation and Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (SARFAESI Act). The main objective of this Act is to empower Banks and financial institutions to take possession of securities given for financial assistance and sell or lease the same and reduce the non-performing assets by adopting measures for recovery or reconstruction.

Actually the slow rate of recovery of defaulting loans and the extremely high levels of non-performing assets of banks and financial institutions were matter of pressing concerns for the Govt. of India and this fact led to the constitution of the Narasimham Committee I & II and Andhyarujina Committee. These committees made suggestions to form new legislation for securitisation and empowering banks and financial institutions to take possession of the securities and to sell them without any intervention of the Courts. Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 is a legislation enacted by the Government based on the suggestions of the aforesaid Committees and the legislation aids financial institutions and banks to auction or sell both residential and commercial properties in order to recover bad loans.

Constitutional Validity of the Act:

The Constitutional validity of the Act came to be challenged before the Supreme Court in case titled *Mardia Chemicals Ltd. V/S Union of India*, 2004 AIR (SC) 2371. The Hon'ble Supreme Court upheld the validity of the Act and its provisions except that of sub-section (2) of Section 17 of the Act which provides the requirement of deposit of 75% of amount claimed before entertaining an appeal under section 17 of the Act which was declared ultra vires of Article 14 of the Constitution being oppressive, onerous and arbitrary condition against all canons of reasonableness.

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