

Security Interest (Enforcement) Rules, 2002

Rule 8 - Rule 8 Sale of immovable secured assets

(1) Where the secured asset is an immovable property, the authorised officer shall take or cause to be taken possession, by delivering a possession notice prepared as nearly as possible in Appendix IV to these rules, to the borrower and by affixing the possession notice on the outer door or at such conspicuous place of the property. (2) In the Security Interest (Enforcement) Rules, 2002 in Rule 8, in sub-rule (2) for the words "The possession notice as referred to in sub-rule (1) shall also be published in two leading newspapers" shall be substituted by the Security Interest (Enforcement) Amendment Rules, 2007. [Noti. No. F. No. 16/7/2003-B.O.I, dt. 26.10.2007-Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 1317, dt. 26.10.2007, Page 2.] The possession notice as referred to in sub-rule (1) shall also be published, as soon as possible but in any case not later than seven days from the date of taking possession, in two leading newspapers, one in vernacular language having sufficient circulation in that locality, by the authorised officer. (3) In the event of possession of immovable property is actually taken by the authorised officer, such property shall be kept in his own custody or in the custody of any person authorised or appointed by him, who shall take as much care of the property in his custody as a owner of ordinary prudence would, under the similar circumstances, take of such property. (4) The authorised officer shall take steps for preservation and protection of secured assets and insure them, if necessary, till they are sold or otherwise disposed off. (5) Before effecting sale of the immovable property referred to in sub-rule (1) of rule 9, the authorised officer shall obtain valuation of the property from an approved valuer and in consultation with the secured creditor, fix the reserve price of the property and may sell the whole or any part of such immovable secured asset by any of the following methods :--(a) by obtaining quotations from the persons dealing with similar secured assets or otherwise interested in buying the such assets; or (b) by inviting tenders from the public; (c) by holding public auction; or (d) by private treaty. (6) the authorised officer shall serve to the borrower a notice of thirty days for sale of the immovable secured assets, under sub-rule (5): Provided that if the sale of such secured asset is being effected by either inviting tenders from the public or by holding public auction, the secured creditor shall cause a public notice in two leading newspapers one in vernacular language having sufficient circulation in the locality by setting out the terms of sale, which shall include, --(a) the description of the immovable property to be sold, including the details of the encumbrances known to the secured creditor; (b) the secured debt for recovery of which the property is to be sold; (c) reserve price, below which the property may not be sold; (d) time and place of public auction or the time after which sale by any other mode shall be completed; (e) depositing earnest money as may stipulated by the secured creditor; (f) any other thing which the authorised officer considers it material for a purchaser to know in order to judge the nature and value of the property. (7) Every notice of sale shall be affixed on a conspicuous part of the immovable property and may, if the authorised officer deems it fit, put on the web-site of the secured creditor on the Internet. (8) Sale by any methods other than public auction or public tender, shall be on such terms as may be settled between the parties in writing.