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# LONG-DRAWN BATTLE ON CARDS - ED, Banks Claim Right Over Assets Pledged by Mallya

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**Mumbai**

**ED set to move court to get confiscation order; won't be so simple, say banks**

Banks and the Enforcement Directorate may soon lock horns to decide who has the right over the promoter shares of UB Group companies pledged with banks by Vijay Mallya. ED officials, who took possession of the shares of some of these companies and other assets a few weeks ago, said they will soon move to get a confiscation order from the courts and take over the shares. Banks say it is not so simple.

"We hold the first right on pledged shares as a charge was created while disbursing loans to Mallya and his companies," said one banker who did not wish to be named. "ED may dispose of other assets where there is no charge, but selling shares and assets pledged to us is not possible."

Another banker said the banks hold prior right on all pledged assets and that the Enforcement Directorate cannot confiscate a property where a charge has already been

will speed up if Mallya is brought back.

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The tussle -expected to be a long-drawn one -may also spell trouble for Dutch brewer Heineken's plans to take majority ownership in United Breweries, where Mallya is the joint owner. Mallya's 30% stake in UB, the maker of Kingfisher beer, is among the assets in ED's possession. ET, in its May 3 edition, had reported that Heineken has approached lenders with a proposal to buy out all of Mallya's shares in United Breweries that are pledged with them.

ED has so far attached properties and assets worth ` . 9,700 crore held by Mallya and his companies. The promoter stakes in various group companies that ED has seized and possessed include 11.53% in UBHL, the group holding company, and 11.08% in UB. It could not be ascertained whether ED has also taken possession of the stake held by Kingfisher Finvest in these companies.

ED officials said a confiscation order from the courts is required before the agency can dispose of the assets and the shares. Banks are expected to oppose ED's move strongly whenever the case comes up for hearing.

Lawyers that ET spoke with were divided over who has a bigger claim on the pledged assets: an investigative agency like ED or the banks that had lent money in the first place.

"ED has the power to confiscate property but they cannot confiscate a property that is already charged or where someone else has a prior right," said Mona Bhide, managing partner at Dave and Girish and Co Advocates. "So statutory liabilities like tax or government dues would have priority over charge holders, but since a specific charge is created, banks would have a prior right." ED, however, has an option. Some experts said if the agency proves to the court that money was laundered by Mallya and his



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charge by banks falls," said Babu Sivaprakasam, partner at Economic Laws Practice.

Banks, especially the state-owned institutions, are under tremendous pressure to recover money from Mallya following the collapse of Kingfisher Airlines in 2012. The businessman owes about Rs 9,000 crore to lenders, including interest on dues.

**Row Over Assets**  
ED has so far taken possession of shares & assets worth **₹9,700 cr**

<p><b>Mallya's stake</b> in UBHL &amp; UB among those in ED's possession</p> <p><b>BANK VIEW</b> First right on pledged shares as charge created during loan disbursement</p>	<p><b>Agency may</b> soon move court to confiscate the properties</p> <p><b>ED VIEW</b> Assets created with laundered money</p>
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