

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), Section 26E – Right to property is a constitutional right as enshrined under Article 300(A) of the Constitution of India – Once, the petitioners have purchased the property in auction duly conducted under a statute i.e. the SARFAESI Act, it was the constitutional right of the petitioner to enjoy the property to its fullest – By asking the petitioners to seek ‘No Objection Certificate’ from the Court of Judicial Magistrate 1st Class, Chandigarh, where the said property was attached under a proclamation made under Section 83 CrPC, the said rights have been infringed – Charge had been created by the JMFC on the property and attachment was only to secure the presence of the accused persons in the proceedings under [Section 138](#) of the Act of 1881 and not for recovery of any money – Even assuming any such charge has been created, then the same would not have priority over the mortgage in favour of the bank and cannot come in the way of the property being transferred in favour of the auction purchasers.

[2022 PLRonline 5550](#)

[LOVE GARG v. STATE OF PUNJAB , \(2022-1\)205 PLR 044 , 2022 PLRonline 5550](#)