



Sarfaesi S. 26E - Rights which have been created prior in time would have preference over the rights created subsequently - Mortgage in favour of the bank was created prior to the alleged order of attachment

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Securitisation and Reconstruction of Financial Assets and Enforcement of Security [interest](#) Act, 2002 (54 of 2002), Section 26E - Transfer of Property Act, 1882, Section 48 - Criminal Procedure Code, 1973 (II of 1974) Section 83 - Clearly stipulates that where different rights have been created upon immoveable property at different times and in case same cannot co-exist, then, rights which have been created prior in time would have preference over the rights created subsequently - In the present case, it is not in dispute that [mortgage](#) in favour of the bank was created prior to the alleged order of attachment and thus, on the basis of the abovesaid principle also, the rights of the secured creditor as well as subsequent rights in favour of [auction](#) purchasers i.e. petitioners, would be protected.

[2022 PLRonline 5550](#)

Tags: [Sarfaesi and Tax Act](#), [Sarfaesi S. 26-E](#)