

Ct. 11.12
No. 2023
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C.O. 1147 of 2023
Sri Rudra Bhattacharya & Anr.
-Versus-
The Authorised Officer, Bank of India & Ors.

Mr. Rudra Bhattacharya	...For the Petitioner
	No. 1 (In Person)
Mr. R.C. Prusti Mr. Sanjib Das Ms. Smriti Das	...For the Opposite Parties

Supplementary affidavit and affidavit-in-reply filed
by the petitioners are taken on record.

This is an application under Article 227 of the
Constitution of India preferred against order dated 1st
February, 2023 passed by the learned Debt Recovery
Tribunal-I (DRT-I), Kolkata in IA No. 1360 of 2019 arising
out of TSA/5/2022 (SA 142 of 2015).

Mr. Rudra Bhattacharya, petitioner No. 1,
appearing in person submits that the learned Tribunal
without going into the merits of the case, suddenly came to
the conclusion that there is no prima facie evidence of
commission of offence by the Officers and accordingly he
did not feel it necessary to make any enquiry as required
under Section 340 of the Code of Criminal Procedure, 1973.

He further submits that the said order is perverse
and it is not supported by reason and also suffers from
material irregularity. Accordingly, he prayed for setting
aside the impugned order.

Mr. Sanjib Das, learned Counsel appearing on
behalf of the opposite party submits that in view of section
18 of the Securitization and Reconstruction of Financial

Assets and Enforcement of Securities Interest (SARFAESI) Act, 2002 any person aggrieved by any order made by the DRT may prefer an appeal before the Debt Recovery Appellate Tribunal (DRAT) within the specified period. In such view of the matter, the present application under Article 227 of the Constitution of India is an attempt of overstepping jurisdiction, in view of the fact that the petitioner herein has not availed for his remedy before the appropriate forum and the hierarchy of judiciary suggests, when the petitioner has his alternative remedy before appropriate forum the present application is not maintainable before this Court at this stage.

During course of hearing, petitioner No.1 appearing in person admits that he has his remedy before the Debts Recovery Appellate Tribunal and accordingly petitioner No.1 appearing in person submits that he may be given liberty to prefer an appeal before the DRAT to ventilate his grievances and in case of filing such appeal, the DRAT may be asked to dispose of said appeal within a very short period so that the interest of the parties may not be prejudiced.

In such view of the matter, C.O. 1147 of 2023 is hereby disposed of granting liberty to the petitioner to prefer appeal before the Debts Recovery Appellate Tribunal against the order impugned within a period of one week from date. If such appeal is preferred before the Debts Recovery Appellate Tribunal, the concerned Appellate Tribunal will condone the delay in filing the appeal, if any, in view of the fact that the delay has been caused, as the petitioners have preferred application under Article 227 of the Constitution of India before this Court for redressal of their grievances.

In the event of filing such appeal before the Appellate Tribunal within a week, the Debts Recovery Appellate Tribunal will dispose of such appeal within a period of 45 days from the date of filing of such appeal. It is made clear that this court has not gone into the merits of the case and in the event of filing such appeal DRAT will dispose off such appeal on merit in accordance with law.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, on priority basis on compliance of all usual formalities.

(Ajoy Kumar Mukherjee, J.)