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**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

**C.O. 154 of 2022
Kohinoor Tea Company Limited
-Versus-
Central Bank of India**

Mr. Nabankur Paul

...For the Petitioner

Mr. Rahul Mishra

**...For the Opposite Party /
Central Bank of India**

Present application under Article 227 of the Constitution of India has been preferred against order dated 11th November, 2022 passed by the Debts Recovery Tribunal, Siliguri in TOA 604 of 2017 arising out of O.A. 08 of 2004. By the impugned order, learned Tribunal below rejected the petitioner's prayer for setting aside ex parte order passed against the defendant vide order dated 1st November, 2022.

The petitioner herein contended that by the impugned order the learned Tribunal below has failed to exercise its jurisdiction vested on it and has disposed of the application in an illegal manner and thereby caused failure of justice. The petitioner accordingly prayed for interference of this Court by exercising supervisory jurisdiction under Article 227 of the Constitution of India.

Mr. Rahul Mishra, learned Counsel appearing on behalf of the opposite party / Central Bank of India submits that there is specific provision in Section 20 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the said Act of 1993) by which appeal can be preferred against an

order passed by the Debts Recovery Tribunal, before the Debts Recovery Appellate Tribunal.

In this context he relied upon a decision of the Hon'ble Apex Court in the case of *Punjab National Bank Vs. O.C. Krishnan & Ors.*, reported in (2001) 6 SCC 569.

I have considered the submissions made by both the parties. When the statutes clearly provides for preferring appeal before the appropriate Appellate Forum under Section 20 of the said Act of 1993 I find no reason as to why the petitioner ignoring hierarchy of appeal provided in the Act has preferred this application under Article 227 of the Constitution of India.

When the appropriate efficacious remedy is available to the petitioner, this court does not think it just to exercise it's jurisdiction under Article 227 of the constitution of India, even though section 20 of the Act has not expressly barred jurisdiction of the High Court under Article 227. Accordingly I find substance in the submissions made by Mr. Mishra appearing on behalf of the opposite party / Central Bank of India.

In such view of the matter C.O. 154 of 2022 stands dismissed.

However, this order will not preclude the petitioner to prefer appeal before the Debts Recovery Appellate Tribunal against the order impugned subject to compliance of other provisions of law.

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

(Ajoy Kumar Mukherjee, J.)