

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

C.O. 1758 of 2025

Rohit Jain

Vs.

Indian Bank & Ors.

For the Petitioner	: Mr. Jishnu Saha, Sr. Adv. Mr. Ishaan Saha Mr. Rishab Chandra Mr. Ibrahim Sheikh Mr. Ramendu Agarwal advocates
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For the Opposite Party/Bank	: Mr. S. Pal Choudhuri Ms. Tithi Paul Ms. Shilpi Paul ...advocates
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Heard on	: 19.06.2025
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Judgment on	: 02.09.2025
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Hiranmay Bhattacharyya, J.:-

1. This application under Article 227 of the Constitution of India is at the instance of the 5th defendant and is directed against the order dated July 5, 2024 and September 4, 2024 both passed by the Debts Recovery Appellate Tribunal at Kolkata in Appeal Diary no. 502 of 2024.
2. By the order dated July 5, 2024, the petitioner was directed to make a pre-deposit of 25% of the amount of debt due from him within a certain time limit. By the order dated September 4, 2024, the appeal being Diary No. 502 of 2024 was dismissed as not maintainable as the order dated July 5, 2024 directing pre-deposit to be made was not complied with.

3. Indian Bank being the opposite party no. 1 herein, as applicant filed an application before the learned Debts Recovery Tribunal, Guwahati (North Eastern Region) (for short “DRT”) under Section 19 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (for short “the RDBFI Act, 1993”) being O.A. No. 392 of 2019 praying for issuance of a recovery certificate for a sum of Rs. 8,49,31,576.03/- (Rupees eight crore forty nine lakhs thirty one thousand five hundred seventy six and three paise) only as on July 28, 2019 against the defendant nos. 1 to 8 with pendente lite and future interest at contractual rates till realization along with other reliefs.
4. The facts giving rise to this application in a nut shell is as follows-
5. The defendant No. 1 company through its Directors had approached the applicant Bank on 17-03-2008 for financial assistance for grant of Term Loan of Rs. 9.75 crores and considering the request of the defendants, the Applicant Bank vide Sanction Letter dated 10-03-2009 had sanctioned Term Loan of Rs. 9.75 crores. The defendants executed necessary loan documents. The Term Loan was repayable in 72 monthly EMI of Rs.0.32 lacs. The loan was secured against hypothecation of properties described in Schedule-A of the Original Application (for short “O.A.”). The loan was secured against creation of equitable mortgage of land described in Schedule-B of the O.A. Since the proforma defendant No.9 and the applicant bank had agreed in principle for multiple banking facilities, the defendant No. 1 company, the proforma defendant No. 9 and the applicant bank had decided to enter into a pari passu agreement dated 24-08-2012 whereby it was agreed in principle between the parties that both proforma defendant No. 9 and the applicant bank shall have equal pari passu charge over the immovable property described in Schedule-B of the OA and also over movable properties in Schedule-A of the OA. By letters dated 27-04-2010, 07-03- 2011 and 12-06-2012 the proforma defendant No. 9 had ceded the charge over the movable and immovable properties which is followed by the aforementioned pari passu agreement dated 24-08-2012. The applicant bank restructured the term loan by way of sanctioning a Funded Interest

Term Loan (FITL) being the unpaid interest amount of Rs. 79.00 lacs to the defendant No. 1 company vide sanction letter dated 26-03-2014. The defendants executed necessary loan documents on 22-05-2014. The defendants had acknowledged their liabilities by signing and executing Acknowledgment of Debt dated 23-03-2010, 30-03-2013 and 06-10-2016. The defendants paid some of the installments in the Loan Accounts and after they failed to repay the remaining installments, the said accounts became NPA on 31-03-2016. After the accounts became NPA the applicant bank issued notices for repayment of the due amount. The defendants received the notices but they have neither chosen for repayment of the remaining installments in the loan accounts nor approached the applicant bank for settling the loan accounts. In view of the aforesaid facts the opposite party no. 1 filed O.A.

6. The O.A. was posted for ex parte hearing against the defendant. The learned DRT allowed the original application by a judgment and order dated 24.11.2021 holding that the defendant nos. 1 to 8 are jointly and severally liable to pay to the applicant Bank the sum of Rs. 8,48,31,576.03 (Rupees eight crore forty eight lakhs thirty one thousand five hundred seventy six and three paise) with future interest at the rate of 13% per annum granted from 29.07.2019 till the date of full payment or realization and directed issuance of Recovery Certificate for the aforesaid amount in favour of the applicant Bank against the defendants.
7. Being aggrieved by the ex parte judgment dated November 24, 2021, the petitioner, who claims to be an ex director of the borrower company namely Virgo Cements Limited i.e., opposite party no. 3 herein preferred an appeal before the learned Debts Recovery Appellate Tribunal, Kolkata (for short "DRAT") which was registered as Appeal Diary no. 502 of 2024. In the said appeal before the learned DRAT, petitioner filed an application being IA No. 322 of 2024 praying for waiver from making pre-deposit. Such application was disposed of by the learned DRAT by an order dated July 5, 2024 by directing the petitioner to make a pre-deposit of 20% of Rs. 8,55,00,000/-

within a period of four weeks from the date of such order. The learned DRAT, however, dismissed the appeal being Diary no. 502 of 2024 as not maintainable on the ground of non-compliance of the order by which the pre-deposit was directed to be made by the petitioner.

8. Being aggrieved by the aforesaid orders dated July 5, 2024 and September 4, 2024, the 5th defendant approached this Court by filing an application under Article 226 of the Constitution of India which was registered as WPA 2542 of 2024. The said writ petition came up for hearing before a co-ordinate bench on May 7, 2025 wherein the co-ordinate bench expressed an opinion that the legality and validity of the impugned orders have to be adjudicated under Article 227 of the Constitution of India and directed the department to convert the writ petition to an application under Article 227 of the Constitution of India by renumbering the same and liberty was given to the learned advocate of the petitioner to get the matter heard before the Court exercising jurisdiction under Article 227 of the Constitution of India.
9. Thereafter, when this matter appeared before this Court on May 21, 2025, the learned advocate appearing for the opposite party bank raised a preliminary objection with regard to the maintainability of this application under Article 227 of the Constitution of India before this Court.
10. Since a preliminary objection with regard to the territorial jurisdiction of the Hon'ble High Court at Calcutta to entertain and try the instant application under Article 227 of the Constitution of India was raised, this Court invited the learned advocates for the respective parties to address the Court only on the issue of territorial jurisdiction.
11. Mr. Jishnu Saha, learned Senior Advocate appearing in support of the application under Article 227 of the Constitution of India contended that the petitioner is aggrieved by the interlocutory orders passed by the learned DRAT directing the petitioner to make a pre-deposit. He contended that since the DRAT is located at Kolkata, the Hon'ble High Court at Calcutta shall have the superintendence over such appellate tribunal. Mr. Saha

contended that the order passed by the DRAT will be the operative order after disposal of the appeal as the judgment and order of the DRT would merge in the order of the DRAT. He, therefore, contended that the location of the DRAT would decide the jurisdiction of the High Court under Article 227 of the Constitution of India. In support of such contention he placed reliance upon the decision of the Hon'ble Supreme Court in the case **Collector of Customs v. East India Commercial Co. Ltd.**, reported in **AIR 1963 SC 1124**. While elaborating on the doctrine of merger, Mr. Saha contended that where an appeal or revision is provided against an order passed by a Court, Tribunal or any other authority before superior forum and such superior forum modifies, reverses or affirms the decision which is in issue before it, the decision by the subordinate forum merges in the decision of the superior forum and it is the decision of such superior forum which subsists, remains operative and is capable of enforcement in the eye of law. In support of such contention he also placed reliance upon a decision of the Hon'ble Supreme Court in the case of **Kunhayammed v. State of Kerala**, reported at **(2000) 6 SCC 359**. Mr. Saha thus, contended that since it is the order of the superior forum which is capable of enforcement in the eye of law, the situs of the superior forum would determine the jurisdiction of the High Court under Article 227 of the Constitution of India. Mr. Saha placed reliance upon a decision of the Hon'ble Supreme Court in the case **of Union of India v. Debts Recovery Tribunal Bar Assn.**, reported in **(2013) 2 SCC 574** in support of his contention that High Courts shall have the superintendence over the DRTs and DRATs under Article 227 of the Constitution of India which falls within their respective jurisdictions. He, thus, contended that this Hon'ble Court shall have the superintendence over the DRAT Kolkata under Article 227 of the Constitution of India.

12. Mr. Pal Chowdhury learned advocate appearing for the opposite party no. 1/ Bank contended that this application under Article 227 of the Constitution of India is not maintainable before this Court as this Court has no power of superintendence, either administrative or judicial over Debts Recovery Tribunal, Guwahati. He further submitted that merely because the DRAT is

situated within the territorial limit of this Court, such fact cannot confer jurisdiction to scrutinize an order passed by such appellate tribunal in any appeal preferred against a decision of the original tribunal over which this Court has no power of the superintendence. In support of such contention, Mr. Pal Chowdhury placed reliance upon a decision of a co-ordinate bench in the case of **Navin Jain and ors. vs. State Bank of India and another** reported at **AIR 2002 Cal 223**. Mr. Pal Chowdhury contended that in a case where an appellate tribunal exercises jurisdiction over tribunals situated in more than one State, the High Court situated in the State where the original tribunal is located shall have the power of superintendence over the appellate tribunal even though the appellate tribunal may be situated beyond the territorial limits of that High Court. In support of such contention he placed reliance upon a decision of the Hon'ble Supreme Court in the case of **Ambica Industries vs. Commissioner of Central Excise** reported at **(2007) 6 SCC 769**. Mr. Pal Chowdhury placed reliance upon a decision of the Hon'ble Supreme Court in the case of **Siddhartha S. Mookerjee v. Madhab Chand Mitter**, reported at **(2024) SCC Online SC 4285** in support of his contention that merely because DRAT Kolkata has passed certain orders in an appeal filed by the petitioner herein that would not be a ground to vest the jurisdiction under Article 227 of the Constitution of India in this Court.

13. In reply Mr. Saha learned Senior Advocate for the petitioner contended that the proposition of law laid down in **Navin Jain** (supra) would apply only in a case where exercise of powers under Article 227 of Constitution of India would directly result in interfering with the order of the DRT functioning beyond the territorial jurisdiction of this Court. Mr. Saha contended that in **Navin Jain** (supra) it was held that if the application under Article 227 of the Constitution of India is entertained and the order passed by the appellate tribunal is set aside, consequently the certificate issued by the DRT is modified it would amount to directly interfering with the order of a Tribunal functioning beyond the territorial limit of this Court. Mr. Saha contended that since the petitioner has challenged the interlocutory orders

passed by the DRAT directing the petitioner to make a pre-deposit and even if this Court entertains and sets aside the order passed by the DRAT the final judgment and order passed by the DRT cannot be said to be interfered with. He, therefore, contended that considering the nature of the impugned order and the scope of interference under Article 227 of the Constitution of India against such an order, this Court can entertain and try the instant application challenging the order passed by the DRAT Kolkata.

14. Heard the learned advocates for the parties and perused the materials placed.
15. The learned advocates of the respective parties advanced their arguments only with regard to the issue of territorial jurisdiction of this Court under Article 227 of the Constitution of India challenging an order passed by the DRAT Kolkata in an appeal arising out of a final judgment and order passed by the DRT, Guwahati. In view thereof, this Court shall decide the issue of territorial jurisdiction only at this stage.
16. The Recovery of Debts due to Banks and Financial Institutions Act, 1993 stood repealed and in its place Recovery of Debts and Bankruptcy Act, 1993 came into force. Section 3(1) of the Recovery of Debts and Bankruptcy Act 1993 (for short the “RDB Act”) vests power upon the Central Government to establish one or more tribunals to be known as the Debts Recovery Tribunal, to exercise the jurisdiction, powers and authority conferred on such tribunal by or under the said Act by issuing notification. Section 8(1) vests power upon the Central Government to establish one or more appellate tribunals to be known as the Debts Recovery Appellate Tribunal, to exercise the jurisdiction, powers and authority conferred on such tribunal by or under the said Act by issuing notification. Section 19 of the RDB Act states that where a bank or a financial institution has to recover any debt from any person, it may make an application to the Tribunal within the local limits of whose jurisdiction- (a) the branch or any other office of the bank or financial institution is maintaining an account in which debt claimed is outstanding for the time being; or (aa) the defendant or each of the defendants where

there are more than one at the time of making an application, actually and voluntarily resides or carries on business, or personally works for gain; or (b) any of the defendants, where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business or personally works for gain or (c) the cause of action wholly or in part arises.

17. The opposite party no. 1/ Bank filed the original application before the DRT at Guwahati on the ground that all the documents had been signed and executed in Shillong, Meghalaya and the movable and immovable properties are situated in Meghalaya and are charged with the opposite party no. 1/ Bank having its branch at Shillong, Meghalaya at *pari passu* basis.
18. O.A. no. 392 of 2019 was allowed by an ex parte judgment dated November 24, 2021 thereby holding that the defendant nos. 1 to 8 are jointly and severally liable and directed issuance of recovery certificate in favour of the opposite party no. 1/ Bank and against the defendant nos. 1 to 8.
19. Being aggrieved by the said ex parte judgment and order, the petitioner who was the 5th defendant before the DRT, Guwahati preferred an appeal before the DRAT Kolkata. DRT at Guwahati was constituted for functioning in the North Eastern region comprising the States of Assam, Nagaland, Meghalaya, Manipur, Mizoram, Arunachal Pradesh and Tripura. However, the Debts Recovery Appellate Tribunal, Kolkata constituted under the 1993 Act although has its headquarter in Kolkata, such Appellate Tribunal exercises power over Debt Recovery Tribunals functioning in the entire Eastern region consisting of the States of Bihar, Jharkhand, West Bengal, Sikkim and other North Eastern States.
20. In the case on hand, the opposite party no. 1/ Bank filed the O.A. before the DRT Guwahati. The O.A was disposed of by an order dated November 24, 2021 passed by the DRT Guwahati directing issuance of the Recovery Certificate in favour of the opposite party no. 1, Bank and against the defendant nos. 1 to 8 including the petitioner herein. The entire cause of

action leading to the passing of the final judgment by the DRT, Guwahati had arisen beyond the territorial jurisdiction of this Court. However, the final judgment passed by the DRT Guwahati was challenged by the petitioner before the Appellate Tribunal which is undoubtedly situated within the territorial limits of this Court. The ultimate object behind challenging the ex parte judgment and order passed by the DRT before the DRAT Kolkata is to set aside the order passed by the DRT, Guwahati.

21. The sheet anchor of the argument of the petitioner in support of the maintainability of the application under Article 227 of the Constitution of India before this Court is that the order under challenge is sourced from a forum located within the territorial limits of this Court by relying upon the doctrine of merger and that the order passed by the Appellate Tribunal forms part of the cause of action.
22. It is well settled that once an appeal is decided by an appellate authority, the order of the original authority gets merged with the order of the appellate authority in view of the doctrine of merger and the order of the original authority no longer remains and it is the order of the appellate authority which prevails.
23. The impact of an order rejecting a petition seeking grant of Special Leave to Appeal under Article 136 of the Constitution of India arose for consideration before the Hon'ble Supreme Court in **Kunhayammed** (supra). The Hon'ble Supreme Court held that where an appeal or revision is provided against an order passed by a Court, tribunal, or any other authority before such superior forum and such superior forum modifies, reverses or affirms the decision put in issue before it, the decision by the subordinate forum merges in the decision by the superior forum and it is the latter which subsists, remains operative and is capable of enforcement in the eye of law. It has been further held that an order refusing special leave to appeal may be a non-speaking order or a speaking one and in either case it does not attract the doctrine of merger. There is no quarrel to the aforesaid proposition of law. The said decision is, however, not an authority for the proposition that

the High Court within whose territorial limits the Appellate Tribunal is located would have the power of superintendence under Article 227 of the Constitution of India if the Appellate Tribunal exercises appellate jurisdiction over original Tribunals located beyond its territorial limits.

24. The Hon'ble Supreme Court in the case of ***Collector of Customs, Calcutta vs. East India Commercial Co. Ltd. Calcutta*** reported at ***AIR 1963 SC 1124*** held that the order of the original authority must be held to have merged in the order of the appellate authority in the facts of that case, and it is only the order of the appellate authority which is operative after the appeal is disposed of. The Hon'ble Supreme Court proceeded further to observe that if the appellate authorities are located beyond the territorial jurisdiction of the High Court, it would not be open to it to issue a writ to the original authority which is within its jurisdiction so long as it cannot issue a writ to the appellate authority.
25. The aforesaid decision was delivered prior to the amendment of Article 226 of the Constitution of India thereby inserting Article 226(2).
26. However, in view of the insertion of Article 226(2) of the Constitution of India the High Courts have been vested with the jurisdiction to issue writs to authorities located outside their territorial jurisdiction so long as the cause of action arose within their territorial jurisdiction. At this stage it would be beneficial to take note of the provisions contained in Article 226 of the Constitution of India for which the same is extracted hereinafter.

"Article 226. Power of High Courts to issue certain writs.-(1) Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any

High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

(3) &(4)”

27. Thus, in view of the provisions contained under Article 226 (2) of the Constitution of India the High Court can issue writs to any government authority or person even if the seat of such government or authority or residence of such persons is not within its territorial jurisdiction. In other words under Article 226(2) of the Constitution of India the High Court has been vested with the jurisdiction to issue writs to authorities located outside its territorial jurisdiction so long as the cause of action, wholly or in part, arose within its jurisdiction.
28. Under various statutes namely the Customs Act and the Income Tax Act, questions arose as to which High Court has to be approached to challenge an order passed by the Tribunal exercising jurisdiction over more than one State.
29. In ***Ambica Industries*** (supra), the issue that fell for consideration was relating to determination of situs of High Court in which appeals would lie under Section 35-G(1) of the Central Excise Act. The Hon’ble Supreme Court noticed the decision of Five Judge Bench of the Hon’ble Supreme Court in the case of ***Sri Nasiruddin vs. State Transport Appellate Tribunal*** reported at **(1975) 2 SCC 671** and observed that the said decision proceeded on the basis that part of the cause of action may arise at the forum where the appellate order or the revisional order is sourced and if a cause of action arises within one or the other High Court, the petitioner shall be the *dominus litis*. The Hon’ble Supreme Court proceeded further to observe that if the situs of the appellate tribunal should be considered to be the determinative factor, a decision rendered by the tribunal shall be binding on all the authorities exercising its jurisdiction under the said tribunal. The Hon’ble Supreme Court in the facts of the said reported case

noticed that the tribunal exercises jurisdiction over three States and in each of the three States, there are High Courts and in the event, the aggrieved person is treated to be *dominus litis* as a result whereof, he elects to file the appeal before one or the other of the High Courts, the decision of the High Court shall be binding only on the authorities which are within its jurisdiction. It was further observed that it will only be of persuasive value on the authorities functioning under a different jurisdiction. It was held that if a binding authority of a High Court decision does not extend beyond its territorial jurisdiction and the decision of the one High Court would not be a binding precedent for other High Courts or Courts or Tribunals outside its territorial jurisdiction, some sort of judicial anarchy shall come into play. In the light of the aforesaid observations, the Hon'ble Supreme Court after noticing the provisions laid down under Article 227 of the Constitution of India as also clause of Article 226 of the Constitution of India held that when the appellate Court exercises a jurisdiction over a tribunal situated in more than one State, the High Court situated in the State where the First Court is located should be considered to be the appropriate appellate authority. The Hon'ble Supreme Court further clarified that **Sri Nasiruddin** case and **Kusum Ingots & Alloy Limited vs. Union of India & Anr. (AIR 2004 SC 2321)** case are not authorities for the proposition that the High Court which is situated at the same place as the situs of the tribunal, alone will have jurisdiction.

30. A more or less identical issue fell for consideration before the Hon'ble Supreme Court in the **Principal Commissioner of Income Tax-I Chandigarh vs. M/s. ABC Papers Ltd.** reported at **(2022) 9 SCC 1**. In **ABC Papers Ltd.** (supra) wherein a question arose concerning the appellate jurisdiction of the High Court under Article 260(A) of the Income Tax Act, 1961 against judgments of the Income Tax Appellate Tribunals (for short "ITAT") as Benches of ITAT are situated to exercise jurisdiction over more than one State, each State having a separate High Court. Question arose as to which of the High Courts is the appropriate Court for filing appeals under Section 260(A). The Hon'ble Supreme Court held that the appeals against

the decision of ITAT shall lie only before the High Court within whose jurisdiction the Assessing Officer who passed the assessment order is situated.

31. This Court finds that **Ambica Industries** (supra) and **ABC Papers Limited** (supra) deals with cases where the appellate authority exercises its jurisdiction over more than one states. In such cases, the Hon'ble Supreme Court held that the High Court within whose jurisdiction the adjudicating authority is located would have the jurisdiction to entertain a challenge to the orders passed by the appellate authority though the appellate authority may not be located within its territorial jurisdiction.
32. In the case on hand this Court is concerned with the jurisdiction of the High Court under Article 227 of the Constitution of India but not under Article 226 of the Constitution of India. There is a distinction between the power of the High Court to issue a writ to any government authority or persons located not within its territorial jurisdiction and the power of superintendence of the High Court under Article 227 of the Constitution of India over courts and tribunals. In order to appreciate the aforesaid distinction it would be relevant to take note of the provisions of Article 227 of the Constitution of India and for which the said provision is extracted hereinafter-

*Article 227. Power of superintendence over all courts by the High Court.
- (1) Every High Court shall have superintendence over all courts and Tribunals throughout the territories in relation to which it jurisdiction.*

(2) Without prejudice to the generality of the foregoing provision, the High Court may-

(a) call for returns from such courts ;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts ; and

(c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein :

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court of Tribunal constituted by or under any law relating to the armed forces."

33. A more or less identical question cropped up before a co-ordinate bench in **Navin Jain** (supra) wherein the order passed by the DRAT, Kolkata affirming the order passed by the DRT, Patna was challenged in an application under Article 227 of the Constitution of India. The co-ordinate bench after highlighting the distinction between the powers of the High Court under Article 226 and 227 held that if a Tribunal is constituted as Appellate Tribunal for hearing appeals against decisions of more than one original tribunals situated in different states, in such a case, for the purpose of challenging orders of such appellate tribunals by way of an application under Article 227 of the Constitution, an aggrieved party is to approach the High Court of that State within the territorial limit of which the original Tribunal exercises jurisdiction in a particular case. The co-ordinate bench further held that merely because the Appellate Tribunal is situated within the territorial limit of the High Court at Calcutta, such fact cannot confer jurisdiction to scrutinize an order passed by such Tribunal in any appeal preferred against a decision of the original tribunal over which the High Court at Calcutta has no power of superintendence. However, the co-ordinate bench put a caveat to the aforesaid general proposition of law by observing that before entertaining an application under Article 227 of the Constitution of India, the Court must ascertain what is the effect of interference prayed for in such application.
34. In the case of **Calcutta Gujarati Education Society and another vs. Regional Provident Fund Commissioner & Others** reported at **(2020) 19 SCC 380** an issue fell for consideration before the Hon'ble Supreme Court

whether an application under Article 227 of the Constitution of India was maintainable before the Calcutta High Court challenging the order passed by the Employees Provident Fund Appellate Tribunal situated at New Delhi. In that case in an original proceeding with regard to the remittance of provident fund contribution relating to component of “Government Dearness Allowance” in respect of the employees, an order was passed by the competent authority namely the Assistant Provident Fund Commissioner at Kolkata. Challenging such order an appeal was filed before the Appellate Tribunal situated at New Delhi under Section 7-I of the Employees Provident Fund and the Miscellaneous Provisions Act, 1952. Challenging the order passed by the Appellate Tribunal an application under Article 227 of the Constitution of India was filed before the Calcutta High Court and the same stood dismissed upon holding that it has no jurisdiction as the situs of the Tribunal is at New Delhi which is outside the territorial jurisdiction. The Hon’ble Supreme Court after noticing that the original authority is situated within the jurisdiction of the Calcutta High Court applied the proposition of law laid down in **Ambica Industries** case and held that in a case where the original order is passed by the authority situated at Calcutta, West Bengal the Calcutta High Court can exercise territorial jurisdiction and was, therefore, not justified to decline to entertain the application under Article 227 of the Constitution of India.

35. Thus, this Court finds that the proposition of law laid down in **Ambica Industries** case has been applied by the Hon’ble Supreme Court while deciding the territorial jurisdiction of the High Court under Article 227 of the Constitution of India against order(s) passed by an Appellate Tribunal exercising appellate jurisdiction over more than one Tribunals located in different states.
36. A similar issue fell for consideration before the Hon’ble Supreme Court in **Siddhartha S. Mookerjee** (supra). In the said case a complaint was filed before the District Consumer Dispute Redressal Forum (Unit 1) at Kolkata which was rejected by an order dated October 13, 2017 and against such

order an appeal was filed before the West Bengal State Consumer Dispute Redressal Commission which was allowed vide order dated February 13, 2020. Being dissatisfied with the said order, revision applications were filed before the National Consumer Dispute Redressal Commission at Kolkata which stood allowed. Against such order a Special Leave Petition was moved before the Hon'ble Supreme Court and the Hon'ble Supreme Court after taking note of its decision in the case of ***Universal Sompo General Insurance Co. Ltd. vs. Suresh Chand Jain*** reported at **(2024) 9 SCC 148** gave liberty to the appellant to approach the jurisdictional High Court. Treating the High Court of Delhi as the jurisdictional High Court, an application under Article 227 of the Constitution of India was filed and on such petition a notice was issued on the adjudication of the jurisdictional aspect and challenging such notice the Special Leave Petition was moved before the Hon'ble Supreme Court. The Hon'ble Supreme Court held that merely because of the fact that the impugned judgment before the Delhi High Court was passed by the NCDRC at Delhi that can hardly be treated as a ground to invoke the jurisdiction of the High Court of Delhi. The Hon'ble Supreme Court observed that since the entire cause of action has arisen in Kolkata and the complaint case was also filed at Kolkata based on the aforesaid cause of action, the aggrieved party ought to have approached the High Court of Kolkata being aggrieved by the order passed by the NCDRC at Delhi.

37. The decision in the case of ***Siddhartha S. Mookerjee*** (supra) also recognizes the proposition that it is the High Court under whose jurisdiction the original adjudicating authority is located would have the power of superintendence under Article 227 of the Constitution of India over the Appellate Tribunal even if the Appellate Tribunal is located outside the territorial limits of that High Court.
38. Article 227 of the Constitution of India vests every High Court with the power of superintendence over all Courts and Tribunals throughout the territories in relation to which it exercises its jurisdiction. The Hon'ble

Supreme Court in ***Debts Recovery Tribunal Bar Association*** (supra) after taking note of the provision of Section 18 of the 1993 Act held that the High Courts are empowered to exercise their jurisdiction of superintendence under Article 227 of the Constitution of India over DRTs and DRATs.

39. Though it cannot be disputed that this High Court has the power of superintendence over the DRAT, Kolkata, the question that arises for consideration is whether in a situation of this nature, an application under Article 227 is maintainable before this Court against an order passed by DRAT, Kolkata.
40. As per the available information, there are in all 39 DRTs established in the entire country located in different states but only 5 DRATs have been established and each of them covering multiple DRTs of a particular geographical Zone. Each one of the DRATs have been vested with the appellate jurisdiction over more than one DRTs.
41. The line of authorities relied upon by the learned Senior Advocate for the petitioner proceeds on the basis that a part of the cause of action may arise at the forum where the appellate or revisional order is sourced and in such a case, the petitioner being the *dominus litis* has a right to choose a forum.
42. The Hon'ble Supreme Court in ***ABC Papers Limited*** (supra) observed that a judicial remedy must be effective, independent and at the same time certain. Certainty of forum would involve unequivocal vesting of jurisdiction to adjudicate and determine the dispute in a named forum. It was further held that while interpreting a judicial remedy, a Constitutional Court should not adopt an approach where identity of the appellate forum would be contingent upon or vacillate subject to the exercise of some other power. Such an interpretation was held to be clearly against the interest of justice.
43. In the light of the aforesaid observation, the Hon'ble Supreme Court held that appeals against every decision of ITAT shall lie only before the High Court within whose jurisdiction, the assessing officer, who passed the assessment order is situated.

44. If the proposition of law that an appellate order forms part of the cause of action is to be applied while deciding the jurisdiction of the High Court under Article 227, the doctrine of *dominus litis* comes into play. However, the issue that arises for consideration in the case on hand is whether the situs of the Appellate Tribunal would decide the jurisdiction of the High Court under Article 227 of the Constitution of India. It has been held in **Ambica Industries** (supra) that the doctrine of *dominus litis* and the doctrine of situs of the Appellate Tribunal do not go together.
45. Keeping in mind that there has to be a certainty of forum for an aggrieved party as well as the doctrine of precedents and the rule of binding efficacy of the law laid down by a High Court within its territorial jurisdiction, this Court holds that an application under Article 227 of the Constitution of India assailing the order(s) passed by the DRATs (interim or final) shall lie only before the High Court within whose jurisdiction the DRT is situated as the substantial cause of action arose within its jurisdiction and the adjudication of the dispute was made by the DRT. Any contrary interpretation would allow an aggrieved party to approach a particular High Court to take advantage of the law laid down by it and would successfully evade the law down by a Court which is against him.
46. This Court holds that for the purpose of challenging orders of appellate tribunals passed in appeals arising out of decision(s) of an original tribunal situated in a different State under Article 227 of the Constitution of India, an aggrieved party is to approach the High Court of that State within whose territorial limit the original tribunal is located.
47. In the case on hand the appellate tribunal i.e., DRAT is located within the territorial limits of the High Court at Calcutta but is exercising the appellate jurisdiction over the Debts Recovery Tribunal, Guwahati. This Court lacks the jurisdiction to entertain such a challenge and the petitioner has to approach the High Court of the State within the territorial limit of which the DRT Guwahati is located.

48. At this stage it would be relevant to point out that a co-ordinate bench passed an order dated September 13, 2018 in **C.O. 2328 of 2018** in the case of **Sabbam Hari vs. The Authorized Officer and others**.
49. The decision in **Navin Jain** (supra) was not brought to the notice of the co-ordinate bench in **Sabbam Hari** (supra). After going through the decision in the case of **Sabbam Hari** (supra), it appears to this Court that the said decision proceeded on the basis that part of the cause of action arises out of forum where the order of the Appellate Tribunal is sourced. In view of the decisions of the Hon'ble Supreme Court in the case of **Ambica Industries** (supra), **Calcutta Gujarati Education Society** (supra), **Siddhartha S. Mookerjee** (supra) and **Navin Jain** (supra), the decision in the case of **Sabbam Hari** (supra) cannot be said to be a binding precedent upon this Court.
50. The learned Senior Advocate for the petitioner would contend that the challenge thrown to an order directing the petitioner to make a pre-deposit and the subsequent rejection of the appeal for non-compliance of the aforesaid order would not result in interfering with the order passed by the DRT. This Court is not inclined to accept such submission as in the event the orders impugned are set aside under Article 227 of the Constitution of India, the appeal would revive and the same would have the effect of destroying the finality attached to the order passed by the DRT as the issue which otherwise would become res judicata would be res subjudice.
51. Though the DRAT is located at Calcutta, i.e., within the territorial limits of this Court, the fact remains that the DRAT is exercising its appellate jurisdiction over DRT, Guwahati. The entire cause of action till the passing of the final judgment by the DRT arose outside the territorial jurisdiction of this Court. The object behind filing the appeal before the DRAT is to interfere with the final judgment of DRT.
52. Moreover, there has to be a certainty of a forum before which an order or a decision can be assailed of a tribunal. Such forum should be certain and

cannot be said to be variable depending upon the nature of the order sought to be challenged, i.e., interim or final.

53. In the light of the observations made hereinbefore, this Court holds that power of superintendence by a High Court under Article 227 of the Constitution of India may be exercised over DRAT physically located beyond its territorial limits if the proceeding before such Appellate Tribunal is sourced from the DRT situated within its territorial limits.
54. Therefore, when the DRAT, Kolkata passes an order in exercise of appellate jurisdiction over DRT located outside the State of West Bengal the High Court of the State within whose jurisdiction DRT is physically located would have the power of superintendence under Article 227 of the Constitution of India over DRAT, Kolkata.
55. In view of the aforesaid discussion, this Court holds that the petitioner is to approach the High Court of the State within the territorial limit of which the DRT Guwahati is located.
56. For all the reasons as aforesaid, this Court holds that this application under Article 227 of the Constitution of India challenging the orders of the Debts Recovery Appellate Tribunal, Kolkata in an appeal arising out of an order passed by the DRT, Guwahati is not maintainable before this Court. The application under Article 227 of the Constitution of India stands dismissed for want of territorial jurisdiction alone. It is, however, made clear that this Court has not entered into the merits of the application. Petitioner is left free to approach the appropriate forum in accordance with law. There shall be, however, no order as to costs.
57. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)