

(2012) 01 KL CK 0131

High Court Of Kerala

Case No: Writ Petition (C) No. 950 of 2012

Anish P.K.

APPELLANT

Vs

The Special Deputy Tahsildar and
Others

RESPONDENT

Date of Decision: Jan. 19, 2012

Citation: (2012) 1 KLJ 343

Hon'ble Judges: Antony Dominic, J

Bench: Single Bench

Advocate: Bimal K. Nath, for the Appellant; S. Jamal (GP), Babu Joseph Kuruvathazha (SC), Johnson T. John (SC) and Lal George, for the Respondent

Judgement

Antony Dominic, J.

Petitioner's deceased father Sri. Kunjumon P.M was a Conductor in the Kerala State Road Transport Corporation. He had availed of two loans for an amount of Rs. . 12,815 and Rs. . 4005 from the 3rd respondent. According to the petitioner, before the liability could be discharged in full, his father expired. Subsequently extending the petitioner the benefit of dying in harness scheme, he was appointed in the KSRTC as a Conductor in March, 2006. Now recovery proceedings are initiated against the petitioner for realising his father's liability. It is challenging the said recovery proceedings, the writ petition is filed. Standing counsel appearing for respondents 1 and 2 on instruction confirms that the petitioner does not have any liability to them and that what is sought to be recovered by issuance of Ext.P1 and Exts.P2 to P4 prohibitory orders is the liability of his deceased father.

2. The liability of a deceased can be recovered from his legal representatives to the extent the legal representatives have inherited the estate of the deceased. An employment secured by a dependent son under the dying in harness scheme of the employer cannot be said to be an estate inherited by him. Therefore, recovery now effected against the petitioner evidenced by Ext.P1 and P2 to P4 prohibitory orders are clearly illegal. Therefore, these orders are set aside. It is directed that amount, if

any, recovered from the petitioner shall be refunded. Needless to say that this judgment will not stand in the way of the respondents from proceeding against the assets of the deceased even if it is now in the hands of the legal heirs.

Writ petition is disposed of as above.