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**Keerampalli Sivasankaran Vs. Assistant Controller of Estate Duty and anr.**

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**SooperKanoon Citation :** [sooperkanoon.com/719954](http://sooperkanoon.com/719954)

**Court :** Kerala

**Decided On :** Sep-06-1977

**Reported in :** [1978]114ITR899(Ker)

**Judge :** V. Balakrishna Eradi and; K.K. Narendran, JJ.

**Acts :** [Estate Duty Act, 1953](#)

**Appeal No. :** Writ Appeal No. 255 of 1974 (O.P. No. 650 of 1973)

**Appellant :** Keerampalli Sivasankaran

**Respondent :** Assistant Controller of Estate Duty and anr.

**Advocate for Def. :** P.A. Francis and; P.K. Ravindranatha Menon, Advs.

**Advocate for Pet/Ap. :** P.C.B. Menon,; V.P. Mohan Kumar and; Sumathy Dandapani

**Judgement :**

**Balakrishna Eradi, J.**

1. The writ petitioner in O. P. No. 650 of 197'3, which was dismissed by a learned single judge of this court is the appellant before us. The challenge in that writ petition was directed against the proceedings taken against the petitioner by the Assistant Controller of Estate Duty for recovery of the amount of estate duty due

jointly and severally by the petitioner and other members of his branch as accountable persons in respect of the estate left by one deceased, C. Gopalan, by the process of attachment of an amount lying in court deposit to the credit of a decree obtained by the petitioner against one Siclharthan and some others. The main contention taken in the writ petition is that for the purpose of realisation of the estate duty it is not open to the estate duty officer or to the revenue recovery officer acting on the strength of a certificate issued to him by the former to proceed against estate belonging to the accountable persons other than the properties and assets which they have come by as a result of devolution of interest on the death of the deceased. On this basis, it is urged that since the amount in court deposit is not an asset obtained by the petitioner and his group as part of the estate of the deceased, it was not liable to be proceeded against by way of attachment. This contention was rejected by the learned single judge following the dictum laid down by a Division Bench of the Gujarat High Court in Commissioner of Income-tax v. Mrs. Indumati Ratanlal : [1968]70ITR353(Guj) and consequently the writ petition was dismissed. The correctness of the said view taken by the learned single judge is canvassed in this appeal.

2. Recently a Division Bench of this court consisting of the learned Chief Justice and one of us (Narendran J.) had occasion to consider almost the same question in O.P. No. 2162 of 1974 (P. Mohammed Alt v. Assistant Controller of Estate Duty-- See page 892 supra) and it was held that under the Estate Duty Act the liability of every accountable person is a personal liability and not one payable only out of the estate of the deceased even though it is limited in its extent to the value of the estate actually inherited from the deceased. In reaching the said conclusion the Division Bench has expressed its agreement with the decision of the Gujarat High Court in Commissioner of Income-tax v. Mrs. Indumati Ratanlal : [1968]70ITR353(Guj) , and also a later ruling of the Allahabad High Court reported in Vijay Kumar Kedia v. Controller of Estate Duty : [1976]104ITR302(All) . We are in respectful agreement with the above dictum laid down by the Division Bench. It then follows that the contention put forward by the appellant that for realisation of the estate duty the department is entitled to proceed only against the assets that have actually come into the hands of the accountable persons as part of the estate inherited from the deceased and not against their other properties is devoid of merit

and has only to be rejected. Thewrit appeal, therefore, fails and it is accordingly dismiss. The partieswill bear their respective costs.

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