

**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN**

AND

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

WRIT APPEAL No.759 OF 2018

AND

WRIT PETITION No.7618 OF 2018

COMMON JUDGMENT (ORAL): (Per Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

We have heard the learned counsel for the appellant - writ petitioner, learned Government Pleader for Municipal Administration and Urban Development appearing for respondent Nos.1, 2 and 3.

2. The appellant - writ petitioner challenged the notice dated 06.05.2017 issued by respondent No.1 - Srikakulam Municipal Corporation through its Commissioner - respondent No.2. Respondent No.2, going by the terms of that notice, does not state that he had accorded the appellant pre-decisional opportunity of hearing. Hearing the learned counsel for the appellant and the learned Government Pleader for respondent Nos.1 and 2, it could be seen that the questions covered by the impugned notice are fundamentally on facts; to wit, as to whether there has been violation of the rules and unauthorized construction in the first and second floors by constructing a slab on to common pathways and also the second floor construction. That issue needs to be addressed by respondent No.2 after giving the appellant an opportunity of hearing.

3. Therefore, we direct that the notice dated 06.05.2017 will be treated as a pre-decisional notice inviting objections to the contents of

that notice. The appellant will place his objections to that notice before respondent No.2 within a period of three (3) weeks from today. The competent among respondent Nos.1 and 2 will decide on such objections and conclude the proceedings, so that, if further aggrieved, the appellant can pursue further statutory remedies that may be available to him in the first instance.

4. In the light of the aforesaid, the order of '*status quo*' granted by this Court at the stage of admission is directed to continue for a period of three (3) months from today, within which time, the proceedings, pursuant to what is stated above, shall be concluded by respondent Nos.1 and 2, since we reasonably hope that they will pass final orders without fail. In the light of these directions, the interlocutory order in the writ petition will stand superseded by what is afore-directed.

5. Having regard to the directions issued hereinabove, the Writ Appeal as well as the Writ Petition are closed without prejudice. No order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the Writ Appeal and the Writ Petition stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

V. RAMASUBRAMANIAN, J

July 23, 2018.
V V/PV