

**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE P. KESHA RAO**

WRIT APPEAL No.1124 of 2018

Judgment: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

We have heard the learned counsel for the parties in this appeal against the interlocutory order issued by the learned Single Judge.

2. The appellants issued a notice for a motion of no confidence against the writ petitioner-respondent herein. She challenged it before the learned Single Judge on the ground that there was an earlier no confidence motion and in view of the second proviso to Section 263(1) of the Andhra Pradesh Panchayat Raj Act, 2018, a second notice of no confidence motion could not be carried. The learned Single Judge has granted an interim order in favour of the writ petitioner. This is under challenge.

3. Apart from the fact that the learned Single Judge has stated reasons in the interlocutory order, which is under challenge, the fact of the matter remains that the question whether the prior notice was a notice in law to be sufficient enough to fall within the second proviso to Section 263(1) is itself a matter to be considered further on the basis of materials because the plea of the appellants is that the earlier notice was held by the jurisdictional Revenue Divisional Officer as one with signatures, which did not tally. This is a mixed question of fact and law, which is essentially to be decided in the Writ Petition or in any application to vacate the interlocutory order.

4. Therefore, without prejudice to the writ appellants filing any application before the learned Single Judge to vacate the

interlocutory order or to have the Writ Petition finally decided, this Writ Appeal is dismissed.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

Date: 23rd August, 2018

P. KESHA RAO, J

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