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**(2011) 08 MAD CK 0358**

**Madras High Court (Madurai Bench)**

**Case No:** C.R.P. (PD) (MD) No. 649 of 2011

Janab OMS Abdul  
Basith Alim Sahib

APPELLANT

Vs

O.M.S. Sheik Udhuman  
Alim Sahib, Hassan  
Magdhoom Alim Sahib  
and Tamil Nadu Wakf  
Board No. 1 Jaffar  
Shyrang Street, Vallal  
Seethakathi Nagar  
Chennai - 600 001

RESPONDENT

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**Date of Decision:** Aug. 23, 2011

**Hon'ble Judges:** C.S. Karnan, J

**Bench:** Single Bench

**Advocate:** G. Prabhurajadura, for the Appellant; R. Manimaran and Mr. S. Meenakshisundaram, for R-1 and R-2 and Mr. K.K. Senthil for R-3, for the Respondent

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### **Judgement**

@JUDGMENTTAG-ORDER

The Honourable Mr. Justice C.S. Karnan

1. This petition has been filed by the Petitioner/plaintiff to set aside the order dated 30.11.2010 passed in O.S. No. 113 of 2010 by the Wakf Tribunal (Principal Subordinate Court) Tirunelveli.

2. The brief facts of the case are as follows:

The revision Petitioner/plaintiff has filed a suit in O.S. No. 113 of 2010 before the Wakf Tribunal (Principal Subordinate Court), Tirunelveli, against the Respondents/defendants to pass a decree against the Defendants viz., (a) for declaring the order of the 3rd Defendant dated 22.10.2009 as null and void; (b) consequently declaring the Plaintiff as

the hereditary muthawali for the schedule mentioned Seyeed Masood Nayagam Durgah at Kadayanallur; (c) Directing the second Respondent to deliver possession of the same and for other relief.

3. The Learned Counsel for the revision Petitioner argued that the said suit has been dismissed by the learned Judge. Actually, several issues arise in the said suit only. After framing all the issues, the case can be decided after conducting proper trial. In support of his contention, he had cited a judgement reported in 2010(6)MLJ 527.

4. The Learned Counsel for the first and second Respondent and the Learned Counsel for the 3rd Respondent have also agreed for disposal of the suit on merits after proper adjudication.

5. In the facts and circumstances of the case and arguments advanced by the Learned Counsels for their respective parties and on perusing the impugned order of the learned Judge, this Court is of the considered opinion that the main suit has to be disposed of on merits after hearing all the parties concerned. Therefore, this Court directs the learned principal subordinate Judge to dispose of the case in O.S. No. 113 of 2010 on merits, within a period of six months from the date of receipt of this order, after giving opportunity to the parties concerned.

6. Resultantly, the above civil revision petition is disposed of with the above observations. Consequently, the order and decretal order passed in O.S. No. 113 of 2010 on the file of the Wakf Tribunal (Principal Subordinate Court) Tirunelveli is set aside. Connected miscellaneous petition is closed. There is no order as to costs.