0ITEM NO.28 COURT NO.2 SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).26058/2010

(From the judgment and order dated 23/06/2010 in CRP No. 30368/2010 of The HIGH COURT OF MADRAS)

M. SELVAM Petitioner(s)

VERSUS

AHALE SUNNATHWAL JAMATH & ORS. Respondent(s)

(With appln(s) for exemption from filing O.T. and prayer for interim relief)

Date: 20/09/2010 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE A.K. PATNAIK

For Petitioner(s) Mr. R. Bala Subramaniyam, Sr. Adv.
Mr. Shakil Ahmed Syed,Adv.
Mr. Zaffarullah Khan, Adv.
Mr. Syed Ahmad Saud, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

Since the High Court appears to have overlooked the provisions of Section 40 of the Wakf Act, 1995, which may not have been brought to its notice, the matter was decided as if the suit was maintainable before the Wakf Tribunal. It is, in fact, Section 40 of the aforesaid Act which gives the Board of Wakf itself the power to decide as to whether a particular property is a Wakf property or not.

Having regard to the above, let notice be issued on the Special Leave Petition on the aforesaid question.

There will be stay of operation of the impugned judgment.

(Geeta Ahuja) (Juginder Kaur)
Sr. P.A. Court Master