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**(2002) 10 MAD CK 0063**  
**In the Madras High Court**  
**Case No : Writ Petition No. 5153 of 1997**

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| V. Rajan                | Vs | APPELLANT  |
| The State of Tamil Nadu |    | RESPONDENT |

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**Date of Decision :** 03-10-2002

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2002) 10 MAD CK 0063

**Hon'ble Judges :** P.D. Dinakaran, J

**Bench :** Single Bench

**Advocate :** S. Balasubramanian, for the Appellant; D. Krishna Kumar, Special Govt. Pleader for 1st respondent and D. Veerasekaran, for 2nd respondent, for the Respondent

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## Judgement

P.D. Dinakaran, J.—Admittedly, the land in Survey No. 182/5 of Thiruvanmiyur Village was acquired from the petitioner by the second

respondent-Housing Board. Contending that the said land was not utilised by the Tamil Nadu Housing Board and the scheme itself had already

been completed, the petitioner made a representation on 20.6.1992 for restoration of his land located in Survey No. 182/5, Thiruvanmiyur Village,

acquired by the Tamil Nadu Housing Board, but the said request was rejected by the Tamil Nadu Housing Board by proceedings dated

18.7.1996, aggrieved by which, the petitioner seeks the issue of a writ of Certiorarified Mandamus, calling for the records of the first respondent in

his proceedings Letter No. 41364/HB5(1)/ 92-96 and quash his order dated 18.7.1996 and direct the respondents to restore the petitioner's right

to plot of land No.1 in Survey No. 182/5 (182/5A1) of Thiruvanmiyur Village acquired for Thiruvanmiyur Neighbourhood Scheme of Tamil Nadu

Housing Board.

2. It is not in dispute that the amount awarded for acquisition of the said land has been duly deposited to the credit of the petitioner in appropriate proceedings.

3. It is well settled in law that the Government has to consider the withdrawal of acquisition only on merits, but the Court cannot compel the

Government to withdraw the acquisition proceedings or to restore the possession to the owner of the land, as held by the Apex Court in S.P.

Subramanya Shetty and others Vs. Karnataka State of Road Transport Corporation and others, .

4. If the land acquired from the petitioner by the Tamil Nadu Housing Board is not required for the purpose for which it was acquired, as

contended by Mr. S. Balasubramanian, learned counsel for the petitioner, except to observe that the petitioner shall be at liberty to approach the

Government u/s 48-B of the Land Acquisition Act, 1894, for transfer of the land to the original owner, viz., the petitioner herein, and on such

representation, to direct the respondent-Housing Board to consider the same on merits under the provisions of Section 84(1) of the Tamil Nadu

State Housing Board Act, 1961, read with Section 48-B of the Land Acquisition Act, 1894, and to pass appropriate order on merits, keeping in

mind, the subservance of public interest, within thirty days from the date of receipt of a copy of this order, no further order is required in the above

writ petition.

The writ petition is disposed of with the above directions. No costs. Consequently, W.P.M.P. No. 8573 of 1997 is closed.