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The Federal Supreme Court (F.S.C.) has been convened on 4.5.2014 headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen whom are authorized in the name of the people to judge, they made the following decision:

**The Plaintiff:**

(mim.yeh.mim.) - his general agent the attorney (ta.yeh.shin.).

**The defendant:**

The Prime Minister/ in addition to his post – his agents the adviser (ain.Sin.ain.).

**The claim:**

The agent of the plaintiff claimed that his client has a plot of land its area is (10 ten donum) in the no. (2/6 district 2- Abo Disheer) built on it two houses, area of the first (300 m<sup>2</sup>) area of the second (100 m<sup>2</sup>), it was taking over and its title deed changed to be (2/27/district 10/Abo Disheer) under the claim that it is part of the lands distributed to the military and covered by the unjust decision (117 of 2000), although it is not

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distributed to the military. On 5.10.2013 a committee from the Baghdad municipality, supported by a military force, came and removed the two houses with the fence of the plot and leveled it with the ground and expelled the guard and his family present in it, in implementation of the defendant's orders, with the intention of distributing it to the poor and needy, it did not compensate the owner of the land, the compensation estimated by the Property Disputes Commission was not reward less, he sought justice from a committee formed in the Council of Representatives to resolve the issue of the lands covered by the decision (117 of 2000), and because of the delay in the work of the aforementioned committee, the case was delayed at the request of the plaintiff's attorney based on the provisions of Article (81/1) of the Civil Procedure Law, because the behavior of the defendant being in his post contravenes the provisions of article (23) of the constitution that stipulates ((expropriation is not permissible except for the purposes of public benefit in return for just compensation, and this shall be regulated by law)) which required to legislate a new law that justice the owner of the property, as the Appropriation law no.(12) for 1981 does not achieve justice with fair compensation as it did not take into account the changes that took place after (1981) regarding currency rates,

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market changes, the value of the Iraqi Dinar, and the conditions of citizens after the wars and the tragedies that the country went through. For all the aforementioned the plaintiff agent requested to ((revoke the legal actions that are in conflict with the provisions of the Constitution, and give the right to file lawsuits in civil courts to demand financial and moral compensation for the damages suffered by his client and his colleagues whose rights have been violated in contrary to the law and the Constitution, and to suspend illegal procedures until fair compensation are regulated by a law according to the paragraph (2) of article (23) of the Constitution referred to above)). The defendant agent responded to the case petition with the draft dated on 4.11.2013 submitted to the court on 2.1.2014 stating that the subject of the lawsuit is out of the F.S.C. jurisdictions that are stipulated in paragraph (93) of the Constitution of 2005, and article (4) of the F.S.C.' bylaw no. 30 for 2005, and requested to dismiss the lawsuit for the reasons mentioned in the draft. The agent of the plaintiff submitted explanatory draft on 22.10.2013 repeating in it the case petition. After completing the required procedures stipulated in article (2) of the F.S.C. bylaw no 1 for 2005, the date 27.4.2014 was scheduled to consider the case, on that date and the following until

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3.5.2014 the court failed to held a session due to the official holyday of electing the Iraqi Council of Representatives, accordingly the date to consider the lawsuit in 4.5.2014 according to article (24) of the Civil Procedures law, the court convened, the plaintiff agent attended, the defendant or his agent didn't attended, it decided to hold session in his absence, the plaintiff agent repeated the case petition and presented explanatory draft on 4.5.2014, he limit his requests to the fair compensation for the plot of land, and that his client filed lawsuit before the Real Estate court requested to delay it until the I.C.R. issues fair law in this regard, and it still delayed. whereas nothing left to be said, the argument is closed, the decision issued publicly.

**The decision:**

During scrutiny and deliberation by the F.S.C., it found that the plaintiff requested in the case petition to (revoke the legal actions that are in conflict with the provisions of the Constitution, and give the right to file lawsuits in civil courts to demand financial and moral compensation for the damages suffered by his client and his colleagues whose rights have been violated in contrary to the law and the Constitution, and to suspend illegal procedures until fair compensation are regulated by a law according to the paragraph (2) of article

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(23) of the Constitution). the Jurisdictions of the F.S.C. are stipulated in paragraph (93) of the Constitution of 2005, and article (4) of the F.S.C.' bylaw no. (30) for 2005, the subject of the law suit is out of its jurisdictions, it falls within the jurisdictions of Civil courts, accordingly it decided to dismiss the lawsuit for the aspect of jurisdiction and to burden the plaintiff the expenses and advocacy fees for the plaintiffs' agents amount of (one hundred thousand) IQ.D. This decision has been issued publicly on 4.5.2014.

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