

Republic of Iraq
Federal Supreme Court
Ref. 115 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 13/8/2023 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayooob Abbas Salih, Abdul Rahman Suleiman, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Muwafaq Jabbar Hairo.

The Defendant: the Prime Minister/ being in this capacity – his agent the legal counselor Hayder Ali Jaber.

The Claim

The plaintiff's claim is summarized that the Council of Ministers issued a decision on the National Housing Initiative, and the General Secretariat of the Council of Ministers issued the letter No. (Mim.Kha.Nun./42/285) on (21/1/2020), which included the addition of (4,800 dunums) of the lands of the Diwaniyah camp to the basic design of the governorate in its new expansion, with the Ministry of Defense retaining the lands on which the military constructions and prohibitions have an area of (1,200) dunums, It also included the allocation of (20%) of the area of land allocated to the aforementioned camp by distribution to the children of the security services, including (15%) for employees of the Ministry of Defense, and the Military Housing Directorate shall distribute it to its employees and (5%) to the rest of the other categories, all in coordination between it and the Ministry of Construction, Housing, Municipalities, and Public Works following the relevant decisions of the Council of Ministers, and the decision also included accelerating the procedures for the secretion of the aforementioned lands and transferring their ownership following the provisions of Law (80 of 1970), and the issuance of real estate registration bonds for it, noting that there is sorting, distribution and investment in the aforementioned camp, so the

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plaintiff submitted a request to the Diwaniyah Municipality under the receipt No. (498/5/1/2017) to allocate a plot of land to him as he is an employee of the Ministry of Defense, and the lands were distributed to many segments, and no plots of land were allocated to the segment of the employees of the Ministry of Defense, so he asked this court to rule obliging the defendants to allocate a plot of land based on the decision of the Council of Ministers above being a member of the Iraqi army. The lawsuit was registered with this court in the number (115/Federal/2023), and the legal fee was collected for it, and the defendants were informed of its petition and documents in accordance with Article (21 / 1st and 2nd) of the Bylaw of the Federal Supreme Court No. (1) of 2022, and for the lapse of the period stipulated in item (third) of the same article without receiving an answer from the defendants, a date was set to consider the lawsuit without pleading, and on the specified day, the court was formed and began to consider the case, the court checked what was stated in the plaintiff's requests and substantiations. The court noted the second defendant's agent answer dated 18/6/2023, in which he requested to dismiss the lawsuit for lack of litigation and lack of jurisdiction, and the court also reviewed the plaintiff's additional draft dated 10/7/2023, and where there is nothing left to be said, the end of the minutes has been made clear, and the court issued the following decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff's lawsuit (Muwaffaq Jabbar Hairo) is focused on demanding that the defendants oblige the Prime Minister and the Governor of Diwaniyah, in addition to their functions, to allocate a plot of land based on the decision of the Council of Ministers No. (Mim.Kha.Nun./42/285) dated 21/1/2020, being a member of the Iraqi Army and covered by the provisions of the aforementioned decision, and upon careful consideration of the plaintiff's request, It was found that its consideration is outside the

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jurisdiction of this court, as its competencies are set out in Articles (52) and (93) of the Constitution of the Republic of Iraq for the year 2005 and Article (4) of the Federal Supreme Court Law No. (30) of 2005, as amended, and not including the case presented by the plaintiff in his petition and the plaintiff can review the competent authorities to claim his rights following the legal requirements, and for all of the above, the court decided to dismiss the plaintiff's claim for lack of jurisdiction and charge him fees, expenses and attorney's fees to the second defendant's agent. Prime Minister / being in this capacity an amount of (one hundred) thousand dinars. The decision has been issued unanimously, final, and binding for all authorities according to the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and Articles (4 and 5) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been edited on the session dated 25/Muharram Al-Haram/1445 Hijri coinciding 13/August/2023 AD.

Judge
Jassim Mohammed Abbood
President of the Federal Supreme Court

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