

(Translated from Arabic)
IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 206/federal/media/2018



Kurdish text

The Federal Supreme Court (FSC) has been convened on 5.12.2018, 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 who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (Shin. Ain. Zin. Shin.) his agent the attorney (Ain. Ha. Heh.).

The Defendant: The Finance Minister/ being in this post.

THE CLAIM:

The agent of the plaintiff claims that Al-Najaf First Instant Court on date 29/9/2011 issued it judgment to reject the plaintiff case the Finance Minister/ being in this post in the case no.(1425/Beh 1/2011) about the conflict on the ownership of the property no.(1304/5 Al-Mishraaq area), the judgment was ratified appealingly but it has been challenged by the Cassation Court, the Appeal Court decided to avoid the First Instant Court judgment and to annul the property ownership judgment that was registered in the ownership of (Shin. Ain. Zin. Shin.) and to re-register it to the Ministry Of Finance. The judgment was ratified appealingly and correctively by the Federal Cassation Court according to the Civilian Expanded Commission decision no.(141/ the Civilian Expanded Commission/2015) on 23/3/2015, the agent of the plaintiff request in his case presented before the FSC to decide in the legality and the Constitutionality of the decisions issued by the Civilian Commissions in the Federal Cassation Court and to return the property no.(1304/5 Al-Mishraaq area) to his client the plaintiff (Shin. Ain. Zin. Shin.).

The defendant The Finance Minister/ being in this post was informed with the case petition and its appendixes, his agent answered by her draft dated 21/11/2018 that a decision about the property no.(1304/5 Al-Mishraaq area) had

been already issued; the decision was final appealingly and correctively and the judicial judgments issued by the Cassation Court are correct. Therefore she request to reject the case as it's has been already judged and decided.

The Court called upon the two parties for proceeding, the agent of the plaintiff attended with the absent of the gent of the defendant. The plaintiff's agent repeated what is listed in the case petition and request to judge according to it.

As the case complete the legal procedures the Court decided to end the proceeding and issued the following judgment decision publicly.

THE DECISION:

During scrutiny and deliberation by the FSC, the Court found that the plaintiff contest The Finance Minister in the ownership of the property no.(1304/5 Al-Mishraaq area) in Al-Najaf Al-Ashraf, the FSC found from the case appendixes that the property has been owned by (the Public Poets Institution and the Song Lyrics Writers) in Al-Najaf, the institution sold the property to the plaintiff (Shin. Ain. Zin. Shin.), as the property has been belong to one of the dissolved entities that were replaced by the Finance Ministry. As the sale process violated the Code of selling and renting the public founds no.(32) for year 1986; therefore the Finance Ministry reclaim it position, and judgment was issued to annul the property ownership judgment and to re-register it to the Ministry Of Finance. The judgment was ratified appealingly and correctively. The plaintiff present this case against the Finance Ministry challenging in the unconstitutionality of the decision issued by the judiciary and the Federal Cassation Court.

The FSC found that the Judicial already made a judgment in the case subject and the judgment become final. Therefore the case shall be rejected according to article (105) provisions of the Evidence Act no.(107) for year 1979.

Therefor the plaintiff request shall be rejected and to burden him the expenses and advocacy fees for the agent of the defendant. The decision has been issued decisively and unanimously on 5.12.2018.