



The Federal Supreme Court (F.S.C.) has been convened on 27.5.2013 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, and it issued the following decision:

The Plaintiff:

1. Mahdi Hassan Atallah Al-Khalkhali.
2. Mahmoud Mohammed Reda Al-Dhani.

Their agent the attorney (Abdul-Jabbar Rahim Alwan Al-Aboudi).

The Defendants:

The Director of the Municipality of Kufa /being in this post.

Republic of Iraq
Federal Supreme Court
Ref. 20/ federal / ٢٠١٣



Kurdish text

The Claim:

The plaintiffs claimed they claim that they own the plot of land numbered (١/ 40) district (26) of Kufa , and that the defendant/being in this post refrains from signing the procedures for the transfer of ownership, and this was confirmed by a letter attached to the case pending from the Court of First Instance of Kufa and the reason for the abstention is the dissolved Revolution Command Council Resolution No. (222) of 1977, which did not permit any transaction to be conducted on orchards and lands whose bonds refer to being agricultural lands owned by natural or legal persons.

And since the aforementioned decision violates the constitution, the plaintiffs requested a ruling that it is unconstitutional.

The defendant/being in this post responded with a list dated 4/15/2013 to the lawsuit petition, indicating that his objection to the transfer of ownership is that the land subject of the lawsuit is located within the basic design of the city of Kufa, which has the force of law and it is not permissible to violate it.

On the day appointed for the pleading, the court was formed in the absence of the defendant despite his notification, but he did not attend the pleading, as the court was formed according to Article (11) of the Federal Supreme Court Bylaw No. (1) for the year 2005, and the plaintiff's attorney repeated the case's petition. 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 was that the plaintiffs filed a lawsuit against the defendant/being in this post, the director of the municipality of Kufa, and it is not suitable for him to be a litigant in the case because Article (4) of the amended Civil Procedure Law No. (83) for the year 1969 has defined the litigant with the following: It is a condition that (the defendant) be a litigator whose approval will result in a judgment assessing the issuance of a declaration from him, and that he be convicted or bound by something on the assessment of the evidence of the case.

Whereas the contested decision contains legislation and the issue of canceling it in case it is proven unconstitutional depends on the legislative body that has this authority.

Therefore, the (defendant's/being in this post) litigation is not directed, and if the litigation is not directed, the court shall decide on its own initiative to dismiss the case based on Article (80/1) of the amended Civil Procedure Law.

Therefore the plaintiffs' case shall be rejected; the F. S. C. decided to dismiss the lawsuit with charging the plaintiffs all the case's expenses.

This decision has been issued by agreement according to Articles (94) of the Constitution and (4) of the Federal Supreme Court Bylaw and publicly on 27/5/2013.