

Republic of Iraq  
Federal Supreme Court  
Ref. 25 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 12/3/2023 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, Ayoob 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 Requestor of Weighting: Salma Fathallah Boutros.

The Subject of the Request: to prefer between the two judgments that became final, the first issued by Al-Mosul first instance Court and the second issued by Sumail first instance Court.

### **The Request**

The Federal Supreme Court received the letter of the representation of the Kurdistan Region in Baghdad No. (Mim. Ra. 3444) on 29/1/2023 referring to the letter of the Kurdistan Regional Judicial Council / Presidency of the Court of Appeal of the Erbil Region / Department of Relations and Legal Affairs No. (2/8/ 670) on 26/1/2023 with its attachments the request of the weighting applicant (Salma Fathallah Boutros) and the decision of the presidency of the Kurdistan Regional Court of Cassation / Expanded Commission No. (241 / Expanded Commission / 2022) on 21/12/2022 according to which the application submitted to it by the weighting applicant Salma Fathallah Boutros was referred against the applicant (the two decisions issued by the Mosul Court of First Instance No. 9394/Beh/2012 on 8/9/2013 and the second

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by the Court of First Instance of Semel No. 124/B/2007 on 11/12/2007), to this court to decide on it according to jurisdiction, as the Mosul Court of First Instance is subject to the jurisdiction of the Federal Court of Cassation, while the Court of First Instance of Sumail / Dohuk is subject to the jurisdiction of the Court of Cassation of the Kurdistan Region, and because of the difference in reference for each of the two mentioned courts, so it referred the application and its attachments to this court for decision.

### **The decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the Presidency of the Court of Cassation of the Kurdistan Region / Expanded Commission referred to this court by its decision No. (241/Expanded Commission/2022) on 21/12/2022 the application submitted to it by the weighting applicant Salma Fathallah Boutros against the applicant (the two decisions issued by the Mosul Court of First Instance No. 9394/Beh/2012 on 8/9/2013 and the second by the Court of First Instance of Semel No. 124/B/2007 on 11/12/2007), to decide on it according to jurisdiction, as the Mosul Court of First Instance is subject to the jurisdiction of the Federal Court of Cassation, while the Court of First Instance of Sumail / Duhok is subject to the jurisdiction of the Court of Cassation of the Kurdistan Region, and because of the difference in reference for each of the two mentioned courts, so the request and its attachments were referred to this court, and the request included a demand to address the legal violations in the decisions issued by the courts of Mosul and Baghdad, instructing the decisions of the regional courts to work and canceling the ruling issued by the Mosul Court because the decision issued by the Dohuk Court of

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Appeal is the first and acquired to the final degree. For the reasons detailed in the application, this court finds that the application for weighting must be rejected in form of lack of jurisdiction because the powers and competencies of this court are exclusively stipulated in Articles (52 and 93) of the Constitution of the Republic of Iraq of 2005 and Article (4) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021 and some other special laws, None of these competencies and powers gives the court jurisdiction to decide on the applications referred to in the application, in particular the request for the weighting of judicial rulings issued by the competent courts that have acquired the final degree, or to address their annulment or amendment, especially the judgments issued by the Federal Court of Cassation that have acquired the final degree, as they are not subject to appeal and are considered an argument against all people following the provisions of Articles (105 and 106) of the Evidence Law No. (107) of 1979, as amended, Due to the lack of jurisdiction of this court to decide on the requests contained in the application, and for the foregoing, the Federal Supreme Court decided to reject the application submitted by the applicant Salma Fathallah Boutros in form of lack of jurisdiction and notify the Presidency of the Court of Cassation of the Kurdistan Region / the expanded body thereof. 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 5/2<sup>nd</sup>) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been edited in the session dated 19/Shaaban/1444 Hijri coinciding with 12/March/2023 AD.

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**Judge**  
**Jassim Mohammed Abbood**  
**President of the Federal Supreme Court**