



The Federal Supreme Court (F S C) has been convened on 8.7.2014 headed by Judge Madhat Al-Mahmood and membership of Judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-nagshabandi, Aboud Salih Al-temimi, Michael Shamshon Qas Georges and Hussein Abbas Abu AL-Temman who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (mim. ra. yeh.)
(ra. alif. mim.)
(mim. kaf. alif.) their agent (alif. tah.)

The Defendant : Director General of Najaf Health - being in this capacity- his Jurists (nun. ain.).

The Claim:

The plaintiff's agent claimed that the defendant/ being in this capacity had already filed an appropriation case in the First Instance Court of Kufa, and the court applied for the purpose of estimating the price of the land, article (13) of the amended Appropriation Law No. (12) of 1981, this includes the formation of the Estimate Authority and in accordance with the regulations and since this article was contrary to the Iraqi Constitution of 2005 (valid) article (23) of it including that compensation be required in the wage of appropriation and that the compensation be fair and since the court and the defendant insist on

applying the provisions of article (13) of the Appropriation Law to his clients, which is a waste of the land and the wage of appropriation is small and this is contrary to what the Constitution says that the wage of appropriation should be fair, therefor request for ruling that article (13) of the Appropriation Law (12) of 1981 be unconstitutional and allow the court to elect experts with expertise in the field of real estate valuation to estimate a fair wage of appropriation for his clients. The defendant's agent (Director General of Najaf Health/ being in this capacity) answered the petition that his department had been disadvantage of where came the compensation for the appropriation under above article. The ruling is required to be unconstitutional and has no substantial what the plaintiffs' agent claims in his petition to reject the case. After the registering of the case based on the provisions of paragraph (3rd) article (1) of the FSC's bylaw No. (1) of 2005 and after completing the required procedures in accordance with paragraph (2nd), article (2) of the mentioned system. On 8/7/2014, the court set a date for the hearing of the case, in which the court was formed, and the plaintiffs' agent was present under the agency linked to the case file, the defendant's agent/ being in this capacity the jurist (nun. ain.) also attended under his agency linked to the case file, beginning with the public argument, the plaintiffs' agent repeated the statement in the petition and requested the rule under which the defendant's agent repeated the statement in his draft dated 25/3/2014, both sides repeated their previous statements and where there was nothing left to say, the end of argument has been made clearly, the decision had made clear public.

The Decision:

After scrutiny and deliberation by the FSC found that the plaintiff sued the defendant/ the Director of Health in Najaf Province/ being in this capacity, to rule that article (13) of the Appropriation Law No. (12) of 1981 (amended) is unconstitutional. Whereas the defendant in the case must be litigant, his decision shall be based on a judgment of

Ruling on estimating the issuance of an approval, and shall be sentenced or bound by something to assess the proof of the case (mim4 Civil Procedure). Whereas the appropriation law No. (12) of 1981 (amended) challenge with unconstitutional the article (13) of it, which issued by legislation body not the Director of Health in Najaf/ being in this capacity. Therefore, the litigation is not directed to the defendant and if the litigation is not directed, the court will rule on its own to dismiss the case without interfering in its basis (mim 80 Civil Procedure). As a result the court decided rejects the case from the litigation side and to charge the plaintiffs with the expenses and fees of the defendant's attorney/ being in this capacity the jurist (nun. ain.) amount of one hundred thousand dinars (100,000 dinars) and the rule was issued decisively on the basis of the provisions of article (5/2nd) of the FSC's Law No. (30) of 2005 and article (94) of the Constitution of the Republic of Iraq in 2005 and unanimously, the decision had made clear public on 8/7/2014