

Republic of Iraq
Federal Supreme Court
Ref. 309 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 14/1/2024 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 Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Ghazi Sami Abbas and Ahmed Sami Abbas – their agent the barrister Muslih Akif Aziz.

The Defendant: the Prime Minister/ being in this capacity – his agent the legal counselor Qassim Suhaib Shakour.

The Claim

The plaintiffs, through their agent, claimed that the Council of Representatives had previously issued its letter No. (1444) on 30/9/2021 entitled to the defendant / being in this capacity and attached with the recommendations of the parliamentary committee - formed by Parliamentary Order No. (105) on 21/6/2021 to investigate the issue of converting agricultural land of plot numbered (6029/3/Mim 19 Ghazaliya) into residential and contracted by the plaintiffs under permanent contracts in accordance with Law No. (117) of 1970 - which recommended stopping its allocation and converting it into residential based on the decisions issued by the Council of Ministers and the concerned departments, except that the defendant did not implement the recommendations of that committee, and the land subject of the lawsuit was seized and the houses built on it were bulldozed under building

saady

Republic of Iraq
Federal Supreme Court
Ref. 309 / federal /2023



Kurdish text

permits, plantings and lands without any legal justification, and all decisions and laws in force were violated, which prevents the conversion of agricultural land into residential, for these reasons, the plaintiffs requested this court to issue a state order to Amanat Baghdad and the General Directorate of Real Estate Registration to stop all dispositive procedures until the lawsuit is resolved, and to rule for the return of the land to them, and to cancel all actions that took place on the aforementioned agricultural plot, and after registering the lawsuit with this court No. (309/Federal/2023), collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with Article (21/1st and 2nd) of the Court's Rules of Procedure No. (1) For the year 2022, his agent replied with the reply regulation dated 24/12/2023 summary: The court's lack of jurisdiction to hear the case under Article (93) of the Constitution and Article (4) of the Federal Supreme Court Law No. (30) of 2005, as amended, especially since the court had previously issued its decision (195/Federal/2023) invalidating the Parliamentary Order No. (105) issued by the General Secretariat of the Council of Representatives under letter No. (1/7/105) dated 21/6/2021, and canceling all the procedures resulting from it, including the letter issued by the Office of the Speaker of the Council of Representatives No. (Mim. Ra/1444) dated 30/9/2021, so the defendant's attorney requested to dismiss the lawsuit and charge the plaintiffs expenses, fees and attorney's fees, and after completing the procedures required by the court's rules of procedure, an appointment was set to consider the case without pleading in accordance with Article (21/3rd) thereof, in which the court was formed and the lawsuit began to be heard, the court checked the plaintiffs' requests and their grounds and the defenses of the defendant's agent, and where the court completed its

saady

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Ref. 309 / federal /2023



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scrutinies, the end of the minutes has been made clear and issued its following decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was noted that the summary of the lawsuit of the plaintiffs Ghazi Sami Abbas and Ahmed Sami Abbas is that the Council of Representatives had previously addressed its letter No. (1444) on 30/9/2021 to the defendant/ being in this capacity and attached with it the recommendations of the parliamentary committee formed under Parliamentary Order No. 105 on 21/6/2021 to investigate the issue of converting agricultural land of plot numbered (6029/3/Mim 19 Ghazaliya) to residential, contracted by the plaintiffs with permanent contracts in accordance with Law (117) of 1970, which recommended the suspension of Allocating it and converting it into residential based on the decisions issued by the Council of Ministers and the concerned departments, but the defendant did not implement these recommendations and the land subject of the lawsuit was seized, so they requested the issuance of a state order to Mayoralty of Baghdad and the General Directorate of Real Estate Registration to stop all dispository procedures until the lawsuit is resolved, and the ruling to return the land to the plaintiffs, and to cancel all the actions that took place on the aforementioned agricultural plot, and the court's decision to consider the lawsuit without pleading based on Article (21/3rd) of the rules of procedure of this court No. (1) of 2022 and while the court reviewed the defendant's agents draft numbered (Qaf/2/2/68/00061844) on 24/12/2023, who requested the dismissal of the lawsuit for the reasons

saady

Republic of Iraq
Federal Supreme Court
Ref. 309 / federal /2023



Kurdish text

stated therein in detail and for the decision of this court No. (309/federal/state order/2023 on 8/1/2024) which includes rejecting the request to issue a state order according to what was submitted by Plaintiffs' Agent, for all of the above, and since the jurisdiction of this court is determined by Articles (52 and 93) of the Constitution of the Republic of Iraq and Article (4) of the Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, and it is not among its competences to consider the subject matter of this lawsuit by returning agricultural land numbered (6029/3/Mim 19 Ghazaliya) to the plaintiffs according to what is stated in the lawsuit petition against him, the plaintiffs' lawsuit should be rejected, for lack of jurisdiction, for the foregoing, the Federal Supreme Court decided to rule as follows:

First: Dismissing the plaintiffs' lawsuits for lack of jurisdiction.

Second: Charging the plaintiffs with fees, expenses and fees of the defendant's agent, in addition to his position, the legal advisor, Qasim Suhaib Shakour, an amount of one hundred thousand dinars distributed in accordance with the law. The decision has been issued unanimously, final and binding according to the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and Articles (4 and 5/2nd) 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 2/Rajab/1445 Hijri coinciding 14/January/2023 AD.

Judge

Jassim Mohammed Abbood

President of the Federal Supreme Court

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