

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 30/federal/media/ 2016



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 18/4/2016 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 request

The person that named (Ha. Ain. Ain.) submitted complaint to the F.S.C. requesting in it to be included by the provisions of paragraph (heh) of article (3) and paragraph (11th) of article (7) of the Property Claims Commission law No.(13) for 2010 that state the following ((The judiciary is right and the right is Allah... the decision of the Revolutionary Command Council No.(83) for 1998 was issued, under which the rights of ownership of the stock belonging to him and his boys and daughters in the tourist city company in al-Habbaniyah mixed-ownership)), unfairly, which is 51% of the capital of the mentioned company, whereas article (23/2) of the valid constitution for 2005 stipulated that ((private property is protected, expropriation is not permissible except for the purposes of public benefit in return for just compensation)), since 1998 and

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till today, the public benefit was not achieved, and there wasn't any just compensation for him and his children, accordingly the case No.(491495) was initiated on 7/6/2004, before twelve years and the case was rejected, according to the provision of article (4) of the Property Claims law, because the property that belong to him was not expropriated for political, doctrinal, religious, sectarian and ethnic causes. Then the cases No.(103/federal/2011 and 56/federal/2012) was initiated before the F.S.C. and rejected also, as the decision in it was (plaintiffs can sue in the competent courts to compensate them for real value of the shares and not the nominal value. 3- according to that the case No.(402/beh/2013) was submitted before al-resafaa first instant court on 24/6/2013, and as rejected, because the this case included within the implementation of the law No.(16) for 2010 specified for compensate those affected by the damage described in the mentioned law. 4- a case was submitted in Baghdad governorate council/ sub-committee for Compensation of the affected people under the number (529/14) on (28/4/2014) and was rejected also, because the property expropriated was not for political, doctrinal, religious, sectarian and ethnic causes, the listed reasons above contradict with the valid Iraqi constitution article (2/Jim) ((no law may be enacted that contradicts the rights and basic freedoms stipulated in this Constitution, specially article (14) and article (19/6th) of it, whereas article (14) of the constitution stipulated that ((Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, religion, sect, belief or opinion, or economic or social status)). And article (19/6th) stipulated on ((every person shall have the right to be treated with justice in judicial and

administrative proceedings)), the mentioned principle in the amended law of the Property Claims Commission above (article 2, article 3/heh, article 7/11th) granted the right to the citizens to be compensated for just compensation. The purpose of the legislating this law (the Property Claims Commission law No.(13) for 2010) is to guarantee the rights of citizens who have been deprived of their property in violation to the law, and compensated them with just compensation to achieve reparation for them and to protect and preserve public money, note that these shares (51%) of the capital of the tourist city company tourist mixed-ownership, was real estate and plots and a hotel free-hold owned by the company)). For the aforementioned the complainant requested to be included he and his sons and daughters by the Property Claims Commission law No(13) for 2010, in paragraph (heh) of article (3) , and paragraph (11th) of article (7) of it. The request has been set under scrutiny and deliberation by the F.S.C., and issued the following decision:

The Decision:

As the jurisdictions of the F.S.C. are stipulated in article (4) of its law No(30) for 2005, and article (93) of the Iraq republic constitution for 2005, where it did not include the jurisdiction to amend the provisions of the valid laws, as this is a jurisdiction of the legislation authorities. Therefore the mentioned complaint request to be included by the provisions of the Property Claims Commission law No(13) for 2010 is out of the F.S.C. jurisdictions. Accordingly the court decided to reject it from the point of jurisdiction. The decision has been issued unanimously on 18/4/2016.