

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 38/federal/media/2015



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 29/6/2015 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 Abu Al-Temmen who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff:

(ha.mim.ha.), his agent the attorney (ta.kaf.zin.).

The Defendants:

1. Speaker of the council of representative (I.C.R.)/ being in this post.
2. Minister of finance/ being in this post.
3. Minister of justice/ being in this post.

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Achraa

The Claim:

The agent of the plaintiff claimed in the lawsuit no.(38/federal/2015) that the third defendant revoke the land title no.(81/February 1996 dossier788 order 5900/3/m³) Al-Najaf island registered by the name of the plaintiff and re-registered by the name of the first defendant by the land title no.(23/January 1979 dossier 814) according to the decision (103 for 1997). As AlNajaf agriculture directorate was not covered by the decision, and as the registration violated the constitution and article (4) of the F.S.C. bylaw, and as his client have legitimate interest, therefore he requested to call upon the defendants for argument, and to judge by revoking the land title (order 1/5900 m³) Al-Najaf island registered by the land title (23/January 1979 dossier 814) property category is agricultural, it type is free-hold, the owner is the Finance Ministry, its area (10 donum), and the notification of the property registration department in Alnajaf No.(1030) on 27/1/2012 detailed for the property and all the ongoing transfers, and the letter of the same department No.(2621) on 27/2/2014, whereas the method of (expropriation, appropriation and registration of the property) are void and violating the law and the constitution, finally he requested to judge that the defendants are not authorized to issue such law specially that first defendant the speaker of the I.C.R./being in this post didn't issue a decision to include the real estate of Alnajaf so that the second and third defendants could expropriate the mentioned property according to the decision of the (dissolved) revolutionary command council no.(103 for 1997), and also requested revoke the land title subject of the case and to re-register it by the name of his client (the plaintiff).

After the case was registered before the F.S.C. according to its Bylaw, the defendants were notified by the case petition and documents, they submitted their answers requesting to reject the case for the reasons listed in their answering drafts, after completing the required procedures, a date was scheduled for the argument, the court convened, the plaintiff' agent, first defendant' agents, third defendant' agent has attended, the second defendant didn't attend and didn't send whom represent him legally, the court continue with the argument in his absent, as the F.S.C. has completed its investigations the argument is closed and issued the following decision on 29/6/2015.

The Decision

During scrutiny and deliberation by the F.S.C., the court found that the plaintiff requested to rule that the decision of the (dissolved) revolutionary command council No.(103 for1997) is illegitimate, also requested to revoke the land title order (1/5900 m³) Alnajaf island that is registered by the land title (23kaf/1997) dossier (814 agricultural, free-hold) No.(1030) on 27/1/2012. The F.S.C. found that the required text to be revoked was implemented in that time and its provisions are not valid in present time or in time of validity of the Iraqi republic constitution' provisions for 2005, the stipulated jurisdictions of the F.S.C. in article (93) of the constitution paragraph (1st) of it include the jurisdiction to monitor constitutionality of the valid laws and regulations, therefore the request the subject of the case is out of the F.S.C. jurisdictions because of the end of validity of the challenged decision for being

unconstitutional. The second request of the plaintiff to revoke the land title, it's also out of the F.S.C. jurisdictions that are stipulated in article (93) of the constitution, and article (4) of its law, by that the case has lost its legal substantiation, accordingly the court decided to reject the case, and to burden the plaintiff the expenses and advocacy fees for the attended agents of the defendant's amount of one hundred thousand Iraqi dinars divided on them equally. The decision has been issued decisively according to article (94) of the constitution and article (5/2nd) of the F.S.C. law No.(30) for 2005 and unanimously.