

The In the name of god most gracious most merciful

Republic of Iraq  
Federal supreme court  
Ref. 51/federal/media/2018



Kurdish text

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The Federal Supreme Court (F S C) has been convened on 14.5.2019 headed by the 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, Hussein Abbas Abu Al-Temman who authorized in the name of the people to judge and they made the following decision:

Plaintiff : Lawyer Riyadh Faleh Jabr .

Defendant : Speaker of the House of Representatives /being in this capacity Deputy Legal officer Haitham Majed Salem.

### Claim

The plaintiff claimed that the House of Representatives had enacted the Law No. (72) of 2017 on the confiscation and seizure of movable and immovable property of the members of the former system. He claimed that the law was contrary to the provisions of heaven and earth requested that it be cancelled for the reasons he mentioned, namely: First: Allah Almighty said (We were not tortured until we sent messengers) The Almighty said (In order that mankind should have no plea against Allah after the Messengers). Second: Violation to the provisions of the articles (2) , (13/2<sup>nd</sup>) & (19/2<sup>nd</sup>) of the Constitution. Third: The withdrawal of the law is the subject of appeal to the past leads to disruption of the due stability of transactions and the loss of due confidence in the law and is violate to

article (1<sup>st</sup>) of the Penal Code which state on (Following an act or omission only on the basis of a law provided that it is criminalized at the time of its perpetration and no penalties may be imposed for measures not provided for by law). Forth: The law is the subject of appeal violate the provisions of articles (106) and (105) of the Evidence Law (the rulings are considered to be an argument in the case of a dismissal of the rights and not the acceptance of evidence of revocation of the authority of the sentence). Fifth: The law is the subject of appeal violate the provisions of the Code of Criminal Procedure and that it wastes basic rights for citizens and the plaintiff requested the repeal of Law No. (72) of 2017 and the defendant /being in this capacity was informed of the petition and documents of the case and replied to it by his draft of 3/4/2018, which stated that the plaintiff did not clarify the interest of the case, the direct and influential in The legal, financial or social status of his claim and did not explain the direct and independent damage to its elements when it is removed if a judgement in the case is issued. Therefore, the case is to be rejected on this side, and on the other hand the law was initiated by the House of Representations and is competent to legislate it in accordance with article (61/1<sup>st</sup>), which represents the legislative will and the request to reject the case. The Court called upon the parties to raise the charges against them in their presence. The defendant's agent reiterated the reply's regulation. The court inquired of the plaintiff, who in particular had been covered by the impugned law and had answered in the negative and that article (93) of the Constitution gave the right to consider the constitutionality of laws regardless of the interest Required in the bylaw the Parties reiterated their statements and the court sealed the case and made the following decision in public.

### The Decision:

When scrutiny and deliberation by FSC found that the plaintiff in his capacity as a lawyer, had instituted the case No. (51/federal/2018), in which he wanted to annul the law on the seizure and transfer of movable and immovable property belonging to the members of the former system No. (72) of 2017. On the grounds of violating the provisions of the articles in the petition of the Constitution. Whereas, he has admitted that he is not covered by the provisions of this Law, which defines the identity of those covered by articles (1) and (3), and that they are given the administrative and judicial way of objecting to the seizure and confiscation of their finances, which is one of the personal rights of these persons, and that others have no right to exercise it.

Therefore, the plaintiff's claim has lost the conditions set in article (6/1<sup>st</sup>/2<sup>nd</sup>/3<sup>rd</sup>/4<sup>th</sup>/6<sup>th</sup>) of the bylaw of the FSC No. (1) of 2005, published in the Iraqi Gazette issued No. (3997) of 2/5/2005, as well as the failure of the requirement set forth in article (6) of the Civil Procedure Law No. (83) of 1969 concerning the condition Interest to be provided. Accordingly, the judge decided to reject the plaintiff's claim against the adversary without entering into its constitution on the basis of article (80/1<sup>st</sup>) of the Civil Procedure Law, the charging of expenses and the fees of the attorney of the agent of the defendant /being in this capacity (100,000 dinars) . The judgement was decisively on the unanimously on the basis of the provisions of article (94) of the Constitution. Article (5) of the FSC's Law No. (30) of 2005 and was made clear public on 14/5/2019.