



The Federal Supreme Court had been convened on 2014, 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-Nagshabndi, Abood Salih AL-Tememi, 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 Plaintiffs: (Kaf.Mim.Alif.), (Zin.), (Sin.) sons of (Nun.Mim.Alif.) their agent the barrister(Kaf.Mim.)

The Defendant: The Minister of Finance- being in this capacity- his agent the legal official (Feh. Ha.Ha.) in person and mandate

The third-party: The Minister of Defense- being in this capacity- his agent the legal counselor (Kaf.Dal.Mim.)

The Claim:

The plaintiff claimed in person and mandate that in 1979-1980 estates were appropriated in order to expand AL-Muthana Airport and to convene nonalignment conference in Baghdad. The estate No.(85/25/Utafiyah) is Among these estates which belonged to him and the rest heirs. It was appropriated quickly and the owner's object on the decision of estimation and challenging it was taken. In 2007 he submitted the case No.761950 before the judicial commission in AL-Karkh Al-uwlaa. The case was rejected so he submitted the case before Al-Kadhimya court of the first instance No.(156/Beh/2013) to change the litigation because the estate was appropriated for the ministry of Defense then it transformed to the ministry of Finance. The real-estate exposed to many disposal procedures. Because the conference was not convened; the appropriation transferred to the ministry of Waqfs and a school and mosque was built on it; they decided to transfer some of the appropriated estates to the ministry of Housing and building them living units; the public interest hadn't been achieved and the right of the citizen got taken; the judicial commissions are not able to force the laws, The plaintiff being among the heirs in person and mandate requested from the FSC to annul the appropriation decision and return it back to the heirs according to the law of property claims commission law No.(13) 2010 and to compensate them based on the mentioned law and the article (11) with the financial equivalent of gold. He estimated the property around one billion dinars 1000000000 and kept the increase which came from the experts' estimation. The defendants got notified by the case petition and documents. The agent of the first defendant answered on it by his draft on 9.2.2014. he said that the plaintiff



submitted a case in the real-estates property disputes commission and the judicial committee decided to reject the case. The decision became final and he couldn't initiate the case again and the appropriation had been done for the public interest with fair compensation. The agent of the third party answered on the case petition by his draft dated on 8/5/2014. He said that the plaintiff initiated the case before the commission of property disputes- judicial committee in AL-Karkh and the case was rejected on 13/2/2011 because the appropriation did by AL-Kadhimya court of the first instance dossier No.(160/Beh/1980) and the real estate registered by the name of the ministry of defense. The appropriation compensation was paid, due process, based on a judicial rule, and from the competent court of the first instance. The court called upon the two parties so the plaintiff attended (Kaf.Mim.Alif.) who is one of the barristers in person and mandate for the rest of heirs. The first agent of the defendant and the agent of the third party attended. the plaintiff repeated the case petition and his requests. The defendant agent repeated his draft and requested to reject the case. Also, the third-party agent repeated his draft and requested to reject the case. The plaintiff agreed that he has already initiated two cases before the aforementioned bodies and they were rejected. Whereas nothing left to say, the court made the end of the argument understood and issued the following decision in public.

#### The Decision:

During scrutiny and deliberation by the FSC, it found that the real estate No.25/85 Utaifiyah which belongs to the plaintiffs was appropriated on 25/3/1981 Dossier No.160/Beh/1980 Al-Kadhimya court of the first instance. It was appropriated to the ministry of defense. The plaintiff requested from the commission of property disputes the second judicial committee in Al-Karkh to return the real estate to the heirs. The court rejected the case and the decision was ratified in appeal. The plaintiff initiated a case of instance No.156/Beh/2013. It was initiated before Al-Kadhimya court of the first instance. He requested to return the estate to the plaintiffs. The case was rejected too on 27/2/2013. The plaintiff requested from the FSC to annul the decision of the appropriation and to return the estate to the heirs and to compensate them with an amount compared to the gold according to the article (11) from the law of property disputes commission no.(13) for 2010. He estimated the case by one billion dinars 1000000000 and kept the increasing. Whereas the plaintiff agreed that he has already initiated two cases before the aforementioned bodies and they were rejected and the decision became final; this court is incompetent to annul the decision of appropriation which became final and incompetent to try the request of the compensation compared to gold which is out of the FSC competent that stipulated by the article (93) from the



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Constitution and the article (4) from the FSC Law No.(30) for 2005, the case must be rejected from incompetence point. The court decided to reject the case and to burden the plaintiffs all the expenses and fees of the advocacy for the two agents of the defendant and the third party amount of hundred thousand Iraqi dinars divided between them equally. The decision was issued unanimously on 8/7/2014.