



The Federal Supreme Court (F S C) has been convened on 27/9/2016 headed by the Judge Madhat Al-Mahmood and membership of Judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Aboud Salih Al-temimi, Hussein Abbas Abu Al-Temman, Aad Hatif Jabbar and Mohammed Rajab Al-kubaisi who authorized in the name of the people to judge and they made the following decision:

The Request:

The General Secretariat of the Council of Ministers/ Legal Department/ requested the FSC in its letter No. (qaf/2/1/21/24037) The following is the text: Good greeting: Based on the text of item (3rd/alif) of article (23) of the Constitution " The Iraqi has the right to own anyplace in Iraq and no one else may own the immovable except what is excluded by law " and where the letter " what is " responds to the property without the people, Please explain what is contained in item (2nd) of article (93) of Constitution by stating the extent to which a Palestinian resident of Iraq can have permanent residence in Iraq in light of the decision of the Dissolved Revolutionary Command Council No. 202 of 2001 with appreciation. The application was put under scrutiny and debated by the FSC and reached the following decision:

The Decision:

When scrutiny and deliberation by FSC found that the General Secretariat of the Council of Ministers/ Legal Department/ requested from the FSC under its above request explain the article (23/3rd/alif) of the Constitution in light of the decision of the dissolved Revolutionary Command Council No. (202) of 2001 where the article (23/3rd/alif) of the Constitution text that (The Iraqi has the right to own anyplace in Iraq and no one else may own the immovable except what is excluded by law), the FSC found that the article (23/3rd/alif) of the Constitution When the Iraqi's right to own anywhere in Iraq was approved, it was not authorized for non-Iraqis to have the funds immovable in Iraq except for an exception to the mentioned text. Through a law issued by the legislature and since the law of the possession of unmovable funds by Arab citizens in Iraq No. (72) of 1978 and the instructions issued under it No. (1) of 1979 and the article (1) of it text that (The provisions of the Iraqi law in the possession of immovable funds in Iraq apply to all citizens of Arab countries residing in Iraq permanently, except the Palestinians) where the mentioned law and under the mentioned article the Palestinians have been excluded from the right to own the immovable funds in Iraq, a special law that is valid and has not been repealed or amended and remains in effect in accordance with the provisions of the article (130) of the Constitution it is the law that regulates cases of Arab citizens owning unmovable funds in Iraq, including Palestinians, and not the decision of the Revolutionary Command Council (dissolved) No. (202) of 2001, where it is stated in general and the provisions of the special law restrict the provisions of the common law based on the above the court finds that it is not permissible for the Palestinian to have immovable funds in Iraq and the decision has issued with the unanimously on 27/9/2016.