

Republic of Iraq
Federal Supreme Court
Ref. 309 / federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 8/1/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul-Rahman Suleiman Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Requestor of Issuing the State Order: 1- Ghazi Sami Abas
2- Ahmad Sami Abas

Their agent the
barrister Muslih
Akif

Who Requested to Issue the State Order Against: 1- Mayoralty of
Baghdad.
2- The General Directorate of Real Estate Registration

The Request:

The two applicants for the issuance of the state order through the mediation of their agent submitted to this court the statement of claim dated 3/12/2023, and after collecting the legal fee for it, it was recorded in the number(309/federal/2023) The claimant under which the judgment of the return of the agricultural land of the plot numbered (6029/3/Al-Ghazaliyah M19) to the applicants of the state order and the cancellation of all actions that took place in order to achieve the right and in application of the laws and legislation in force, as demanded the issuance of an urgent state order that includes the suspension of all the disposal procedures that took place, and notify the Mayoralty of Baghdad and the General Directorate of Real Estate Registration of that,

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and until the aforementioned lawsuit for the reasons referred to in detail in the lawsuit petition.

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicants for the issuance of the state order only because they filed the lawsuit No. (2023/Federal/309) before this court requested, under their regulations dated 3/12/2023, to issue an urgent state order that includes :(stopping all dispositive measures that took place on the agricultural land of the plot numbered (6029/3/Mim 19Alghazaliyah) and notifying the Mayoralty of Baghdad and the General Directorate of Real Estate Registration of that), and until the aforementioned lawsuit is resolved, For the reasons referred to in detail in the lawsuit petition, and the Federal Supreme Court finds that the issuance of an urgent state order based on an independent request or implicit in the constitutional lawsuits filed before it has not been addressed, nor has it been addressed in the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, nor the internal regulations of the Federal Supreme Court No. (1) of 2022, Published in the Iraqi Gazette No. (4679) on 13/6/2022, and thus it is subject to the provisions referred to in Articles (151 and 152) of the Civil Procedure Law No. (83) of 1969, as amended, and to the extent commensurate with the nature and privacy of the constitutional lawsuit, based on the provisions of Article (39) of the internal rules of the court referred to above, which stipulated that (The court may consider requests for summary judgment and orders on petitions in accordance with the provisions stipulated in the Civil Procedure Law No. (83) of 1969 as amended or any other law that replaces it) and in terms of Article (36) thereof, which stipulates that (court decisions are final and binding on

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all authorities and persons and do not accept appeal by any means of appeal...), and on the basis of the foregoing, the issuance of an urgent state order by the Federal Supreme Court is governed only by the controls and conditions that must be met for its issuance referred to in the Code of Civil Procedure, for the finality of the decisions issued by this court and not subject to the methods of appeal, which lies in submitting a request in two copies including facts, evidence and documents, and the availability of urgency, and not to enter the original right and decide on it, and since the audit of the request for the issuance of the state order by this court has proven the lack In the constitutional lawsuit filed before this court No. (309/Federal/2023) according to which the judgment is claimed ((the agricultural land belongs to the plot numbered (6029/3/Mim 19Al-Ghazaliyah) to the applicants for issuing the state order and canceling all actions, which took place in order to achieve the right and in application of the laws and legislation in force)) for the reasons detailed in its petition, and that this contradicts with customs Stable judicial in the constitutional districts of Arab and foreign countries and with what was settled by the Iraqi judiciary in both constitutional and ordinary, and what was included in the established judicial applications in this area based on the provisions of the Constitution and the laws in force, based on the realization of the right and the achievement of justice and fairness away from tendencies and whims and arbitrariness and flattery, there is: There is no blame for the blame for what was really issued from the words or deeds, and thus the decision on the request of the applicant to issue the state order, the duty of rejection for two reasons: The first: is the absence of urgency and the state of necessity that requires its issuance, The second: that deciding on it means entering the origin of the right and giving a prior opinion of the lawsuit filed before this court No. (203 / Federal / 2023), according to

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the detail referred to above, and for the foregoing, the Federal Supreme Court decided to reject the request submitted by the applicants for the issuance of the state order each of (Ghazi Sami Abbas, and Ahmed Sami Abbas). The decision has been issued unanimously, final and binding according to the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005, and article (5/2nd) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, the decision has been edited in the session dated 25/Jumada Al-Akhira/1445 Hijri corresponding to 8/1/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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