

Republic of Iraq
Federal Supreme Court
Ref. 310 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 27/12/2023 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 Plaintiff: Ahmed Radhi Essa - barrister.

The Defendant: President of the Supreme Judicial Council/ being in this capacity
– his agent, the official jurist Labeeb Abbas Jaafar.

The Claim

The plaintiff claimed that on 4/26/2022, the defendant, the President of the Supreme Judicial Council, in addition to his position, stated the number (45) which stated: (First - the Court of First Instance competent for commercial lawsuits in Al-Rusafa has jurisdiction to consider lawsuits related to troubled loans and all disputes that arise in connection with them. Second: This statement will be implemented as of the date of its issuance) and since this statement conflicts with the provisions of Article (37) of the Civil Procedure Law No. (83) of 1969 as amended, which stipulates (1- A lawsuit for debt or movable property shall be filed in the court of the defendant's domicile or center. its transactions, or the place in which the obligation arose, or the place of implementation chosen by the two parties to file the lawsuit), and since the provisions of the Civil Procedure Code are superior in terms of legal force to the contested statement, as it is considered as instruction, especially since the Civil Procedure Code is the one that must be applied and a legal text may not be canceled or suspended except under another law, which did not happen in this case, so this court was asked to rule to cancel Statement No. (45) of 4/26/2022 and charge the defendant fees, expenses, and advocacy fees. The case was registered with this court under the number (310/Federal/2023), the legal fee was paid and the defendant was notified of its

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petition and documents based on the provisions of Article (21/First and Second) of the Federal Supreme Court's internal regulations No. (1) of 2022. The defendant's agent responded with the answering draft dated 12/20/2023, requesting that the case be dismissed due to the court's lack of jurisdiction to hear it, and the plaintiff's lack of interest in filing the lawsuit under what is required by Article (20/First) of the internal regulations of the Federal Supreme Court No. (1) of 2022, in addition to the fact that the plaintiff did not specify the purpose. Constitutional violation, especially since the Supreme Judicial Council, represented by its President, exercises the powers assigned to it in managing judicial affairs and supervising the federal judiciary following the provisions of Article (91/First) of the Constitution of the Republic of Iraq for the year 2005, and Article (22) of the Judicial Organization Law No. (160) of 1979, as amended, In addition to what was stated in Article (3/First) of the Supreme Judicial Council Law No. (45) of 2017, and the instructions to facilitate its implementation No. (1) of 2018, and thus the issuance of the statement by the Supreme Judicial Council will be under the provisions of the Constitution and the laws in force. After completing the procedures required by the court's internal regulations, a date was set to hear the case without pleading in accordance with Article (21/Third) thereof, and the court was formed and the case began to be heard. The court examined the plaintiff's requests and supports and the defenses of the defendant's agent. As the court completed its examinations, the conclusion of the report was understood and it issued the following ruling decision:

The decision:

Upon examination and deliberation by the Federal Supreme Court, the court noted that the summary of plaintiff Ahmed Radhi Issa's case is the ruling to cancel statement No. (45) on 4/26/2022 issued by the defendant, Chairman of the Supreme Judicial Council/in addition to his position, according to which it was decided that the Court of First Instance shall have jurisdiction. Specialized in commercial lawsuits in Al-Rusafa, considering lawsuits related to non-performing loans and the disputes that arise in connection with them. This is due to its violation of Article (37) of the Civil Procedure Law No. (83) of 1969 as amended, and since the court reviewed the list of the defendant's agent/being in this capacity

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dated 12/20/2023, in which the lawsuit was requested to be dismissed for the reasons stated therein, and since one of the conditions for accepting any lawsuit, including a constitutional lawsuit, is the availability of a known, current, possible, and realized interest based on Article (6) of the Civil Procedure Law No. (83) of 1969 as amended, and that this interest is influential in the legal, financial, or social position of the plaintiff based on Article (20/First) of the internal regulations of this court No. (1) of 2022, and if it is not proven to the court that the plaintiff has a direct interest following the applicable texts mentioned above, then the plaintiff's lawsuit is not eligible for acceptance and is There is freedom to respond from this side, so the Federal Supreme Court decided to rule as follows: First: To dismiss the lawsuit of the plaintiff, Ahmed Radi Issa Al-Shammari, because there was no interest in filing it. Second: to burden the plaintiff with the fees, expenses, and attorney fees of the defendant's agent/being in this capacity an amount of one hundred thousand dinars will be distributed in accordance with the law. The decision has been issued unanimously, final, and binding according to the provisions of Articles (93and 94) of the Constitution of the Republic of Iraq for 2005 and Articles (4 and 5/2nd) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been edited in the session dated 13/Jamada Al-Akhira/1445 Hijri coinciding with 27/December/2023 AD.

Judge

Jassim Mohammed Abbood
President of the Federal Supreme Court

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