



The Federal Supreme Court (F.S.C.) convened on 27.7.2021 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali, who are authorized to judge in the name of the people, they made the following decision:

The plaintiff:

Zainab Abdel Hamid Saleh - Her attorney - Walid Sheyal Kadhm.

The defendants:

- 1- Muhammad Rikan al-Halbousi (Council of Representatives Speaker).
- 2- Hassan Al Kaabi (First Deputy Speaker of the Council of Representatives).
- 3- The Speaker of the Iraqi Council of Representatives (I.C.R.)/ in addition to his post – his agents the legal advisor Haithem Majid Salim and the legal official Saman Muhsen Ebraheem.

The claim:

The plaintiff claimed, through her attorney, that the first defendant and his deputy, the second defendant, refrained from presenting his client's objection to the membership of the

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 113 / Federal / 2019



Kurdish text

representative Muhammad al-Karbouli, who belongs to the bloc of the first defendant, violating by that the provisions of the Constitution, his client requesting an appeal against the defendants' decision not to include a vote on her objection in accordance with Article (93/Third) of the Constitution, and requests its reversal and binding of the three defendants. repeal and obligating the three defendants to present her objection to the vote, she also requests a ruling convicting the first and second defendants of perjury and violation of the Constitution, as it was proved by the photocopy of the plaintiff's objection and the report submitted by the legal department to the first and second defendants, demonstrated their deliberate refusal to present the objection to the Council of Representatives despite achieving a quorum of two-thirds in most of the parliament's sessions after registering the objection, bearing in mind that it is the Presidency that prepares the agenda for the Council's work in the sessions in accordance with Article (37/first) of the bylaw. More than four months have passed since the objection was registered and the quorum of two-thirds was achieved in a number of the sessions, including, for example, session No. (26) on 24.6.2019, (29) on 30.6.2019, (1) on 16.9.2019, and (2) on 14.9.2019, and despite that first and second defendants excluded the subject of voting from the sessions, and with this refrain, the defendants were able to disrupt the parliamentary constitutional oversight on the validity of membership, and they were able to disrupt the oversight of the Federal Supreme Court, which has

Athraa



jurisdiction over that in accordance with paragraph (2nd) of Article (52), and the defendants' act constitutes a violation of Article (52) and other constitutional articles, and is considered perjury, and since this refrain is a violation of the provisions of the Constitution and a perjury of the constitutional oath, so the plaintiff requested a ruling to repeal the defendants' decision and oblige them to present her objection to the Council of Representatives for a vote on it. She also requested the conviction of the first and second defendants for violating the constitution and perjury. after registering the case based on Article (1/Third) of the bylaw No. (1) of 2005 and informing the defendants based on Article (2/First) of the above bylaw, the attorneys of the third defendant, in addition to his post, responded with their draft dated 13.10.2019, which concluded that the plaintiff submitted her objection on 20.5.2019 and filed the case before the Council of Representatives decided on her objection, also the Council of Representatives decides on the validity of the membership of the representatives by a two-thirds majority of its members, and this quorum was not achieved in the previous sessions, in addition, the plaintiff's claim lost its place, as the appeal is issued against a decision of the Council of Representatives on the validity of membership, therefore he requests to reject the plaintiff's lawsuit and charge her fees and expenses. As for the first and second defendants, they did not answer the lawsuit petition despite being notified according to the law, after the court completed the procedures for examining the case based on Article (2) of the bylaw, a date was set

Athraa



for the pleading, and on that day the court was formed, so the attorney for the third defendant attended in addition to his post, and neither the plaintiff nor her agent attended, and the first and second defendants did not attend despite being informed according to the law, and for not sending a legitimate excuse the argument was initiated. The agent of the third defendant in addition to his post requested to nullify the lawsuit petition. The court understood the conclusion of the pleading and issued the following decision:

The decision:

For the plaintiff's claim detailed in the foregoing, which concluded that the first and second defendants refrained from presenting the plaintiff's objection regarding the validity of the membership of Representative Muhammad al-Karbouli to the Council of Representatives to decide on the validity of his membership, which constituted a violation of the Constitution and perjury of the constitutional oath, she demanded that they be obligated to submit the objection to the Council of Representatives for a vote and to convict the first and second defendant by violating the Constitution, after the fundamentalist pleading, and for the plaintiff or her representative not attending, and for the request submitted by the attorney of the third defendant in addition to his post to invalidate the lawsuit petition. Therefore, the court decided to invalidate the lawsuit petition regarding the defendant, the Speaker of Parliament, in addition to his post according to Article (56/2) of the

Athraa



Civil Procedures Law No. (83) for 1969 as amended, charging the plaintiff with fees and one-third of the attorney's fees for the attorneys of the third defendant, an amount of thirty-three thousand three hundred dinars, distributed according to legal ratios, according to Article (57) of the above-mentioned Civil Procedures Law. As for the first and second defendants where the plaintiff asked to sue them in their capacity without the post capacity, and where the defendant is required to be a litigant whose acknowledgment entails a judgment estimating the issuance of an acknowledgment from him and that he be judged or bound by something based on the assessment of the proof of the case based on Article (4) of the Civil Procedure Code above, this is not achieved in filing the case against the defendants in their capacity, and since the litigation, if it was not directed, then the court, even on its own, should rule to dismiss the case without entering its basis based on Article (80/1) of the Civil Procedure Code above, therefore, the plaintiff's claim deserves to be dismissed from this aspect against the first and second defendants. Therefore, the court decided to dismiss the plaintiff's lawsuit, Zainab Abdul Hamid Saleh, against the defendants, Muhammad Raykan Al-Halbousi and Hassan Al-Kaabi, and to charge her with the judicial expenses, the decision was issued final, in agreement based on Article (94) of the Constitution and Articles (4, 56/2, 57 and 80/1) of the Civil Procedures Law No. (83) of 1969 as amended, and Articles (11 and 19) of the bylaw No. (1) of 2005, and publicly understood on (16/Dul Hajj / 1442 AH.) corresponding to 27.7.2021 AD.

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 113 / Federal / 2019



Kurdish text

Signature of
The president

**Jasem Mohammad
Abbood**

Signature of
The member

Haidar Jaber Abed

Signature of
The member

Ayoub Abbas Salih

Signature of
The member

**Sameer Abbas
Mohammed**

Signature of
The member

Haider Ali Noory

Signature of
The member

**Abdul Rahman
Suleiman Ali**

Signature of
The member

**Ghaleb Amer
Shnain**

Signature of
The member

Khalaf Ahmad Rajab

Signature of
The member

**Diyar Muhammad
Ali**

Athraa