

Republic of Iraq  
Federal Supreme Court  
Ref 125/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 9/6/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Ali Noori, Khalef Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, Khaled Taha Ahmed, and Munther Ibrahim Husain who are authorized in the name of the people to judge and they made the following decision:

The Plaintiffs:

1. Ali Hadi Jabr.
2. Hassan Ahmed Abdullah.
3. Abdul Sattar Naji Assaf.
4. Abdul Karim Nouri Mahawi.
5. Sabah Khudair Saied.
6. Abd Ali Mohsen Saleh.

Their agent, the barrister Jassim Musa Madloul.

The Defendants: 1. Minister of Construction, Housing and Municipalities / being in this capacity.

2. Director of the Municipality of the Holy Province of Karbala / being in this capacity - His agent, the human rights employee Makhif Mahdi Saleh.

### **The Claim:**

The plaintiffs, through their agent, claimed to be political prisoners working at the Husseiniya holy shrine residential plots of land have been distributed to its employees within the municipality of the holy province of Karbala, but the director of the municipality of Karbala province refrained from including the plaintiffs according to the letter in the number (20837) on 11/4/2023 because they are beneficiaries of a residential plot of land from the Prisoners Foundation, Law No. 35 of 2013 was also promulgated, the First Amendment Law to the Political

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Prisoners Institution Law No. 4. of 2006, which includes in Article (18/1<sup>st</sup>) the allocation of a residential plot of land for each political prisoner, but the Director of Karbala Municipality/ being in this capacity, the dissolved Revolutionary Command Council Resolution No. (120) of 1982 was a restriction restricting the law the Prisoners' Foundation is for political prisoners and has not been restricted by any restriction, noting that the General Secretariat of the Council of Ministers supported the entitlement of a political prisoner is a piece of land and is not covered by the restrictions contained in the dissolved Revolutionary Command Council Decree No. 120 of 1982, therefore, the plaintiffs asked this court to cancel the decisions of the director of the municipality of Karbala in addition to his job not to include them in a residential plot of land from their district entitled to them, and to charge the defendants fees and advocacy fees. After registering the case with this court No. (125/Federal/2024) and collecting the legal fee for it, and informing the defendants of its petition and documents in accordance with Article (21/1<sup>st</sup> and 2<sup>nd</sup>) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, the second defendant's agent responded with the reply regulation dated 30/5/2024, and its conclusion: The court's lack of jurisdiction to hear the case in accordance with the provisions of Article (4) of the Federal Supreme Court Law No. (30) of 2005, Resolution (120) of 1982 is a special text that restricts the general text, and the plaintiffs' ownership of another property is contrary to that special text, in addition to the fact that the purpose of allocating residential plots of land is to provide adequate housing for each family and not to enrich at the expense of others, so he requested to reject the lawsuit on his client, and charging the plaintiffs with fees and expenses. After completing the procedures required by the court's rules of procedure, a date was set for the consideration of the case without

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pleading in accordance with Article (21/3<sup>rd</sup>) thereof, in which the court was formed and the case began to be heard, the court scrutinized the plaintiffs' requests, their supports and the defenses of the second defendant's agent, and after completing its scrutinies, the end of the minutes has been made clear and the court issued the following decision:

### **The Decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiffs (Ali Hadi Jabr and Hassan Ahmed Abdullah ,Abdul Sattar Naji Assaf, Abdul Karim Nouri Mahawi, Sabah Khudair Saeed and Abd Ali Mohsen Saleh) filed this lawsuit through the mediation of their attorney, lawyer Jassim Musa, Madloul against the defendants (the Minister of Construction, Housing and Municipalities in addition to his job and the Director of the Municipality of the Holy Governorate of Karbala/ being in this capacity) requesting a ruling to cancel the decision to abstain from the Director of Karbala Municipality in addition to his job according to the letter issued by the Directorate of Karbala Municipality No. (20837) on 11/4/2022 not to include the plaintiffs in a residential plot of land from their district as a merit allocated to them as beneficiaries of the prisoners foundation with a residential plot, and the court's decision to consider the case without pleading based on Article (21/3<sup>rd</sup>) of the Rules of Procedure of this Court No. (1) of 2022, and to inform the court of the list of the second defendant's representative, the director of the municipality of the holy province of Karbala on 30/5/2024 who requested to reject the lawsuit for the reasons stated therein in detail, and for all of the above, and since the competences of this court are determined by Articles (52 and 93) of the Constitution of the Republic of Iraq of 2005, and Article (4) of the

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Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, and not among those competencies is to consider what the plaintiffs stated in the lawsuit petition of requests, therefore, the plaintiffs' lawsuit must be rejected for lack of jurisdiction, for the foregoing the Federal Supreme Court has decided the following:

First: Ruling on rejecting the plaintiffs' lawsuit (Ali Hadi Jabr, Hassan Ahmed Abdullah and Abdul Sattar Naji Assaf and Abdul Karim Nouri Mahawi, Sabah Khudair Saeed and Abd Ali Mohsen Saleh), for lack of jurisdiction.

Second: Charging the plaintiffs with the expenses, fees and advocacy fees of the second defendant's agent, the director of the municipality of Karbala province, being in this capacity the official jurist, Makhif Mahdi Saleh, an amount of one hundred thousand dinars distributed in accordance with the law.

The decision has been issued unanimously, final and binding to all authorities in accordance with the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq of 2005, and Articles (4 and 5/Second) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, and it has been edited the session dated 2/Dhu al-Hijjah/1445 A.H. corresponding to 9/6/2024 AD.

**Judge**  
**Jasem Mohammad Abboud**  
**President of the Federal Supreme Court**

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