

Republic of Iraq  
Federal Supreme Court  
Ref 169/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 3/7/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jaber Abid, Hayder Ali Noori, Khalef Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, and Munther Ibrahim Husain who are authorized in the name of the people to judge and they made the following decision:

The Applicant for Determining Jurisdiction: Erbil Investigation Court affiliated to the Presidency of the Erbil Region Court of Appeal based on the provisions of Article (93/8<sup>th</sup>/Alif) of the Constitution of the Republic of Iraq according to the decision of the Presidency of the Kurdistan Region Court of Cassation / the expanded authority with the number (241 / the expanded authority/2023) on 14/12/2023.

The Subject matter of the request: Adjudication of the conflict of jurisdiction between the Fallujah Investigation Court of the Presidency of the Anbar Court of Appeal and the Erbil Investigation Court of the Presidency of the Erbil Region Court of Appeal based on the provisions of Article (93/8<sup>th</sup>/Alif) of the Constitution of the Republic of Iraq of 2005.

### **The Request:**

The Federal Supreme Court received the letter of the Federal Court of Cassation / Criminal authority No. (1169 / Criminal authority / 2024 on 6/6/2024) and its attaches the letter of the Presidency of the Anbar Court of Appeal / Administrative Affairs Department No. (1075 / Shin Qaf / 2024 on 26/5/2024), the letter of the Regional Government Representative Office in Baghdad General Directorate of Administration and Finance Affairs No. (Mim .Ra. 17993 on 13/5/2024), the letter of

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the Presidency of the Erbil Region Court of Appeal No. (2/8/2775) on 30/4/2024, the letter of the Erbil Investigation Court No. (1149) on 6/3/2024 and the investigative papers of the complainant (Yasser Hamid Jihad) and the defendants (Ahmed Abdul Sattar Matrood and Ahmed Sabah Husain) in accordance with the provisions of Article (289/298) of the Penal Code No. (111) of 1969, as amended, due to the negative dispute between the Fallujah Investigation Court affiliated to the Presidency of the Anbar Court of Appeal and the Erbil Investigation Court affiliated to the Presidency of the Erbil Region Court of Appeal. After registering the request at this court and reviewing the investigative papers and the decisions issued therein and making the scrutinies, the court issued the following decision:

**The Decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it became clear that on 28/2/2017, the Fallujah Investigation Court recorded the statements of the complainant (Yasser Hamid Jihad) and through which it became clear that: He bought a plot of land with the number (29/4459 Mim 14) Al-Jughaifi with an area of (300) square meters in the city of Fallujah / Al-Jughaifi neighborhood II, for an amount of fifteen million dinars it was then found that the land did not exist, that the bonds and contracts were forged and a complaint was filed against a group of persons, the appendix to his written statement dated 2/8/2017 showed that the purchase occurred in 2016 when he was displaced in Erbil Governorate, and waived, according to the annex to his statement recorded on 6/6/2021, the defendant (Ahmed Sabah Husain) for the reconciliation and mutual agreement between them and the request to continue the legal proceedings against the accused (Ahmed Abdel Sattar expelled), it was clear from the confession of the

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defendant (Ahmed Sabah Hussein) certified on 23/5/2021 that when he was displaced in Erbil governorate, he sold a fictitious residential plot of land to the aforementioned complainant in the second Al-Jughaifi area, with an area of (200) meters, with a false bond and documents, and the sale was carried out in a fictitious name, which is (Ibrahim Mohamed Fadel) and he made an absolute public power of attorney for the complainant issued by an Erbil notary, and that the fingerprint on the agency is his fingerprint as well as the photo, while the name is fictitious, on the basis of the foregoing, the judge of the Fallujah Investigation Court decided on 6/8/2023 to refer the investigative papers to the Erbil Investigation Court to complete the investigation according to the spatial jurisdiction based on the provisions of Article (53) of the Code of Criminal Procedure, so the judge of the Erbil Investigation Court decided on 8/10/2023 to present the investigative papers to the Presidency of the Regional Court of Cassation for the purpose of determining the spatial jurisdiction to complete the investigation based on Article (53/Dal) of the Code of Criminal Procedure, and the last court issued its decision No. (241/Expanded authority/2023) on 14/12/2023 containing ((The decision on the dispute shall be within the jurisdiction of the Federal Supreme Court, it is decided to return the investigative papers to the Erbil Investigation Court in order to present them to the Federal Supreme Court to decide on the dispute based on the provisions of Article (93/8<sup>th</sup>/Alif) of the Constitution of the Republic of Iraq)), and on the basis of the above, the Erbil Investigation Court decided on 22/1/2024, to submit the investigative papers to the Federal Supreme Court to determine the competent court to complete the investigation following the decision of the aforementioned Regional Court of Cassation, and since Article (53/Alif) of the Code of Criminal Procedure No. 23 of 1971, as amended, it stipulates that (the jurisdiction of the

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investigation shall be determined by the place where the crime occurred in whole or in part or any act complementary to it or any consequence or act that is part of a composite, continuous or sequential crime or a crime of habit as determined by the place where the victim was found or where the money in respect of which the crime was committed was found after it was transferred to him by the perpetrator or a person who is aware of it), and since the crime attributed to the defendants on the assumption of the validity of its proof occurred in Erbil governorate when the complainant and the accused (Ahmed Sabah Husain) were present there, as the fictitious sale contract and the forged documents were organized in it, and thus the Erbil Investigation Court is considered spatially competent to conduct an investigation with the complainant's investigative papers (Yasser Hamid Jihad) and the defendants (Ahmed Abdul Sattar expelled and Ahmed Sabah Husain) according to the provisions of Article (289/298) of the Penal Code No. 111 of 1969, as amended, thus, the decision of the Erbil Investigation Court on 8/10/2023 to present the investigative papers to the Presidency of the Regional Court of Cassation for the purpose of determining the competent court to conduct the investigation, is incorrect and contrary to the provisions of the law, and based on the provisions of Articles (93/8<sup>th</sup>/Alif and Beh) of the Constitution of the Republic of Iraq of 2005, which stipulated that the Federal Supreme Court shall have the following competences: (8<sup>th</sup> - A- Adjudicating the conflict of jurisdiction between the federal judiciary and the judicial authority of regions and governorates that are not organized in a region. Beh- Adjudicating conflicts of jurisdiction among judicial authorities of regions or governorates that are not organized in a region), and (4/8<sup>th</sup>/Alif and Beh) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, which stipulates that the

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Federal Supreme Court shall have the following competencies: (8<sup>th</sup> - A- Adjudicating the conflict of jurisdiction between the federal judiciary and the judicial authorities of regions and governorates that are not organized in a region, Beh- Adjudicating the conflict of jurisdiction in respect of between the judicial authority of the regions, or governorates that are not organized in a region), article (30) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, which stipulates that (First: If there is a conflict of jurisdiction between the federal judiciary and the judiciary in the regions, the judicial authority that it deems competent or not competent to consider the dispute may request the court to determine the competent judicial authority to consider it. Second: The request to determine the jurisdiction shall be sent to the court by a letter signed by the President of the Court of Appeal, with all the priorities), so the Federal Supreme Court is constitutionally competent to adjudicate the conflict of jurisdiction between the federal judiciary and the judicial authorities of regions and governorates that are not organized in a region, as well as to adjudicate the conflict of jurisdiction between the judicial authorities of regions or governorates that are not organized in a region, so the Federal Supreme Court decided to consider the Erbil Investigation Court affiliated to the Presidency of the Erbil Region Court of Appeal as spatially competent to consider the investigative papers of the complainant (Yasser Hamid Jihad) and the defendants (Ahmed Abdul Sattar Matrood and Ahmed Sabah Husain) in accordance with the provisions of Article (289/298) of the Penal Code No. 111 of 1969, as amended, referring the investigative papers to it and considering its decision dated 8/10/2023, which included presenting the investigative papers to the Presidency of the Regional Court of Cassation for the purpose of determining the competent court to conduct

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the investigation, is incorrect and contrary to the provisions of the law, and the need to take into account the correct application of the provisions of Article (30) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022 and to take this into account in the future, and to inform the Presidency of the Anbar Court of Appeal of this to notify the Fallujah Investigation Court of this, and the decision has been issued unanimously, final and binding on all authorities based on the provisions of the two articles (93/8<sup>th</sup>/Alif) and (94) of the Constitution of the Republic of Iraq for the year 2005, and Articles (4/8<sup>th</sup>/Alif and 5/2<sup>nd</sup>) Federal Supreme Court Law No. 30 of 2005 as amended by Law No. 25 of 2021 and it has been edited in the session dated 26/Dhu al-Hijjah/1446 A.H. corresponding to 3/7/2024 AD.

**Judge**  
**Jassim Mohammed Abood**  
**President of the Federal Supreme Court**

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