

Republic of Iraq  
Federal Supreme Court  
Ref. 35 / federal/state order /2022



Kurdish text

The Federal Supreme Court (F S C) has been convened on 5/12/2022 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, Ayoub 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 Requestors of Issuing the State Order: the barrister Waleed Hamza Shukhair.

Who requested to issue the State Order against:

- 1- The Prime Minister.
- 2- Minister of reconstruction, housing, and general municipalities.

} Being in their capacity

### **First: The Abstract of the Request:**

The applicant for issuing the state order from this court with its regulation dated 22/11/2022, for which the legal fee was collected on the same date and registered in the number (35/federal/state/2022), requested the issuance of an urgent state order that includes: ((Suspension of the distribution of land plots to the category of lawyers in Diwaniyah Governorate until the resolution of the lawsuit filed by him before this court No. (242/Federal/2022), which includes his request for a ruling to cancel the instructions issued by the person required to issue the state order against them in addition to their functions regarding the distribution of land plots to the lawyers segment and their attachment to their peers The rest of the segments of society because the instructions included the entitlement of all

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segments of society to ownership according to his place of work or the place of actual residence or for the last ten years of the beneficiary before the allocation or the place of birthplace and when they reached the segment of lawyers they determined the benefit according to the place of origin only, because the aforementioned instructions are contrary to the Constitution of the Republic of Iraq in Articles (14, 16 and 19 / 6<sup>th</sup> and 23 / 3<sup>rd</sup>) thereof, which emphasized the principles of equality and equal opportunities, and the right of the individual to fair treatment in judicial and administrative proceedings, the right of the Iraqi to own property anywhere in Iraq, and the fact that the Diwanayah Municipality Directorate began to allocate plots of land and began to sort them in order to distribute them to those whose birthplace was in the city center exclusively, and because the distribution of plots before the resolution of the aforementioned lawsuit misses the opportunity to be entitled or not and that the instructions are in accordance with the principles of the Constitution of the Republic of Iraq and the provisions of Islamic Sharia or not)), for the foregoing, and based on the provisions of Articles (151 and 152) of the Civil Procedure Law No. (83) of 1969, as amended, and Article (39) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, a request was submitted to issue an urgent state order in accordance with the aforementioned details.

### **Second: The decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for issuing the state order, due to filing lawsuit No. (242/Federal/2022) before this court, requested in its regulation dated 22/11/2022, the issuance of an urgent state order,

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which includes: (Stopping the distribution of land plots to the segment of lawyers in Diwanayah Governorate, until the aforementioned lawsuit is resolved), for the reasons detailed in the request, and the Federal Supreme Court finds that the issuance of an urgent state order based on an independent request or implicit in the constitutional cases filed before it has not been done Addressing it, as it was not addressed in the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, nor the Rules of Procedure 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 specificity of the constitutional case, based on the provisions of Article (39) of the Rules of Procedure of the Federal Supreme Court referred to above, which stipulated ((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 replacing it)), following Article (36) thereof, which stipulates that "court decisions are final and binding on all authorities and persons and cannot be appealed by any means of appeal..." Based on the foregoing, the issuance of a 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, because the decisions issued by this court are finality and are not subject to the methods of appeal, which lie in applying two copies that include facts, grounds, and documents, and the availability of urgency, and not to enter into the origin of the right and decide on it, and since the scrutiny of the request for issuing a state order by this

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court has proven that it is not urgent. If necessary issue it, in addition to the above, responding to its content means entering into the origin of the right and giving a prior opinion on the constitutional lawsuit filed before this court No. (242/Federal/2022) under which (the ruling to cancel the instructions issued by the person required to issue the state order against them / being in their capacity related to the distribution of land plots to the segment of lawyers and their attachment to their peers from the rest of society, and ownership according to the place of work or place of actual residence or for the last ten years of the beneficiary before the allocation or the place of the birthplace, based on the violation of those instructions provisions of Constitution of the Republic of Iraq of 2005), for the reasons referred to in detail in the petition, and that this contradicts the established judicial customs in the constitutional districts of Arab and foreign countries and with what the Iraqi judiciary has settled on in both its constitutional and ordinary parts and what was included in the well-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, whims, arbitrariness and flattery, there is no blame for the blame for what was really issued of words or deeds, and thus the decision on the applicant's request to issue the state order, should be rejected for two reasons: the first: it is the absence of urgency, and the second: that deciding on it means entering into the origin of the right and giving a prior opinion on the lawsuit filed before this court in number (242/federal/2022), according to the aforementioned detail. Accordingly, the FSC decided to reject the request. The decision has been issued unanimously, final and binding according to the provisions of article (94) of the Constitution of the

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Republic of Iraq for 2005 and article (5/2<sup>nd</sup>) 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 10/Jamada Al-Oula/1444 Hijri coinciding 5/December/2022 AD.

**Signature of**  
**The president**  
**Jasem Mohammad Abbood**