

Republic of Iraq
Federal Supreme Court
Ref 55/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 16/4/2024 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 Plaintiff: Sadiq Hassan Matar- His agent the barrister Hussein Ali Dokhi.

The Defendant: The Prime Minister/ being in this capacity, his agent, the Legal adviser Qasim Suhaib Shakour.

The Claim:

The plaintiff claimed, through his agent, that the Prime Minister / being in this capacity had previously issued Decision No. (3037/2328939) on 9/10/2023 - which includes in paragraph (2) thereof, the transfer of ownership of the Modern Village project in Al-Muthanna (Al-Dur and agricultural lands belonging to the Ministry of Agriculture) to Al-Firdous and Al-Clay companies affiliated to Al-Mohandes Holding Company, and the plaintiff took the initiative to challenge its constitutionality, due to its violation of the provisions of Articles (14) and (16) of the Constitution, as well as its violation of the provisions of the Modern Agricultural Villages Law No. (59) of 2012, and its goals and objectives Legislative provisions contained in Article (2) thereof, the most important of which is the contribution in reducing the unemployment rate, benefiting from agricultural expertise and work capacities, investing them in accordance with the approved principles, and employing graduates, this cannot be achieved by issuing decisions that lack impartiality and in the presence of a contract between the

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plaintiff and the Ministry of Agriculture, which is still in force, especially since the effect and right resulting from the contract concluded under Article 8 of the aforementioned law, which stipulates that: (The lessee shall have the right to dispose of the land and the house leased to him under the provisions of this Law when the following conditions are met: (a) Fifteen (15) years have elapsed from the date of concluding the lease contract. (b) It is proven that he has exploited the leased land for the purpose for which it was leased and by modern scientific methods, and that he has not violated his contractual obligations and his application of the agricultural plan), therefore, it is not possible to say the legitimacy of the decision - the subject of the appeal - because of the injustice and ingratitude in wasting and violating its rights, therefore, the plaintiff requested this court to rule on the constitutionality of the Prime Minister's decision / in addition to his job No. (3037/2328939) on 9/10/2023, and after registering the case with this court No. (55/Federal/2024) and collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with Article (21/1st and 2nd) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, the defendant's agent replied with the reply list dated 29/2/2024 to summarize: That the plaintiff's request for the unconstitutionality of the contested decision is outside the jurisdiction of the Court specified in Articles (52 and 93) of the Constitution of the Republic of Iraq for the year 2005, and Article (4) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, the decision - the subject of the appeal - was issued based on the recommendations of a committee formed by the Prime Minister and approved based on his powers specified in the Constitution not to invest these lands from full-time agricultural workers due to the harsh environmental conditions in that area, therefore, the judgment

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requested the dismissal of the plaintiff's lawsuit and charging him the expenses, fees and attorneyship fees, and after completing the procedures required by the rules of procedure of the court, a date was set for the pleading based on Article (21/3rd) thereof, and the parties shall be informed of it, in it, the court was formed, and the representative of each party attended and began to conduct the public presence pleading, and after the court heard their statements and requests and completed its audits, the end of the argument 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 plaintiff's lawsuit focused on a request to rule on the constitutionality of the Council of Ministers' decision No. (3037/2328939) on 9/10/2023 - which includes the transfer of ownership of the modern village project in Muthanna Governorate to Al-Ferdous and Al-Silsal companies affiliated to Al-Mohandes Holding Company and for violating the aforementioned resolution with the provisions of Article (14) of the Constitution of the Republic of Iraq for the year 2005, and for the reasons mentioned in the petition, requested to summon the defendant to plead and ruled on the unconstitutionality of the aforementioned decision, and upon careful consideration by this court of the plaintiff's request, it was found that he should respond in form, since the constitutional control of the Federal Supreme Court stipulated in item (first) of Article (93) of the Constitution of the Republic of Iraq for the year 2005, Clause (First) of Article (4) of the Federal Supreme Court Law No. (30) of 2005, as amended, by Law No. (25) of 2021, it extends to the laws and regulations in force and does not exceed them to the

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decisions issued by the federal authorities, and since the plaintiff requested in his lawsuit to rule the unconstitutionality of the decision issued by the defendant in addition to his job No. (3037/2328939) on 9/10/2023, so his lawsuit is free to respond in form, for lack of jurisdiction according to the formula in which the lawsuit is filed, and based on the foregoing, the Federal Supreme Court decided to reject the plaintiff's lawsuit Sadiq Hassan Matar, for lack of jurisdiction and to charge him all judicial fees and expenses, including attorneyship fees of the defendant's agent in addition to his position Legal Counsel Qasim Suhaib an amount of one hundred thousand dinars distributed in accordance with the law. The decision has been issued unanimously, final and binding based on the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005, and Articles (4 and 5/2nd) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021 and it has been made clear on 7 Shawwal 1445 A.H. corresponding to 16/4/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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