

STAY OF PROCEEDINGS IN ACCORDANCE WITH THE JORDANIAN CIVIL PROCEDURE LAW

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Abstract

This study delves into the legal concept of suspension of proceedings stay of proceedings within civil procedural law, emphasizing its legal foundation, types, and implications on the litigation process. The paper explores the dual classification of suspension into voluntary and involuntary types. Voluntary suspension arises from mutual agreement between litigants, typically for purposes such as reconciliation or documentation gathering, and requires judicial approval. Involuntary suspension, on the other hand, occurs by operation of law, such as when a related matter is under appeal, or due to an incident like the death of a party, loss of legal capacity, or judicial mandate. The paper systematically presents the procedural effects of suspending a case, highlighting how such suspension freezes the progression of litigation without nullifying previous procedures. It stresses that during suspension, no judicial procedures may be undertaken, except those related to case preservation. Upon the cessation of suspension causes, the responsibility of reviving the proceedings falls upon the parties. Using a comparative legal approach, the research references Egyptian law alongside other Arab legal systems to illustrate practical applications and variances. The study concludes that understanding the suspension mechanism is essential for ensuring fair litigation and protecting the rights of litigants, as it ensures the proper administration of justice and preserves procedural integrity.

Keywords: Suspension of proceedings, Voluntary suspension, Involuntary suspension, Civil procedural law, Litigation process

The introduction:

In the name of God, then praise be to God who gave abundantly with His giving, and I pray and greet our Prophet Muhammad bin Abdullah, the master of the judiciary and the judges, and the beacon of justice and perfection, and I pray for his companions and those who follow him until the Day of Judgment.

Almighty God said (And when you judge between people, you must judge with justice) from verse 58 of Surat Al-Nisa.

Human beings and their many transactions must have a dispute between them, and in some of them the dispute is resolved among them, so if the dispute is not resolved amicably then resort to the judiciary, by means of a lawsuit filed by any person to request his right from another in the presence of the judge, and he is told the plaintiff and the defendant and the defendant It is the thing claimed by the plaintiff, and it must be known or probable, and the law that regulates the procedures of the case from its inception to its end is the Civil Procedure Code, which is a set of legal rules regulating the civil judiciary in its stillness and movement, indicating its function, mandate, limits of its competence, its various formations, and the means By which he exercises his legal role and the procedures for obtaining his protection, it is, in short, the rules related to the organization of the judiciary in all civil, commercial and other matters of private law, including the systems of stopping the case, and it is explained in Articles (122 and 123) thereof, so the importance of stopping the case lies in what

may be raised from Defenses by the litigants or their attorneys during the course of the case, in addition to the fact that the case may encounter some obstacles during its course, which lead to stopping it or dropping it without issuing a ruling on its subject matter. Suspension of the case by virtue of the law, and the last of which is the dropping of the case. So, we limit our study to the issue of stopping the lawsuit without dropping it, and we present all the cases of stopping the lawsuit that were organized by the Jordanian legislator in the two articles mentioned above.

The Jordanian legislator did not set a definition for stopping the lawsuit, nor did he explicitly stipulate the effects of stopping the proceeding in the lawsuit in all its cases. Here, the importance of scientific research is highlighted in the formation of sufficient knowledge about stopping the lawsuit, and about all its cases, the conditions for applying each case and the implications thereof, especially with regard to stopping the lawsuit and the ambiguity in these texts about the concept of stopping the lawsuit, and the difference between it and the postponement of the lawsuit and the types of stopping the lawsuit: such as stopping The judicial endowment, the consensual endowment, and the legal endowment, and from here the researcher can translate the research problem by answering the following questions: What is the concept of stopping the case and the difference between it and adjourning the case? What are the justifications for stopping the lawsuit? What is the judicial suspension and what are its conditions and effects? What is the agreement moratorium and what are its conditions and effects? What is legal and what are its causes and effects? Are the rulings issued to stop the case being appealed? To answer these questions, the research is divided as follows:

Preliminary topic: What is the suspension of the lawsuit?

The first topic: stopping the lawsuit.

The second topic: - stop the consensual lawsuit.

The third topic: - Waqf by law.

Introductory research

What is the suspension of the case?

In order to clarify what is stopping the case, the definition of stopping the case and the difference between it and postponement of the case must be specified in the first requirement, and in the second requirement, the justifications for stopping the case, as follows:

The first requirement: Defining the suspension of the case and the difference between it and the postponement of the case:

Suspension of the case, as defined by Muflih al-Qudah, “is the failure to proceed for a reason foreign to the legal status of its parties, until this reason is removed and the time limit set by the suspension decision expires” ().

Ahmed Abu Al-Wafa defined it as “a failure to proceed with the case within a certain period if it is subject to one of the reasons for the suspension, and the duration of the suspension may be determined in advance, and its extension may be subject to the completion of a specific procedure ()

And Rizkallah Al-Antaky defined it as “stopping the course of the case before the court without waiving it or dropping it” ().

Upon examining the first and second definitions, we notice that the first definition is not an inclusive definition of the meaning of stopping the lawsuit, as it may be limited to specific cases of stopping the lawsuit and does not include all cases, and therefore it is a definition that we can overrule, if it is intended to define the suspension of the

lawsuit in general, since The phrase “...and the time limit set by the suspension decision expires...” is invalidated, because once the judicial case is suspended, no time limit is specified in the suspension decision, which ends with the end of this suspension. If the court ruling is reversed, the case shall be suspended.

Moreover, the suspension of the lawsuit by virtue of the law takes place as soon as any of the cases of stopping the lawsuit stipulated in the law arise by virtue of the law, and without the need to specify the duration of the suspension.

As for the case of consensual suspension of the lawsuit, it is the only case to which this definition applies, as the litigants must specify in advance a specific period for stopping the lawsuit, which does not exceed six months from the date of the court’s approval of their agreement.

As for the second definition, it includes all cases of suspension of the lawsuit, and from here, taking this definition is closer to correctness and accuracy.

- Some laws call stopping the lawsuit (stopping the litigation).

As for the postponement of the case, it can be defined as stated in Article (77) of the Jordanian Code of Civil Procedure No. 24 of 1988, which is “not proceeding with the case within a period not exceeding fifteen days for every reason that the court is convinced that it requires postponement, and not to postpone more than once.” For one reason due to one of the litigants, and the court may override that in cases of necessity, the reasons for which must be recorded in the case’s minutes.

In other words, the cases of necessity to postpone the case are left to the discretion of the trial court, and this text is a good step towards resolving the overcrowding witnessed by the courts, if it is taken into account and applied properly ().

So the suspension of the case (litigation) and its postponement are both based on the existence of reasons that prevent the case from being decided, but there are several differences between them that can be presented as follows.

(1) The date of the session to which the case is adjourned must be specified in the decision issued for the adjournment. As for the stay, the duration of the stay is not often specified, and the date of the first session following the stay of the case is not known ().

(2) It is not conceivable that the postponement will take place except by a decision of the court, but the case may be suspended on its own without a judgment ().

(3) Adjournment is justified whenever the circumstances of the litigants so require, but it may not be suspended except for limited reasons ().

(4) The decision issued to postpone the case is just a decision that does not have the capacity of judgments, in other words, it is an act of the judicial administration. As for the ruling issued to stop it, it is a ruling in every sense of the word ().

Permission to suspend the case, the litigation, or the trial for any of the reasons for the suspension that I will present leads to the suspension of adjudication of the case until the reason for the suspension is removed or the specified period expires if the duration of the suspension has been determined in advance, as is the case in the agreement.

If the reason for suspending the case ceases to exist, the procedures will not be resumed as soon as the reason for the suspension ceases. Rather, the interested party among the litigants must register the case, i.e. re-enroll it in the table.

The second requirement: - Justifications for stopping the case:

It is normal for a case to continue to be considered before the competent court until a decision is made on it, but in certain cases, the court may be forced during the course of the case to stop consideration of it for reasons that justify that.

In the event of a judicial or suspension of the case, the main reason behind this suspension is to achieve a good course of justice and to avoid the issuance of inconsistent rulings. An example of this is the suspension stipulated in Article (2/35) of the Jordanian Code of Civil Procedure, and this is if A case related to one subject was instituted between the parties themselves before two courts and both of them proceeded in the case. Each of the two parties shall submit a pleading in which he requests to resolve the dispute to the court competent to consider this pleading in accordance with what is stated in Article (35/a). A regulation requesting the appointment of a reference must stop the proceeding in the case according to what was stated in Article (2/35) of the Jordanian Code of Civil Procedure.

Among the examples of the reasons for the stay, the legislator notes that the resolution of the lawsuit filed before the court depends on the decision on another matter not yet presented to the judiciary. supports this claim, it must decide to stop the lawsuit and refer the litigants with the support for investigation and verification of the allegation of forgery ().

In the event that the lawsuit is suspended based on the agreement of the litigants, the main reason behind this suspension is that the litigants may see during the trial procedures that there are reasons that necessitate them to agree on this suspension in order to complete reconciliation between them, for example, or to conduct an accounting or to agree on arbitration. or something else.

In order to achieve this reason for stopping the case, the previous Code of Procedure allowed the case to be postponed indefinitely, which was termed as a general adjournment.

The order to renew the case under this law was one of the functions of the court, meaning that the court, upon the expiration of six months, informs the litigants to determine their position on the case. The litigants had the power, individually or collectively, to submit a request to renew the case, and it was renewed.

As for the Civil Procedure Law No. (24) of 1988, this postponement was replaced by the consensual suspension of the case, which was stipulated in the provisions of Article 123/1/2 of this law.

As for stopping the case by virtue of the law. The reason behind it is that the heirs of the deceased, or whoever took his place, or who lost the capacity to litigation, or who lost his capacity. They may be ignorant of the litigation, so the legislator obligated it to stop so that the ruling would not be issued in their negligence ().

The purpose of this is not to punish these litigants for continuing to continue the litigation procedures despite their knowledge of the existence of the reason for discontinuing them or for their negligence in observing the change in the characteristics of the litigants in the case.

The first topic **Stop the lawsuit**

Article (122) of the Code of Civil Procedure stipulates that the case be suspended by the judgment of the judge, as the text of the aforementioned article states the following: “The court shall order the case to be suspended if it decides to suspend the judgment in its subject matter on the determination of another issue on which the judgment depends. Once the reason for the suspension has disappeared, any One of the litigants asked to proceed with the case.

It should be noted here that what is meant by stopping the lawsuit or the litigation, wherever this word is mentioned, means stopping the course of the litigation in the

lawsuit without dropping the lawsuit or giving up the litigation, and the cessation here must be by order of the court and based on its opinion on the preliminary issue on which the ruling on the subject depends, so This was called a judicial suspension ().

As for the reason for describing this moratorium as being suspended, it is due to the fact that the judgment in the case depends on the liquidation of the initial issue, and then the case is decided on the basis of the outcome resulting from the decision on this initial issue, hence this name ().

We will discuss the issue of stopping the judicial case with two requirements, dedicating the first to the nature of the judicial stay and the second to the conditions of this stay.

The first requirement: the nature of the judicial endowment:

The suspension is decided when the lawsuit is filed and during its course it encounters an issue on which the ruling in the lawsuit depends, which requires the court to resolve this issue first in preparation for ruling in the lawsuit ().

The judicial endowment is of two types:

a. Stop my comment by court ruling, and this is what was stipulated in Article (122) of the Jordanian Civil Procedure Code No. 24 of 01988

B- A penal endowment. This endowment is unparalleled in Jordanian legislation, but it exists in some Arab legislation. This type of endowment is mentioned in the text of Article (109) of the Egyptian Procedure Law.

What concerns us here is the first type of waqf, that is, the suspension waqf, which is what the Jordanian legislator stipulated, and it is intended to stop the procedures in the case by order of the court and based on its opinion, especially if it considers that the ruling on the merits of the case is dependent on the decision on another issue, on which the ruling in the case depends. 0

This type of cessation is achieved if, during the consideration of the case, a subsidiary issue is presented on which the ruling in that case depends, then the court finds itself compelled to stop the progress of the case until that matter is decided.

The issue on which the ruling is dependent on adjudication is called in the legal terminology (a preliminary issue), as this must be settled for an issue first so that the case can be judged on its basis after that, i.

An example of this type of endowment is what was stipulated in Article 6 of the Jordanian Code of Criminal Procedure that a personal right lawsuit may be instituted according to a common right lawsuit before the judicial authority with which a common right lawsuit is filed.

The other important case that concerns us here, and which was stipulated in the aforementioned Article 6, is that if a public right lawsuit is instituted and a personal right lawsuit is instituted according to the common right lawsuit before the criminal court, the law allows the personal claimant to leave the criminal way to claim the personal right and resort to the civil way by filing his lawsuit before the courts. In any case, the criminal lawsuit is involved, but the consideration of the personal right lawsuit filed before the civil court stops until it is preferred in the common right lawsuit by a final judgment, and the same is the case if the personal right lawsuit is instituted from the beginning before the civil courts, then the consideration of the personal right lawsuit depends on When deciding on a public right lawsuit by a final judgment ().

It should be noted that if the personal claimant filed his lawsuit with the civil judiciary, and the common right lawsuit had already been filed before the criminal courts, the personal claimant may not abandon the civil path and follow the criminal

path. By filing a public right lawsuit, after that, the personal right claimant may turn away from the civil path to the criminal path, unless the civil judiciary has decided in the personal right lawsuit.*

From the foregoing, it appears to us that the suspension in this case is due to the lack of jurisdiction of the court in the primary issue on which the decision of the case depends.

The rule is that the court must order the suspension of the case whenever one of the litigants submits a plea that raises a preliminary issue that must be decided first in order to be able to rule in the original case, provided that this is for an issue that is outside the jurisdiction of the court related to the job or the qualitative jurisdiction, provided that the case resumes its course immediately after the decision. The dispute in this matter and the disappearance of the reason for the suspension, and here it is necessary to refer to the following discriminatory human rights decision, in which it was stated, “By reviewing Article (122) of the Code of Civil Procedure, we find that it states (the court orders the suspension of the case if it decides to suspend the judgment in its subject matter on the decision in Another issue on which the ruling depends, and once the reason for the stay is gone, any of the litigants will have a request to proceed with the case). It requires the following two conditions to be met:

1- That the decision on the primary issue be necessary for the judgment in the original case and productive in it, in the sense that there is a need for a clear link between the original and subsidiary claims whose subject is the primary issue, so that the effect of the latter (the secondary case) on the original case is clear and presumptive.

2- That the preliminary matter is under the jurisdiction of a court other than the court hearing the original case.

The second requirement: the conditions of the judicial suspension:

Article (122) of the Jordanian Code of Procedure stipulates that “the court shall order the suspension of the case if it deems that the judgment in its merits be suspended from adjudicating another issue upon which the judgment depends.

Through our extrapolation of this article, we can discern the conditions that allow the suspension of the case in this case, namely:

First: The decision on the issue of priority is necessary to rule on the case. If the intent of the payment reference is merely to delay the decision on the case and intimidate the opponent, then the court may dismiss the payment and decide on the subject ().

On this basis, the assessment of the seriousness of the ruling in the preliminary issue and the suspension of the ruling on the subject matter of the original case over the ruling in the preliminary matter is left to the discretion of the subject court, and the ruling of the subject matter court to stay the case is subject to the supervision of the Court of Appeal. As for the ruling not to stay the case, it is not subject to appeal alone, or After the issuance of the ruling ending the entire dispute ().

Second: That the decision on the subject of the matter be outside the functional, qualitative, or value jurisdiction of the court before which the case is submitted ().

Third: That the decision on the subject of payment requires research, interpretation, or interpretation of legal rules, so it is not permissible to stop if the ruling on payment is clear and does not bear interpretation ().

Fourth: That the dispute remains after deciding on the subject matter of the defense or the preliminary issue before the court before which the original case is submitted, as there is no reason to stop the case if the decision on the preliminary issue is settled on the dispute between the litigants ().

And if there are many requests in the case, and one of these requests falls within the jurisdiction of another judicial authority, to the exclusion of the rest of the requests, then the court decides to stay the case for that request, and it must continue to consider the rest of the requests, and this is indicated by Article (99) of the Jordanian Code of Civil Procedure.

If these conditions are met, the court must order the suspension of the case on its own, and it must instruct the opponent to whom the defense was directed to obtain a ruling from the court competent to consider the subject matter of the preliminary issue ().

And the case remains suspended, until the reason for the suspension is removed, so any of the litigants has the right to request the proceeding with the case after the reason for the suspension has disappeared, and this is what was decided by Article (122) of the Code of Civil Procedure.

Whatever the case, and within the scope of this type of suspension, we find that this suspension does not have a specific period in the Jordanian Civil Procedure Code. This was done and the suspended case should be expedited, but the Jordanian Civil Procedure Code made the issue of expediting the case left to the litigants*.

However, it would be preferable if the Jordanian legislator followed the example of the Egyptian legislator in this regard, as the Egyptian legislator decided in Article (293) of the Law of Procedures that “in cases other than those in which the law provides for the suspension of the case as obligatory or permissible, the court may order its suspension whenever it deems suspension. The ruling on its merits depends on the ruling on another issue on which the ruling depends. Once the reason for the suspension has ceased to exist, the case by the force of law resumes its course at the point at which it was stopped, and the clerk’s office speeds it up if the situation requires it.” As acceleration here is by the force of law and is not left to the litigants ().

And there are cases in which it is noticed that the reason for the suspension may not disappear in the face of the negligence of the opponent assigned to file the lawsuit in the preliminary issue, as if this opponent failed to file it, and left the litigation in it, so what is the fate of the original suspended lawsuit ().

As for the effects of stopping the judicial or suspension action, they can be summarized as follows:

(1) Any activity in the case shall be stopped until the captivity of the stay is removed and the reason for the stay is still there. Any of the litigants can request to proceed with the case. If the reason for the stay is due to the decision on a preliminary matter, it ends when a final ruling is issued on the primary issue.

(2) The litigation remains existing, so the effects of the judicial claim remain the same, especially the procedural effects, so it is not permissible to file a lawsuit with a new litigation.

The second topic

Stop the lawsuit agreement

In this topic, we will present the definition of the consensual suspension of the lawsuit and its forms in the first requirement, and in the second requirement, the conditions for the consensual suspension of the lawsuit, and the third request, the effects of the consensual suspension of the lawsuit, as follows: _

The first requirement: definition of consensual cessation of action and its forms:

The consensual stay is the stay of the case based on an agreement of the litigants not to proceed with it for a period not exceeding six months from the date of the court’s

approval of their agreement. Suspension of the lawsuit based on the agreement of the litigants, then the third section deals with the forfeiture of the lawsuit based on the agreement of the litigants, as follows:

Section One: Suspension of the case based on the agreement of the litigants:

In the first paragraph of Article (123), the Jordanian legislator permitted the litigants to agree to stop the lawsuit for a period not exceeding six months. to stop the lawsuit, but often the goal is to agree on the litigants to stop the lawsuit, due to their desire to reach reconciliation in the lawsuit or refer it to arbitration by agreement ().

This suspension is often if the postponement is not sufficient because the court may refuse to postpone the case for a long period or refuse to postpone the case more than once for the same reason, in application of the provisions of Article (77/1) of the Jordanian Civil Procedure Code, while the reconciliation negotiations may take a long period of time. With which the litigants are forced to ask the court to approve their agreement to stop the case.*

It should be noted that if the litigants agree to stop the lawsuit, the court cannot refuse to agree to that, because the lawsuit in this case is still owned by its parties, and the court has no right to interfere in the matter of this agreement, and it only has to adhere to the period specified by the legislator and which It is permissible to agree to stop the lawsuit during it, which is a period of six months.

And if the litigants agreed during the suspension of the case to re-register the case, and requested that it be resumed, due to their failure to investigate the reason for which it was suspended, then the court shall accept their request to re-proceed the case even before the end of the suspension period.

And the request to restart the case that was suspended based on the agreement of the litigants must be submitted by all the litigants (), and if one of them requests to re-register his case during the period of the suspension, he may not do so without the approval of his opponent (). In the lawsuit, it is also valid for the endowment agreement to be concluded between the attorneys in it, and such an agreement on the endowment does not require a specific authorization for it. This is considered as one of the litigation procedures in the lawsuit, provided that these agents are present in the lawsuit when the endowment is agreed upon ().

With regard to agreeing to stop the case in summary cases, such a stay is not consistent with the nature of the summary case and contradicts the nature of the urgency that justifies the jurisdiction of the summary court, which does not expand with the litigants' agreement to stop the case, and the judge of summary matters must rule that he does not have specific jurisdiction because urgency is one of the conditions of his competence. Therefore, we see that it is not justified for the parties to the case to agree on such a suspension, as it contradicts the character of urgency and may lead to the impossibility of proving the incident to be established by resorting to such a court ().

The researcher believes that the lawsuit belongs to the litigants, and there is nothing to prevent the litigants from stopping the lawsuit by agreement among themselves in the lawsuits that the legislator has given the character of urgency if the court is convinced that his goal is not prolonged by the duration of the dispute.

The second requirement: the conditions for stopping the lawsuit based on the agreement of the litigants:

Although the Jordanian Civil Procedure Code allows litigants to agree to stop the case, it stipulates the following two conditions:

First: The period of suspension should not exceed six months. It seems that the purpose of determining this period is not to prolong the case in court without considering it, because the legislator believes that the six-month period is sufficient to resolve any dispute, or to establish reconciliation between the parties to the case. This period starts from the date The court's approval of this agreement - the litigants' request to stop the lawsuit - is that it is not permissible for one of the parties to the litigation to request the proceeding in the lawsuit during the suspension period, except with the consent of his opponent ().

This condition is a restriction on stopping the case by specifying a higher period for the suspension in order to maintain the proper course of justice and not to prolong the period of litigation and so that the request for suspension does not deviate from the goal of the legislator that he wanted from this text, which is to provide an opportunity for the litigants to reconcile, so the legislator specified a shorter period of six months for the suspension. After that, the lawsuit is dropped if the request to determine the lawsuit is not submitted within the eight-day period that follows the six-month period, and the suspension period begins from the date of the court's approval of the litigants' agreement to that, and not from the date of their agreement ().

Second: The litigants must agree to stop the case in an explicit agreement, which will be shown before the court and recorded in the minutes of the session.

Accordingly, Article (123) of the Jordanian Code of Procedural Procedure stipulates that the stay should be with the agreement of all the litigants, and this is clear from the text of the first paragraph thereof, where it was stated the following: "The case may be suspended based on the litigants' agreement not to proceed with it..."

Therefore, the consensual suspension of the case must be based on the agreement of all the litigants, since the decision to suspend the case in this case is left to the will of the litigants, when they agree on it.

It is noted that there is nothing to prevent, after expediting the case or re-registering it, from agreeing to suspend it again for a period not exceeding six months. There is nothing in the law that precludes the repetition of the mutual suspension in one case, but it is required that the repeated suspension times not be related to each other. That is, the suspension request cannot be repeated again, but after renewing the case or proceeding with it, provided that the period of suspension does not exceed six months each time.

Finally, the decision issued to stop the case, when the litigants agree on that, is subject to appeal, based on the following text.

The third topic

Suspension of the lawsuit by virtue of the law

In the beginning, if the phrase "discontinuity of litigation" or "interruption" is used, they have the same meaning. In this section, we will discuss the definition of suspension by law, and the implications of stopping the case by law, as follows:

The first requirement: defining the suspension of the lawsuit by the rule of law:

It means the cessation of litigation, the cessation of proceeding with it by force of law due to the existence of one of the reasons for severance stipulated by the law (). In Jordanian law, it is what was stipulated in Article (3/123) of the Code of Civil Procedure, where the following is stated in this article:

"The proceeding with the case is stopped by virtue of the law with the death of one of the litigants, or his loss of capacity to litigation, or the cessation of the capacity of the

one who was conducting the litigation on his behalf.” It is clear from the previous text that the reasons for the cessation of litigation are:

First: The death of one of the litigants, whether he was an original litigant, or an litigant who intervened in the case, or litigated in it at the request of one of the litigants, or based on an order from the court.

It is recognized that the litigation does not take place except between the living, so it is not permissible to file a lawsuit against a deceased person, and it is not reasonable to file a lawsuit from a deceased person, or in the name of a deceased person, otherwise the lawsuit is non-existent. It ceases by virtue of the law, in other words, the litigation ceases from the occurrence of death.

It is noted that this type of endowment is achieved as soon as its reason is available, and there is no need for its approval by the court, and if the need arises for such a decision, the court has no discretion regarding it and its ruling is a decision for the endowment, not an origin for it, and thus the endowment begins from the realization of its reason, not from the approval of court him.

With regard to the death of the litigants, it makes no difference whether the death is of the plaintiff, the defendant, the defendants, or any one of them if there are several, and which of the parties to the lawsuit leads to the cessation of the litigation by virtue of the law, even if it was an litigation that interfered with the lawsuit, and the litigation does not return or be restarted. Except by including his heirs in the lawsuit, and this is what is stipulated in Article (123) of the Jordanian Civil Procedure Code, unless the remaining parties waive their litigation.

The demise of the moral or legal personality is considered as death, as if one of the associations or companies was a litigant in a lawsuit, then the association was dissolved or the company was liquidated, or it was merged into another company. .

It should be noted that the suspension of the case in the event of the death of one of the litigants must be for a specific period sufficient to notify the heirs, and this is evident from the following legal cassation decision:

Whereas, Article of Law (3/123) of Civil Procedures states:

(If it was decided to declare the bankruptcy of one of the parties to the case, or something happened to him that made him lose the capacity to litigation, the court shall notify the one who legally takes his place. In the event of his death, the court shall notify one of his heirs mentioned in the civil status register. It shall also inform the heirs as a whole without mentioning their names and capacities in the last home of the deceased and by publication in two daily newspapers. According to the provisions of Article (12) of this law.

And since this matter is related to public order, the Court of Appeal had to abide by this text and carry out the legal requirements so that the litigation would be directed to the heirs of the deceased.

Second: Loss of eligibility

Eligibility is not considered a condition of the case, nor is it a condition of accepting it. In case of incapacity, he defends his rights, and his claim is accepted as long as he has an interest. However, he cannot initiate the lawsuit himself, and he must be represented by a guardian or trustee, otherwise his claim is invalid, and then the litigation does not take place.

Capacity is only one of the conditions for the validity of the judicial claim and the litigation, in other words, the incapacitated person can sue and be litigated, but through someone who represents him as a guardian or trustee.

But we are here before a suit filed properly and during its consideration before the court, one of the parties to the litigation develops a symptom of insanity, or suffers from one of the symptoms of incapacity, which leads to the disappearance of his awareness, and here the case stands by the rule of law until this symptom disappears. In the Jordanian Civil Code, Article (3/123) does not talk about the loss of legal capacity in general, but rather about the loss of legal capacity for litigation. Therefore, a person may not suffer from a mental disability, but his awareness remains, but something may happen to him that prevents him from litigation, as if he were a merchant. He was declared bankrupt.

This is indicated by Article (3/123) of the Jordanian Code of Civil Procedure, which stipulates that “if one of the parties dies or it is decided to declare him bankrupt, or something happens to him that makes him ineligible for litigation while the case is still pending, the court shall notify his heirs or whoever legally took his place, based on At the request of the other parties, or on its own initiative, to appear before the court at a time designated by it to proceed with the case from the point at which it stopped.

By the cessation of the capacity, he means the cessation of the capacity of the one on whose behalf the dispute was conducted by the two representatives, such as if one of the litigants is a minor, then he informs and the capacity of the guardian who was conducting the dispute on his behalf ceases, or he is absent, so he attends and the capacity of the one who was legally acting on his behalf ceases (). The same applies if the director of one of the companies filed a lawsuit in this capacity and then his capacity ceased with his resignation, dismissal or death.

It is noted here that the death of the capacity holder, i.e. the one who represents others and acts on his behalf, in litigation leads to stopping the course of the litigation by virtue of the law, but on the basis of the third reason - the cessation of the capacity - not on the basis of the first cause, which is death, because the first cause is intended to be the death of the litigant himself. Whoever represents him legally does not lead to the demise of the capacity.

And since the legal capacity refers to the law, as in the case of the guardian, or to the judicial ruling, as in the case of the guardian, or to the agreement, as in the case of the agent, the matter here requires that the course of the litigation be halted by virtue of the law by the cessation of the capacity of the representative, whatever the source of his representation, and this is what is stipulated in Article (123) of the Jordanian Code of Civil Procedure, where paragraph (3) states that the proceeding of the case shall be suspended by virtue of the law upon the death of the litigant, his loss of capacity to litigate, or the cessation of the status of the person who was conducting the litigation.

Finally, the question arises: Is it permissible to appeal the rulings issued to stop the case?

The general rule regarding rulings that may be appealed, established in Article (170) of the Jordanian Code of Civil Procedure, is that the appeal is not accepted unless the ruling ends the entire litigation, such as the ruling issued on the basis of the right claimed, or the ruling issued for lack of jurisdiction.

If the ruling is not the end of the whole dispute. Such as the ruling refusing to plead lack of jurisdiction, or rulings related to evidence, or the conduct of the case, it is not permissible to appeal against it immediately after its issuance, but rather it is appealed with the appeal against the ruling issued in the subject matter and the court. Whoever

decides this rule is to prevent the fragmentation of the case and the tearing of its joints, which may result There is a contradiction in the rulings.

As an exception to this rule, Article (170) of the Code of Civil Procedure allows appeal against some judgments issued before a decision on the merits of the case, and immediately upon issuance without waiting for the issuance of a judgment on the merits of the case. These are the rulings issued to stop the case, and the summary rulings.

As for rulings issued to stay the case, it is permissible to appeal immediately upon its issuance, without the need to wait for the issuance of the ruling that terminates the entire dispute.

Whatever the reason for stopping the case and the wisdom behind this permission is that there is no way to oblige the one who is harmed by these rulings to wait until the reason on which the suspension is suspended ceases, and that is because the appeal against these rulings does not tear the litigation apart, does not delay its course, but on the contrary, if successful, it may lead to Expediting the decision on the case, as it is often decided to stop the case until another matter is decided by another court, and the case is often suspended for a long period, and the right holder is harmed by this delay, and here it is fair to allow the appeal against the ruling of suspension ().

As for the deadlines for appealing the rulings issued to stay the case. The Jordanian legislator has specified the period of appeal against judgments that are issued during the course of the case and do not end the litigation with them, which are mentioned exclusively in the text of Article (170) of the Jordanian Code of Civil Procedure, as Article (178, paragraph 2) of the same law stipulates (and the period of appeal is ten days In appealable decisions under the provisions of Article 170 of this law).

It should be noted here that the following human rights discriminatory decision reads: And it was stated at the beginning of Article (170) of the Code of Civil Procedure:

(It is not permissible to appeal against judgments issued during the course of the case and the litigation does not end therewith except after the issuance of the judgment terminating the entire litigation, with the exception of the decisions issued in the following matters: 1-..... 2- Suspension of the case 3-..... 9-.....).

It is understood from this that the principle is that it is not permissible to appeal against the rulings issued during the course of the case unless they end the litigation, and the exception is that it is permissible to appeal in some of them, including the suspension of the case. Stop only?

The expression of the legislator (suspension of the lawsuit) was absolute, and the rule is that the absolute applies to its release unless evidence of restriction is stated explicitly or implicitly.

And since the decision to stop the case or not to stop it and proceeding with the case does not remove the court's hand from the case, even if the decision to stop the case raises it temporarily, then the legislator and this case have equalized the ruling between them and allowed the appeal in this ruling whether the court decided to stop the case proceeding or decided not to stop and proceed with the case.

Conclusion:

It is clear from the foregoing on the topic (suspension of the case in the Jordanian Civil Procedure Code) that the Jordanian legislator did not give this subject the importance it deserves, just as some other Arab legislation did, especially the Egyptian legislation, especially Article (77) of the Egyptian Procedure Code for what it contains Among the important benefits, the most prominent of which is the speed of

adjudication of the case, the lack of accumulation of cases before the courts, and the speed of delivery of the right to its owners.

In fact, I noticed through this research that the Jordanian references are devoid of an appropriate and accurate definition of stopping the lawsuit, to the extent that the Jordanian legislator did not set a definition for stopping the lawsuit, and did not expressly stipulate the effects of stopping the proceeding of the lawsuit in all its cases. Likewise, the Jordanian legislator did not address the issue of the duration of this suspension when he was exposed to the suspension of the case by the court ruling. This suspension may not disappear either because of the negligence of the litigant charged with filing the lawsuit with the initial issue, such as if this litigant fails to file it or file it and abandons the litigation in it, so what is the fate of the original suspended lawsuit?

In sum, the issue of stopping the case, as stated in the Jordanian Civil Procedure Code, lacks some organization and legislation, so to speak, due to the importance of this topic. .

Finally, I wish the Jordanian legislator to take these proposals into consideration:

- 1- Drafting a definition of stopping the case.
- 2- To stipulate the effects of stopping the case and specifying each of the cases of stopping the case, especially the case of stopping the case by virtue of the law, because it is one of the most important cases of stopping the case.
- 3- A provision for the duration of the suspension of the case by court ruling or judicial suspension.

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