

**In the name of God, the Merciful**

**General Court of Rabek**

**Number / A S CH / 39/2015**

**Date 29/12/2015**

**Called: Al-Sadiq Ali Mohammad**

**Appellant: Aliya Mohammad**

### **The judgment**

The Rabek court of personal status, second degree judge, issued a decision to dismiss the case for lack of reason, on 30/11/2015. The application was on lodged on 10/12/2015. It was accepted because it was filed within the legal deadlines. While reading the case papers against the appellant, she was forced to live in the city of Rabek, where she lived with her children; Safa, Rahik and Ali, aged 7, 4 and 2. She lives with them in the city of Nyala without the permission of the appellee. He criticized the decision of the court of first instance that stole appellees number A S CH / 134/2015. Referring to the appellant, the court ordered the return of the documents to the court of first instance to act in accordance with its decision, when the court of first instance violated Article 119 stipulated in the Personal Status Law. The article also states that the appellant isn't able to travel with her children within the country, without the permission of their father. But this is done under many conditions and reasons that the parties to the case have not been able to discuss. The question is about the facts. Since the judge is neutral between the two opponents in all custody cases, he is a third party and represents the interests of children. He therefore considered that what had been raised in the trial had nothing to do with the interests of the children. It decided by its decision number 1974183 that the transmission of the mother does not harm was not detrimental to the interests of the children, and did not invalidate its right to the custody, but it is his duty to tell the father according to the legal rules. The court of the first instance also had to call the mother and hear motives as well. After the respondent, the court can make this decision. From what precedes, I see that the court has been slow to write off the application. It is necessary to annul the judgment of the court and return the papers to proceed according to the memorandum.

Since the judge is neutral between the two opponents in all custody cases.

The final judgment:

1- To overturn the decision of the court of first instance

2- Return papers to proceed according to the memorandum.

3- Inform the parties

Abu Sufyan Mohammad

General Court Judge