



Yesh Din

Volunteers for Human Rights

Israeli High Court Justices issue ruling deleting petition to evacuate Homesh and restore access of rightful landowners to their lands

Yesterday evening, August 2, the High Court ruled to delete petition HCJ [2821/19](#), filed by landowners from Burqa, together with Yesh Din, which demanded the evacuation of the Homesh outpost and to ensure the uninterrupted access by the landowners to their lands. With this move, the High Court has capitulated to the demands of the State and given its illegal and tacit approval for the establishment of a new settlement on 'State Lands' adjacent to the private Palestinian lands on which the outpost was situated until recently. The ruling was given less than 24 hours before a High Court hearing was scheduled in the petition, and a day after Yesh Din submitted depositions to the High Court by two former Military Commanders of the West Bank. These depositions clearly stated that establishing a settlement in Homesh will not only lead to even greater violation of the landowners rights, but that there is no security justification for this move which will create a permanent area of strife in the West Bank and further burden the security situation Israel faces.

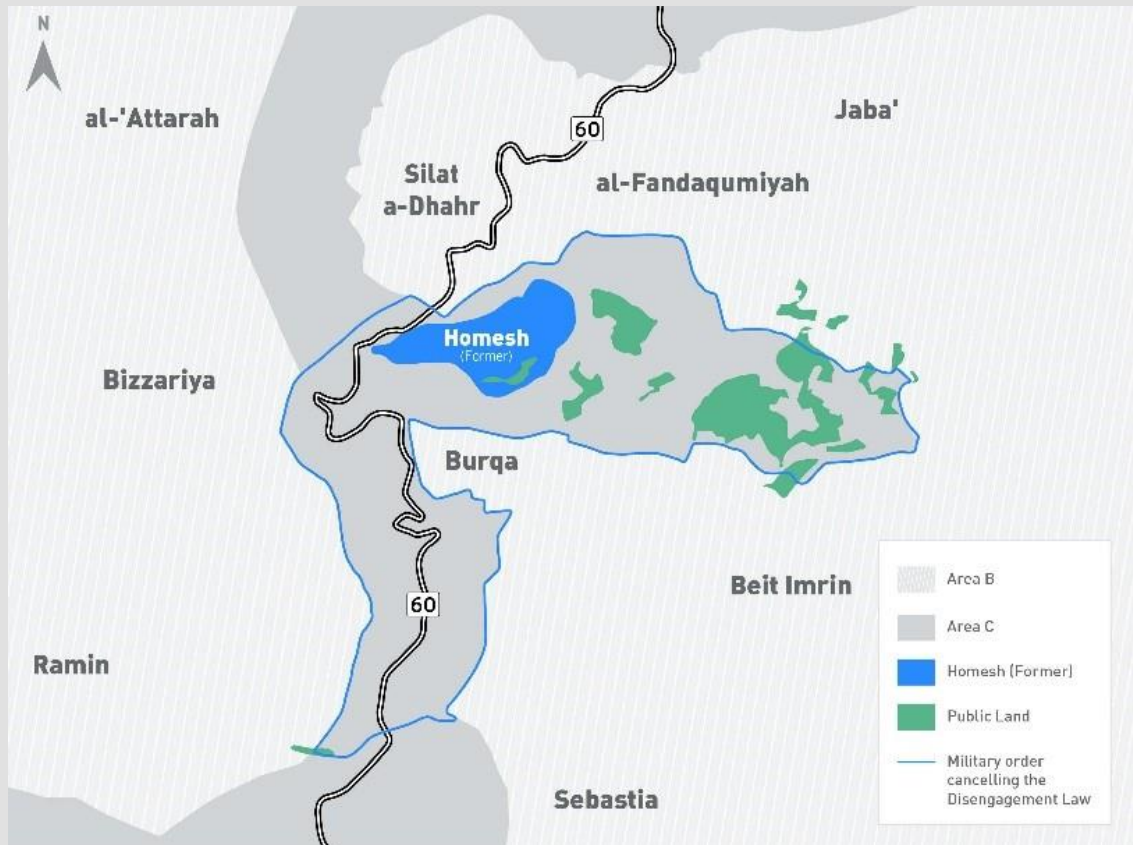
Yesh Din's response: *"While Israelis everywhere are fighting to protect*

our High Court as a symbol of democracy, the justices today have clearly shown that in their eyes, Palestinians in the West Bank are undeserving of protection under the law. This shameful ruling is further testament to the apartheid regime in the West Bank, which is being further entrenched every day and which the High Court has grown comfortable with normalizing.”

In the ruling, the Court wrote that, despite the *order nisi* issued in favor of the petitioners in January, the factual and normative basis of the situation had changed, rendering the petition irrelevant. The objective changes as argued by the State and referenced in the ruling are:

- 1)** The cancellation of relevant sections of the Disengagement Law in March which removed the criminal prohibition on Israelis from entering and staying in the jurisdiction delineated in the Disengagement Law.
- 2)** In May, the settlers of Homesh illegally transferred the structures of the outpost from the private Palestinian lands they had been situated on to isolated plots of ‘State Lands’ nearby. This transfer of structures was undertaken without proper planning procedures, but with the explicit approval of Defense Minister Yoav Gallant and Chief of Staff Herzi Halevi, who ordered the Military Commander in the West Bank to aid this law-breaking. The Court decided that as the structures are no longer located on private lands, this demand is no longer relevant.
- 3)** Also in May, the Military Commander of the West Bank included the ‘State Land’ plots in the area in the jurisdiction of the Samaria Regional

Council, thereby granting the council the authority to plan a settlement there.



The map depicts the plots of 'State Land' near the former location of Homesh in Green. Those plots have now been included in the jurisdiction of the Samaria Regional Council and indicate where the State may intend to establish a new settlement.

In addition, and in an absolute mockery of the reality on the ground, the State claimed that since the structures have been relocated, there exist no barriers or restrictions on the rightful Palestinian landowners from accessing their lands. Despite all evidence to the contrary, including documentation Yesh Din submitted to the court concerning at least 10

attacks by settlers against the villagers of Burqa since January 2023, the justices chose to accept the State's assertion and trust that they would enforce the law in order to enable the landowners to access their lands - though there has been no such enforcement since the military seizure order barring entry was lifted in 2013.

In our recent response to the Court, Yesh Din argued that the illegal Israeli construction still exists in the area (albeit now on 'State Lands') and must be removed, but also that **the access roads to the outpost and military structures to guard the outpost all pass through private Palestinian lands. The rightful landowners cannot enter and freely use their lands without risking severe physical harm, and Palestinian residents of the whole area suffer from restrictions of movement and frequent violent attacks due to the illegal Israeli presence.** Although the justices recognized these facts, they wrote in their judgement that these arguments were not central elements of the petition, and thus chose to delete the petition, while reserving the rights of the landowners to file additional petitions concerning the abovementioned issues.

This ruling is a severe blow in the 13-year legal struggle of the rightful landowners, together with Yesh Din, to return to the lands that have been stolen from them. If it prioritized upholding the law over political demands, the High Court would have issued a clear ruling to evacuate the outpost years ago. Instead the Court has allowed the State to drag out this case for years with false promises, and eventually to manipulate the facts on the ground in a manner that will ensure permanent Israeli presence along with permanent dispossession and denial of the rights of the

landowners. Rather than facing those whose dispossession they are enabling in court, this shameful ruling by the Justices demonstrates the central role of Israel's High Court in upholding the apartheid regime in the West Bank.

[Click for the High Court ruling from 2/8/2023](#)

[Click for background on the case](#)

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