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**At the Supreme Court**  
**Sitting as the High Court of Justice**

**HCJ 4747/15**

**In the matter of:**

1. \_\_\_\_\_ **Abu Jamal**
2. **HaMoked: Center for the Defence of the Individual, founded by Dr. Lotte Salzberger**

all represented by counsel, Adv. Andre Rosenthal  
of 15 Salah a-Din St.  
POB 19405, Jerusalem 91194  
Tel: 02-6250458; Fax: 02-6221148

**The Petitioners**

**v.**

**GOC Home Front Command**

represented by the State Attorney's Office  
Ministry of Justice

**The Respondent**

## **Petition for Order Nisi and Interim Order**

The Honorable Court is hereby requested to summon the Respondent to appear and show cause why he should not revoke his decision to use Regulation 119 of the Defense (Emergency) Regulations, 1945, against the home of Petitioner 1, given that nearly eight months have passed since his brother, \_\_\_\_\_ Abu Jamal, committed the attack on November 18, 2014.

**As an interim remedy** the Honorable Court is requested to issue an order prohibiting any action on the part of the Respondent, or anyone acting on his behalf, against the home of Petitioner 1, pending the conclusion of the proceedings in this petition.

The following are the grounds for the petition:

1. A. Petitioner 1 (hereinafter: **the petitioner**), is the brother of \_\_\_\_\_ Abu Jamal, who carried out the attack at the Har Nof neighborhood synagogue in Jerusalem on November 18, 2014, in which several individuals were wounded and killed, including himself.

B. The path chosen by the Petitioner's brother is contrary to all the values and principles the Petitioner and his family hold dear and according to which the family was raised. The Petitioner and his family object to violence and terrorism and to any actions that harm innocents. Had the Petitioner or any of the other residents of the house known about the attacker's intentions, they would have done anything in their power to stop him.

C. The attacker's apartment is located on the second floor. He lived there with his wife and children. The apartment of his brother, \_\_\_\_\_, which has one room, a washroom and a kitchen is located underneath this apartment. Next to it, on the ground floor, is the parent's apartment, which has three rooms, a kitchen and a washroom.

D. Today, July 7, 2015, 232 days after the attack was committed, officials representing the Respondent arrived to survey the house and told its residents that they must evacuate by tomorrow, as the house will be demolished then.

E. The affidavit of the Petitioner is attached hereto and marked **P/1**.

2. The Petitioners filed a petition, HCJ 8066/14, against the seizure and demolition order. The Court dismissed the petition on December 31, 2014. A copy of the judgment is attached hereto and marked **P/2**.
3. On January 12, 2015, Petitioners' counsel wrote to the Minister of Defense asking for clemency. Section 6 of that letter, attached hereto and marked **P/3**, stated the following:

6. We fear that today, for the time being, there is no need to use Regulation 119 as a deterrent, and we fear the reaction of the Palestinian public, and the possible continuation of the cycle of violence between the two sides, similarly to the conclusions of the Shani Committee referred to above.

4. This morning, Petitioners' counsel once again asked the Respondent to reconsider his intention to demolish the home. A copy of the letter is attached hereto and marked **P/4**.

### **Petitioners' arguments**

5. The Petitioners argue that the Respondent has repeatedly claimed that it was not necessary to use Regulation 119 as a deterrent. In section G of the judgment, attachment P/2, the following was stated:

G. Respondent's counsel argued, that according to the professional opinion of the security agencies, the case at hand concerned the most severe terror attack which was committed in Jerusalem recently, which justified the use of Regulation 119 for the demolition of the structures, and that Regulation 119 was not used as a matter of routine but only in very extreme and severe cases. **On the deterrence issue it was argued, that evidence on the scene showed that house demolition had a deterring effect, and that it was supported by sources of the Israel Security Agency (ISA).**

(Emphasis not in original. A.R.)

6. The Respondent himself, in section 28 of his response to the previous petition, explicitly states that deterrence is one of the central considerations he takes into account when making a decision to use the powers vested by Regulation 119: "...a balance between the expected injury which would be inflicted on the family of the terrorist and the need to deter potential future perpetrators".

7. The Respondents contend that deterrence cannot be claimed to be one of the major considerations taken into account by the Respondent when making a decision to demolish the home of an attacker, when the demolition takes place 232 days, close to eight months, after the attack was carried out.

The Petitioners claim that executing the demolition now, 232 days after the attack, is no more than an act of vengeance. The Petitioners claim that using Regulation 119 against the Petitioner's home today is tainted by extraneous considerations and that the consideration that led to the issuance of the seizure and demolition order in November 2014 are not valid in July 2015.

8. The Honorable Court is therefore moved to issue the orders as sought and make them conclusive.

Jerusalem, July 7, 2015

[signed]

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Andre Rosenthal | Adv.  
Counsel for the Petitioners