

RWANDA / JUDGMENT

UBUSHINJACYAHA v DUSABAMAHORO N'UNDI

RPAA 00516/2022/CA

COURT

Court of Appeal

DECIDED

25 September 2024

CASE / FILE NUMBER

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UBUSHINJACYAHA v DUSABAMAHORO N'UNDI

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Text

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UBUSHINJACYAHA v DUSABAMAHORO N'UNDI [Rwanda URUKIKO RW'UBUJURIRE - RPAA 00516/2022/CA - CMB RPAA 00534/2022/CA (Tugireyezu, P.J.) 25 Nzeri 2024] Amategeko agenga imanza z'inshinjabyaha – Igabanyagihano – Kugabanyirizwa igihano ku nshuro ya kabiri – Abaregwa bagabanyirijwe igihano ku buryo buhagije ku rwego rubanza, ntabwo bakwiriye kongera kugabanyirizwa igihano. Amategeko agenga imanza z'inshinjabyaha – Umurongo – Kudakurikiza umurongo usanzweho - Umurongo wari uriho ntushobora gukurikizwa mu gihe unyuranyije n'itegeko rishya. Incamake y'ikibazo: Ku wa 18 Ugushyingo 2019, biturutse ku makuru yatanze n'abaturage ko Dusabamahoro acuruza ikinyabwenge cy'urumogi, inzego z'umutekano zaramufashe ndetse zifata n'ubarumurunguzaga witwaga Nkundineza, bombi bakaba bari batuye mu kagari ka Masoro, Umurenge wa Ndera, Akarere ka Gasabo, Umujyi wa Kigali. Nyuma yo gusoma iperereza, ubushinjacyaha bwatanze ikirego mu Rukiko rwisumbuye rwa Gasabo, abaregwa baburana bemera icyaha ariko urukiko rubakatira igihano cy'igifungo cya burundu. Abaregwa bajuriye mu Rukiko Rukuru bavuga ko batagoye urukiko kuko baburanye

bemera icyaha ariko ntibagabanyirizwa igihano. Urukiko Rukuru rwasanze hari impamvu zumvikana zo kubagabanyiriza igihano hanyuma rubahanisha igihano cyo gufungwa imyaka 15. Abaregwa nanone ntibanyuzwe, bajurira iki cyemezo mu Rukiko rw'Ubujurire basaba ko bagabanyirizwa igihano cyangwa se icyo gihano kigasubikwa. Ubujurire bwabo bwarakiriwe maze Urukiko rusuzuma ikibazo cyo kumenya niba Dusabamahoro na Nkundineza bakongera kugabanyirizwa igihano bahawe no gusubikirwa icyo bahawe. Dusabamahoro asaba ko urukiko rwaca inkoni izamba rukamugabanyiriza igihano byaba na ngombwa rukagisubika akajya kwita ku muryango we, akabishingira ko hari abandi urukiko rwagiye rugabanyiriza bakoze icyaha nk'icye rukabaha igihano kiri muni y'imyaka 15. Akomeza avuga ko itegeko riteganyaga kutajya muni y'imyaka 15 mu kugabanyiriza uwakatiwe burundu ryaje nyuma yo gukora icyaha bityo we akaba asanga ritashingirwaho. Nkundineza we avuga ko Urukiko Rukuru rutamugabanyirije igihano ku buryo buhagije kuko yemeye icyaha kuva agifatwa, kuba ari ubwa mbere yari akoze icyaha no kuba ataragira ubunararibonye mu buzima asanga ari impamvu zatumye yongera kugabanyirizwa igihano. Ubushinjacyaha busobanura ko abaregwa bagabanyirijwe igihano ku buryo buhagije n'Urukiko Rukuru mu buryo bukurikije amategeko ko nta mpamvu n'imwe yatuma bongera kugabanyirizwa igihano. Incamake y'icyemezo: 1. Abaregwa bagabanyirijwe igihano ku buryo buhagije ku rwego rubanza, ntabwo bakwiriye kongera kugabanyirizwa igihano mu bujurire.

2. Umurongo wari uriho ntushobora gukurikizwa mu gihe unyuranyije n'itegeko rishya. Ubujurire nta shingiro bufite.

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Amategeko yashingiweho: Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaga ibyaha n'ibihano muri rusange, ingingo ya 2. Imanza zifashishijwe: RPAA 0085/09/CS, Ubushinjacyaha na Havugimana Innocent, rwaciye n'Urukiko rw'Ubujurire ku wa 17/06/2011; RPAA 00048/2020/CA, Ubushinjacyaha na Bimenyimana rwaciye n'Urukiko rw'Ubujurire ku wa 26/05/2022. Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 18/11/2019 Polisi y'igihugu, ishimiye rishinzwe kurwanya icuruzwa ry'ibiyobyabwenge, ryahawe amakuru n'abaturage ko Dusabamahoro Eric, utuye Gasabo-Ndera- Masoro acuruza ibiyobyabwenge byo mu bwoko bw'urumogi. Umwe mu bashinzwe umutekano yigize umu client maze atelefona Dusabamahoro Eric amubaza niba afite umuzigo bishaka kuvuga urumogi mu mvugo z'abacuruza b'urumogi, maze amubwira ko arufite udupfundiye 300, noneho bumvikana aho baturira, mu gihe yari aruzanywe afatwa gutyo afite urumogi udupfundiye 383 akaba yari yarubitse muri enveloppe ya kaki. Dusabamahoro Eric agifatwa yavuze ko urumogi acuruza, arurungura k'uwitwaga Nkundineza Jean Marie Vianney baturanye. Dusabamahoro Eric yategetswe na police guhamagana Nkundineza Jean Marie Vianney akamubwira ko yamaze kugurisha urumogi, ko yaza gufata amafaranga, niko yabigenje ahamagara Nkundineza Jean Marie amubwira ko yamaze kurugurisha, ko yaza gufata amafaranga, yarabyemeye noneho mu gihe yari ahageze afatwa n'abapolisi bahita bamujyana iwe bagezeyo basanga mu cyumba cye muni ya matelas urumogi boules ibihumbi bibiri magana arindwi (2700) hamwe n'amafaranga ibihumbi 35.000 Frw yari yacuruye. Dusabamahoro Eric na Nkundineza Jean Marie Vianney

barafashwe bashyikirizwa Ubugenzacyaha nabwo bukora dosiye buyishyikiriza Ubushinjacyaha. [2] Iperereza rirangiye, Ubushinjacyaha bwatanze ikirego mu Rukiko Rwisumbuye rwa Gasabo bukurikiranyeho Dusabamahoro Eric na Nkundineza Jean Marie Vianney icyaha cyo gucuruza ibiyobyabwenge byo mu bwoko bw'urumogi busaba ko cyabahama, bakagihanirwa. [3] Dusabamahoro Eric na Nkundineza Jean Marie Vianney baburanye bemera icyaha. [4] Mu rubanza RP 01609/2019/TGI/GSBO, rwaciwe ku wa 23/01/2020, Urukiko Rwisumbuye rwa Gasabo rwasanze hari ibimenyetso bidashidikanywaho byemeza ko abaregwa bakoze icyaha birimo: a. Kuba Dusabamahoro Eric na Nkundineza Jean Marie Vianney bemera ko bacuruza urumogi; b. Imvugo z'umutangabuhamya Nkurikiyimana Jean Bosco ubashinja ko bafatanwe urumogi;

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- c. Inyandiko mvugo y'ifatira Dusabamahoro Eric yashyizeho umukono yemera ko afatanwe udupfunyika 383 tw'urumogi; d. PV de constant igaragaza uko Dusabamahoro Eric yafashwe n'ibyo yafatanywe; e. Ifoto igaragaza Dusabamahoro afite urumogi mu ntoki. f. Kuba Dusabamahoro Eric ashinja Nkundineza Jean Marie Vianney ko ariwe umuha urumogi acuruza; g. Inyandikomvugo ya Nkurikiyimana Jean Bosco na Umutesi Sandrine zemeza ko Nkundineza Jean Marie Vianney yafatanywe urumogi boules 2700 kandi akaba arucuruza; h. Kuba hari PV de Constant igaragaza uko Nkundineza Jean Marie Vianney yafashwe nibyo yafatanywe; i. Ifoto ya Nkundineza Jean Marie Vianney afite urumogi mu ntoki. Urukiko rushingiye kuri ibyo bimenyetso rwemeje ko Dusabamahoro Eric na Nkundineza Jean Marie Vianney bahamwa n'icyaha cyo gucuruza ibiyobyabwenge byo mu bwoko bw'urumogi, rubahanisha buri wese igihano cy'igifungo cya burundu n'ihazabu ingana na miliyoni makumyabiri (20.000.000 FRW), rutegeka ko urumogi bafatanywe runyagwa rugatwikwa. [5] Dusabamahoro Eric na Nkundineza Jean Marie Vianney ntibishimiye imikirize y'urwo rubanza, bajuririra mu Rukiko Rukuru bavuga ko, bemeye icyaha mu buryo budashidikanywaho ndetse ntibanarushya ubutabera ariko umucamanza ntiyita ku mpamvu nyoroshyacyaha bituma abahanisha igihano kirekire, bityo basaba ko bagabanyirizwa. [6] Ubushinjacyaha bwo bwaburanye buvuga ko impamvu z'ubujurire z'abaregwa nta shingiro zikwiye guhabwa kuko atari itegeko ko umucamanza agabanya igihano, busobanura ko ubucuruza bw'urumogi Nkundineza Jean Marie Vianney na Dusabamahoro Eric bari barabugize nk'umwuga ukurikije umurogi bari bafite (quantité) ndetse n'uburyo bari bazwi kandi bacuruzaga urumogi (aho bahamagawe gato ko hakenewe urumogi cyane kuri Dusabamahoro Eric agahita aruzana kandi rwinshi), bigaragaza uburyo yari amenyereye kurucuruza kandi bazi neza ingaruka z'ububi bwarwo, bityo rero bakaba badakwiye kugabanyirizwa igihano. [7] Mu rubanza RPA00337/2020/HC/KIG rwaciwe ku wa 31/8/2022, Urukiko Rukuru rwasanze Dusabamahoro Eric na Nkundineza Jean Marie Vianney baremeye icyaha kuva bagifatwa no mu nzego zose, ruvuga ko uko kwemera kwababera impamvu nyoroshyacyaha maze rwemeza ko Dusabamahoro Eric na Nkundineza Jean Marie Vianney bagabanyirizwa ibihano, bagahanishwa igifungo cy'inyaka cumi n'itanu (15) aho kuba igifungo cya burundu. [8] Dusabamahoro Eric na Nkundineza Jean Marie Vianney bajuririje imikirize y'urwo rubanza mu Rukiko rw'Ubugurire, urubanza ruhabwa N° RPAA

00516/2022/CA - CMB RPAA 00534/2022/CA iburanisha rishyirwa ku wa 09/04/2024 ariko kuri uwo munsu ntirwaburanisha, rwimurirwa ku wa 13/09/2024, Dusabamahoro Eric yunganiwe na Me Mukakalisa Jeanne d'Arc, Nkundineza Jean Marie Vianney yunganiwe na Me Rwabigwi Augustin naho Ubushinjacyaha buhagarariwe na Ntawangundi Beatrice. [9] Mu mwanzuro w'ubujurire no mumiburanire ye, Dusabamahoro Eric avuga ko impamvu yatumye ajurira ari uko urukiko Rukuru rutaringaniye ababuranyi kuko hari abandi baburaniye

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muri urwo rukiko bakoze icyaha nk'icye cyo gucuruza urumogi ariko bo rubahanisha igifungo cy'imyaka 5 nyamara we rukaba rwamuhanishije igifungo cy'imyaka 15. Asaba urukiko ko rwakongera kumugabanyiriza kugeza ku gihano yasubikirwa. Naho Me Mukakalisa Jeanne d'Arc umwunganira, asaba urukiko guca inkoni izamba rukamugabanyiriza igihano kikajya munsu y'icyo yahawe. [10] Mu myanzuro no mu miburanire ye, Nkundineza Jean Marie Vianney avuga ko icyatumye ajuririra ari ugusaba kugabanyirizwa kuko yaburanye yemera icyaha mu buryo budashidikanywaho, kuba ari ubwa mbere akurikiranyweho icyaha no kuba icyaha yakoze nta ngaruka cyateye kuko urumogi rwafashwe atararucuruza. Asaba ko yagabanyirizwa igihano agahanishwa imyaka 3 y'igifungo kandi akagisubikirwa. [11] Me Rwabigwi Augustin wunganira Nkundineza Jean Marie Vianney avuga ko n'ubwo Urukiko Rukuru rwemeje igifungo cy'imyaka 15 ivuye kuri burundu kuko yemeye icyaha kuva agifatwa ari ko rutagabanyirije Nkundineza Jean Marie Vianney bihagije. Asaba ko yakongera kugabanyirizwa hashingiwe ku ngingo ya 2 pt. B y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange ivuga ko igifungo kimara igihe kizwi kiva ku mezi 6 kuzamura gishobora kugabanywa, ariko ntikijye munsu ya kimwe cya kabiri cy'igihano gito giteganyirijwe icyaha cyakozwe. [12] Ubushinjacyaha buvuga ko impamvu z'ubujurire z'abaregwa nta shingiro zikwiye guhabwa kuko kuba baraburanye bemera icyaha baregwa cyo gucuruza ibiyobyabwenge ari byo byatumye bagabanyirizwa igihano, ko rero hakurikijwe ibiteganywa n'ingingo ya 2 y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange batakongera kugabanyirizwa kuko igihano gito giteganywa n'itegeko cy'imyaka 15 bakabaye bahabwa n'ubundi ari cyo bahawe. Naho ku birebana no gusubikirwa ibihano, Ubushinjacyaha buvuga ko binyuranye n'ibiteganywa mu ngingo ya 64 y'itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu kuko igihano bakatiwe kirenze imyaka 5. [13] Urukiko ruhereye kuri izo mpaka, rurasanga ikibazo gikwiye gusuzumwa muri uru rubanza ari ukumenya niba Dusabamahoro Eric na Nkundineza Jean Marie Vianney bakongera kugabanyirizwa igihano bahawe no gusubikirwa icyo bahawe. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA Kumenya niba Dusabamahoro Eric na Nkundineza Jean Marie Vianney bakongera kugabanyirizwa igihano bahawe no gusubikirwa icyo bahawe. [14] Mu mwanzuro w'ubujurire no mu miburanire ye, Dusabamahoro Eric avuga ko impamvu yatumye ajurira ari uko urukiko Rukuru rutaringaniye ababuranyi kuko hari abandi baburaniye muri urwo rukiko bakoze icyaha nk'icye cyo gucuruza urumogi ariko bo rubahanisha igifungo cy'imyaka 5 nyamara we rukaba rwamuhanishije

igifungo cy'imyaka 15. Asaba urukiko ko rwakongera kumugabanyiriza kugeza ku gihano yasubikirwa akajya kwita ku muryango yasize wanegekajwe n'ubukene kubera icyaha cyo gucuruza urumogi yakoze kandi yemeye, ko yamaze kugororoka ndetse ko hashingirwa ku mirongo yatanze mu rubanza RS/INCONS/SPEC 00003/2019/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 12/02/2020 n'urubanza RPAA

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00565/2021/CA rwaciwe ku wa 24/02/2023 haburana Ubushinjacyaha na Ingabire Shadia aho urukiko rwamuhanishije igifungo cy'imyaka 5 n'ihazabu ingana na 5.000.000 Frw rushingiye ku kuba yaremeye icyaha mu buryo budashidikanywaho no kuba aribwo yari akiva mu bwana. [15] Me Mukakalisa Jeanne d'Arc umwunganira, asaba urukiko guca inkoni izamba rukagabanyiriza Dusabamahoro Eric igihano kikajya muni y'icyo yahawe, kuko itegeko rishya rya 2023 riteganya ko igihano gito cyaba imyaka 15 ryaje uregwa yaramaze gukora icyaha. [16] Mu myanzuro no mu miburanire ye, Nkundineza Jean Marie Vianney avuga ko icyatumye ajuririra ari ugusaba kugabanyirizwa kuko yaburanye yemera icyaha mu buryo budashidikanywaho, kuba ari ubwa mbere akurikiranyweho icyaha no kuba icyaha yakoze nta ngaruka cyateye kuko rwafashwe atararucuruza. Asaba ko yagabanyirizwa igihano agahanishwa imyaka 3 y'igifungo kandi akagisubikirwa kugira ngo abashe kujya gutabara abana be babiri batawe n'umugore, ashingiye ku rubanza RPAA 00535/2020/CA rwaciwe ku wa 20/10/2023 haburana Ubushinjacyaha na RUKUNDO Christian n'urubanza N° RPAA 00224/CA haburana Ubushinjacyaha na Rutayisire Aubin, aho bombi bahanishijwe igihano cy'imyaka 3. [17] Me Rwabigwi AUGUSTIN wunganira Nkundineza Jean Marie Vianney avuga ko n'ubwo Urukiko Rukuru rwemeje igifungo cy'imyaka 15 ivuye kuri burundu kuko yemeye icyaha kuva agifatwa ariko ko, rutagabanyirije Nkundineza Jean Marie Vianney bihagije. Asaba ko yakongera kugabanyirizwa kuko yemeye icyaha mu buryo budashidikanywaho kuva agifatwa kugeza kuri uru rwego, kuba ari ubwa mbere agaragaye mu cyaha no kuba Nkundineza Jean Marie Vianney ataragira ubunararibonye buhagije mu buzima. Asaba ko Urukiko rw'Ubujurire rwazashingira ku ngingo ya 2 pt. B y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange ivuga ko igifungo kimara igihe kizwi kiva ku mezi 6 kuzamura gishobora kugabanywa, ariko ntikijye muni ya kimwe cya kabiri cy'igihano gito giteganyirijwe icyaha cyakozwe. [18] Ubushinjacyaha buvuga ko impamvu z'ubujurire z'abaregwa nta shingiro zikwiye guhabwa kuko kuba baraburanye bemera icyaha baregwaga cyo gucuruza ibiyobyabwenge ari byo byatumye bagabanyirizwa igihano kandi muri uru rubanza ntaho bagaragaza ko urukiko rubanza rwaba rwarakoresheje nabi itegeko cyangwa ubushishozi bwarwo mu gutanga icyo gihano, bityo akaba nta cyo gukosora gihari byatuma uru rubanza ruhinduka mu bijyanye n'ibihano byatanze. [19] Ubushinjacyaha buvuga kandi ko hakurikijwe ibiteganywa n'ingingo ya 2 y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko ingingo ya 60 y'iryo tegeko ihinduwe ku buryo bukurikira: « Iyo umucamanza yemeje impamvu nyoroshyacyaha, ashobora kugabanya igihano ku buryo bukurikira: (a)igifungo cya burundu gishobora kugabanywa ariko ntikijye muni y'igihano cy'igifungo cy'imyaka 15; (b)igifungo kimara igihe kizwi kiva ku mezi 6 kuzamura gishobora

kugabanywa, ariko ntikijye munsu ya kimwe cya kabiri cy'igihano gito giteganyirijwe icyaha cyakozwe; bityo hakurikijwe icyaha Dusabamahoro Eric na Nkundineza Jean Marie Vianney bahamijwe cyo gucuruza ibiyobyabwenge by'urumogi ubundi giteganyirijwe igifungo cya burundu igihano gito bashoboraga guhabwa ari icy'inyaka 15, ko rero batakongera

1 Ingingo ya 60 y'itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyira ibyaha n'ibihano muri rusange nk'uko ryahinduwe n'itegeko N° 059/2023 ryo ku wa 04/12/2023.

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kugabanyirizwa kuko igihano gito bakabaye bahabwa n'ubundi ari cyo bahawe ndetse ko jurisprudence bavugaga bashingiraho zagiyeho mbere y'itegeko rishya ikaba zitagenderwaho. Naho ibirebana n'isubika Ubushinjacyaha buvugaga ko batarihabwa kuko ibyo basaba binyuranye n'ibiteganywa mu ngingo ya 64 y'itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyira ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu kuko igihano bakatiwe kirenze imyaka 5. UKO URUKIKO RUBIBONA [20] Hakurikijwe ibivugwa n'abaturanyi, Urukiko rurasanga impaka muri uru rubanza zishingiye ku kumenya niba Dusabamahoro Eric na Nkundineza Jean Marie Vianney batakongera kugabanyirizwa igihano kuko bagabanyirijwe bihagije. [21] Ikibazo cyo kumenya niba uregwa atakongera kugabanyirizwa kuko yagabanyirijwe bihagije cyafashweho umurongo n'Urukiko rw'Ikirenga², mu rubanza No RPAA 0085/09/CS rwaciye ku wa 17/06/2011, haburana Ubushinjacyaha na Havugimana Innocent, igika cya 6, ndetse n'Uru Rukiko³ aho izo Nkiko zasobanuye ko abaregwa badakwiye kongera kugabanyirizwa igihano hashingiye ku kuba baragabanyirijwe igihano bihagije ku rwego rubanza. [22] Dosiye igaragaza ko Dusabamahoro Eric yafatanwe udupfunyika tw'urumogi magana atatu na mirongo inani na dutatu (383) naho Nkundineza Jean Marie Vianney afatanwe udupfunyika tw'urumogi ibihumbi bibiri na magana arindwi (2700), kuva bagifatwe bemeye icyaha cy'uko urwo rumogi rwari urwo gucuruza banagisabira imbabazi. Nk'uko bigaragara mu gika cya 11 cy'urubanza No RPA 00337/2020/HC/KIG Urukiko Rukuru, rushingiye kuri uko kwemera icyaha kwabo, rwagabanyirijwe Dusabamahoro Eric na Nkundineza Jean Marie Vianney igihano rubavana ku igihano cy'igifungo cya burundu gifungo bari bahawe n'Urukiko Rwisumbuye rwa Nyarugenge rubahanisha igifungo cy'inyaka 15. [23] Dosiye igaragaza kandi ko mu gihe uru Rukiko rwari rutaraca urubanza No RPA 00337/2020/HC/KIG hasohotse itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyira ibyaha n'ibihano muri rusange, aho mu ngingo yaryo ya 2 (a) iteganyira ko iyo umucamanza yemeje impamvu nyoroshyacyaha, ashobora kugabanya igihano cy'igifungo cya burundu ariko ntikijye munsu y'igihano cy'igifungo cy'inyaka 15. [24] Urukiko rw'Ubujurire rurasanga Dusabamahoro Eric na Nkundineza Jean Marie Vianney baragabanyirijwe igihano kubera ko baburanye bemera icyaha mu buryo budashidikanywaho, bakanagisabira imbabazi; icyo gihano bahawe n'Urukiko Rukuru kikaba rero gikwiriye ugereranije n'uburemere bw'icyaha bahamijwe cyo gucuruza ibiyobyabwenge byo mu bwoko bw'urumogi, aho Dusabamahoro Eric yafatanwe udupfunyika tw'urumogi magana atatu na mirongo inani na dutatu (383) naho Nkundineza Jean Marie Vianney afatanwe udupfunyika tw'urumogi ibihumbi bibiri na magana arindwi (2700).

2 Reba urubanza No RPAA 0085/09/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 17/06/2011, haburana Ubushunjacyaha na Havugimana Innocent, igika cya 6. 3 Reba urubanza N° RPA 00060/2021/CA rwaciwe n'Urukiko rw'Ubujurire haburana Ubushinjacyaha na RUSESABAGINA Paul na bagenzi be, urupapuro rwa 91, igika cya 264.

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[25] Ku birebana n'imvugo z'abaregwa n'ababunganira ko mu kubagabanyirizwa igihano hashingiwe ku manza rubanza RS/INCONS/SPEC 00003/2019/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 12/02/2020 n'urubanza RPAA 00565/2021/CA rwaciwe ku wa 24/02/2023 haburana Ubushinjacyaha na Ingabire Shadia, uru Rukiko rurasanga ibyo bavuga nta shingiro bifite kuko iyo mirongo bitsitsaho yagiyeho hashingiwe ku Itegeko ryo muri 2018 ryavuyeho/ryahinduwe ryemerera umucamanza kugabanya kugera muni y'igihano gito giteganywa n'Itegeko kandi nyamara mu gihe uru rubanza rwari rutaracibwa mu Rukiko rw'Ubujurire, hasohotse Itegeko rishya N° 059/2023 ryo ku wa 04/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange ribuza umucamanza kugabanya igihano ngo kive kuri burundu kijye muni y'igihano cy'imyaka 15, bityo rero iyo mirongo yari yarafashwe n'Inkiko yemereraga umucamanza kugabanya kugera muni y'igihano gito giteganywa n'Itegeko ikaba itashingirwaho ahubwo hagomba kurebwa ibiteganywa n'itegeko nk'uko byemejwe mu rubanza N° RPAA 00048/2020/CA rwaciwe ku wa 26/05/2022 aho Urukiko rw'Ubujurire rwagaragaje ko umurongo wari uriho udashobora gukurikizwa mu gihe unyuranyije n'itegeko rishya. [26] Ku birebana n'ibivugwa na Me Rwabigwi Augustin wunganira Nkundineza Jean Marie Vianney ko mu kumugabanyiriza igihano hashingirwa ku ngingo ya 2, agace ka b, y'itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange riteganywa ko iyo umucamanza yemeje impamvu nyoroshyacyaha, ashobora kugabanya igifungo kimara igihe kizwi kiva ku mezi 6 kuzamura gishobora kugabanywa, ariko ntikijye muni ya kimwe cya kabiri cy'igihano gito giteganyirijwe icyaha cyakozwe; Urukiko rw'Ubujurire rurasanga iyo miburanire nta shingiro yababwako kuko hakurikijwe ibiteganywa mu ngingo ya 2, agace ka b, y'itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange yitsitsaho bigaragara ko igihano kivugwa gishobora kugabanywa kugera kuri ½ atari igihano uwahamwe n'icyaha yahawe, ahubwo ari igihano giteganyirizwa icyaha yahamijwe, maze mu gihe icyo cyaha yahamijwe umushingamategeko yagiteganyirijwe igihano kimara igihe kizwi umucamanza akaba yaganywe ariko ntajye muni ya ½ cy'igihano gito, bityo rero kuba Nkundineza Jean Marie Vianney yarahamijwe icyaha gihanishwa igifungo cya burundu byumvikana ko atarebwa n'ibiteganywa n'ibivugwa mu ngingo ya 2, agace ka b, y'itegeko ryavuzwe haruguru, ahubwo we akaba arebwa n'ibivugwa muri iyo ngingo ya 2, agace ka a, aho ashobora kugabanyirizwa ariko igifungo ntikijye muni y'imyaka 15. [27] Ibirebana n'ibivugwa n'abaregwa n'ababunganira ko bakwiye kugabanyirizwa kuko icyaha bakoze nta ngaruka cyateye bitewe n'uko urumogi bashinjwa rwafashwe batararucuruza, Urukiko rw'Ubujurire rurasanga iyi mpamvu itakwirirwa

isuzumwa kuko igamije gusaba kuganya igihano nyamara rukaba rwasanze igihano bahawe kidashobora kongera kugabanywa mu gihe aricyo gito giteganywa n'Itegeko. [28] Hashingiwe ku byasobanuwe haruguru n'ibiteganywa n'ingingo ya 2 y'itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange, Urukiko rw'ubujurire rurasanga rutahanisha Dusabamahoro Eric na Nkundineza Jean Marie Vianney igihano cy'imyaka bashobora gusubikirwa nk'uko babisaba

4 Reba igika cyarwo cya 26 cy'urubanza RPAA 00048/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 26/05/2022 haburana Ubushinjacyaha na Bimenyimana.

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hashingiwe ku mirongo yafashwe n'inkiko mbere, ahubwo hakwiye gukurikizwa itegeko rishya maze bagahamishwa ku gifungo cy'imyaka 15 bahawe mbere, cyane cyane ko uru Rukiko rwasanze gihuye n'uburemere bw'icyaha yahamijwe. III. ICYEMEZO CY'URUKIKO [29] Rwemeje ko ubujurire bwa Dusabamahoro Eric na Nkundineza Jean Marie Vianney, nta shingiro bufite; [30] Rwemeje ko nta gihindutse ku mikirize y'urubanza N° RPA00337/2020/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 31/8/2022; [31] Rwemeje ko igihano cy'igifungo cy'imyaka cumi n'itanu (15) Dusabamahoro Eric na Nkundineza Jean Marie Vianney bahanishijwe mbere kigumyeho; [32] Ruvuze ko Dusabamahoro Eric na Nkundineza Jean Marie Vianney basonewe amagarama y'urubanza kuko baburana bafunze.

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