

RWANDA / JUDGMENT

UBUSHINJACYAHA vs NIZEYIMANA

RPA/ECON 00085/2021/HC/KIG

COURT

High Court

DECIDED

6 March 2024

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RPA/ECON 00085/2021/HC/KIG

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UBUSHINJACYAHA vs NIZEYIMANA

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Text

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UBUSHINJACYAHA vs NIZEYIMANA [Rwanda URUKIKO RUKURU – RPA/ECON 00085/2021/HC/KIG (Juru P.J.) 06 Werurwe 2024] Amategeko agenga ibimenyetso – Ubuhamya – Nubwo abatangabuhamya babajijwe baba bafite icyo bapfa n’abaregwa, ibyo ntibyafatwa nk’umuziro kuribo utuma batabazwa, icy’ingenzi ni uko imvugo zabo zitapfa kwemerwa cyangwa ngo zihakanwe zitabanje gusuzumwa n’Urukiko. Amategeko yerekeye imanza nshinjabyaha – Ubujurire – Igihano – Nta cyabuza urukiko kugabanyiriza igihano uregwa, hagamijwe gutanga igihano gihwanye n’uburemere bw’icyaha kabone n’ubwo iby’igihano byaba bitaburanyweho n’impamvu z’ubujurire zitahawe ishingiro. Incamake y’ikibazo: Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Nyarugenge, Ubushinjacyaha bukurikiranye uwitwa Nizeyimana ku cyaha cyo kunyereza umutungo,uyu akaba yari umukozi w’uruganda rwanga inzoga rwa Skol ashinzwe abakozi ba nyakabyizi harimo no kubahemba, buvuga ko ku wa 23/11/2018, Nizeyimana yatse amafaranga yo guhemba abakozi, maze ahabwa cheque ya miliyoni 2.770.000Frw ya COGEBANK; Nyuma yo kubikuza ayo mafaranga, ntiyigera ahemba abo bakozi; nuko aza kwandikirwa n’umuyobozi we amubaza ibisobanuro kuri ayo mafaranga 2.770.000 atigeze atangira raporo zaho yahembeye abakozi, nuko nawe yemeraga ko yayakoresheje mu nyungu ze

ko kandi yemeye kuyasubiza mu minsi 2. Ubushinjacyaha buvuga rero ko uregwa yatwaye ayo mafaranga ayikoreshereza mu nyungu ze. Urwo Rukiko rwaciye urubanza rusanga uregwa ahamwa n'icyaha cyo kunyereza umutungo, rumuhanisha igihano cy'igifungo cy'imyaka irindwi (7ans) n'ihazabu ya 8,310,000Frw. Uregwa yajuririyeye Urukiko Rukuru avuga ko ari umwere, akavuga ko atigeze anyereza amafaranga ko ahubwo yagize igihombo kubera ko yahembaga abantu ba nyakabyizi bigatuma ahorana amafaranga menshi, ko yarimo ahemba bamutumaho ngo ajye gukurikirana ibyo mu kabari ngo y'amafaranga ayashyira muri tiroire aho yayashyiraga, ko nyuma y'iminsi 2 agarutse aje kuyareba yasanze ntayariho, ko ayo mafaranga 2,770,000 yibwe. Avuga ko ibyabaye yabimenyesheje ukuriye abakozi HR nawe abibwira abayobozi baraterana bemeza ko kuva basanze hadafunguye ko ariwe ugomba kuyazana cyangwa akayishyura kumushahara, ko ibyo yabyemeye ngo kuko bari bamaze kumufungirana aho ngaho; ko ariyo mpamvu asaba urukiko rukuru kwemeza ko ari nta cyaha cyo kunyereza umutungo yakoze. Akomeza avuga kandi ubwo yakorerwa decompote final hari amafaranga umukoresha yiyishyuye, kandi ko amafaranga kugirango abure byatewe n'uburangare bwa Skol n'imikorere mibi yayo, ko yari yarasabye ko bajya bahembera abakozi kuri MoMo ngo ntibyakorwa. Ubushinjacyaha bwo buburana buvuga ko ibivugwa na Nizeyimana bitahabwa agaciro kuko amafaranga uko bayamuhaye kuri sheki ariko yabuze, ko ahubwo we yagiye kuyakoramo umushinga w'inkoko nk'uko bivugwa n'abatangabuhamya; ko ibyo uwajuriye avuga ko yahembaga abakozi asigaye akayabika ko atari ukuri ngo kuko yari kuba yarakoze urutonde rwabo yahembye nasigaye, ariko ko atariko byagenze ko ahubwo yayitwariye. Bukomeza buvuga ko bari bafite service ya comptabilite aho yari gusiga ayo mafaranga, ko ahubwo icyabayeho aruko Nizeyimana yabikuje cheque y'amafaranga 2.700.000Frw yo guhemba abakozi yose akayitwatira, ko hanashingirwa ku bimenyetso byagaragajwe n'Urukiko rwisumbuye mu rubanza rwajuririyeye. Incamake y'icyemezo:

1. Nubwo abatangabuhamya babajijwe baba bafite icyo bapfa n'abaregwa, ibyo ntibyafatwa nk'umuziro kuribo utuma batabazwa, icy'ingenzi ni uko imvugo zabo zitapfa kwemerwa cyangwa ngo zihakanwe zitabanje gusuzumwa n'Urukiko. Bityo kuba ubuhamya bwa Murorunkwere bushinja uregwa ko yanyereje amafaranga 2,770,000, ayo mafaranga akaba yari yayawe ngo ahemba abakozi ba nyakabyizi ariko akayakoresha mu mushinga we w'inkoko, ibyo bigize ikimenyetso cy'uko atari igihombo yagize.

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2. Nta cyabuza urukiko kugabanyiriza igihano uregwa, hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha kabone n'ubwo iby'igihano byaba bitaburanyweho n'impamvu z'ubujurire zitahawe ishingiro. Amategeko yakoreshejwe: Ingingo ya 2(b)(d) y'itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaye ibyaha n'ibihano muri rusange. Itegeko n° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, Ingingo ya 48. Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, Ingingo ya 3 igika cya 1. Imanza zifashishijwe: Ubushinjacyaha vs. Cpl Ngabonziza Faustin & Sgt Biziyaremye Jean Baptiste, RPAA 0117/07/CS rwaciye n'Urukiko rw'Ikirenga ku wa 17/09/2010. Ubushinjacyaha vs. Bakunzibake Emmanuel, RPAA 00189/2021/CA rwaciye n'Urukiko Rw'Ubugurire ku wa

28/10/2022. Ubushinjacyaha vs. Gahigi Anastase, RPAA 00120/2020/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 26/05/2023. Ubujurire bufite ishingiro kuri bimwe; Uwajuriye agabanyirijwe igihano; Ategetswe gusubiza amafaranga yanyereje.

Urubanza I. IMITERERE Y'URUBANZA [1] Nizeyimana Jean Marie Vianney yari umukozi w'uruganda rwenga inzoga rwa Skol ashinzwe abakozi ba nyakabyizi harimo no kubahemba maze kuwa 23/11/2018, Nizeyimana J M V yaka amafaranga yo guhemba abakozi, maze ahabwa cheque ya miliyoni 2.770.000Frw ya COGEBANK; Nyuma yo kubikuza ayo mafaranga, Nizeyimana J M V ntiyigera ahemba abo bakozi; yandikiwe n'umuyobozi we amubaza ibisobanuro kuri ayo mafaranga 2.770.000 atigeze atangira raporo zaho yahembeye abakozi, amwibutsa ibyo bavuganye ko Nizeyimana J M V yemeraga ko yayakoresheje mu nyungu ze ko kandi yemeye kuyasubiza mu minsi 2 ari kuwa 03/12/2018. [2] Ubushinjacyaha buvuga ko Nizeyimana Jean Marie Vianney yatwaye ayo mafaranga 2.770.000Frw ayikoreshereza ibyo mu nyungu ze biza kumenyekana kuko nta raporo yatangaga bamwaka ibisobanura basanga amafaranga yo kuwa 23/11/2018 atarayahembye abakozi. [3] Ubushinjacyaha bwareze Nizeyimana Jean Marie Vianney icyaha cyo kunyereza umutungo, bukabishingira ku kuba:

- yarahawe sheki y'amafaranga 2.770.000Frw yo kubikuza amafaranga ngo ahembe abakozi Nizeyimana J M V ntiyigera ahemba abo bakozi.
- Nizeyimana J M V yandikiwe n'umuyobizi mbere y'uko aregwa avuga ko ari igihombo yagize ariko nyamara ntabwo yari yarigeze amenyesha ubuyobozi bwe ko yagize igihombo

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- imvugo ya Murorunkwere Anisie (umuyobozi mukuru ushinze abakozi), ashinja Nizeyimana J M V ko yahawe cheque ya miliyoni 2.770.000Frw ya COGEBANK, amafaranga, muri dosiye harimo photocopie ya cheque yo kuwa 23/11/2018 ya COGEBANK ya miliyoni 2.770.000Frw Nizeyimana J M V yahawe ngo ajye kubikuza amafaranga yo guhemba abakozi
- historique ya Banque igaragaza ko kuri iriya tariki ya 23/11/2018, Nizeyimana J M V yabikuje ariya mafaranga 2.770.000Frw
- ibaruwa Nizeyimana J M V yandikiye umuyobozi we asaba ko ayo mafaranga yazajya ayishyura buri kwezi
- inyandiko bamwe mu bakozi banditse basaba uruganda umushahara wabo kandi ngo MEMO yo kuwa 21/12/2018, isaba kongera guhemba abakozi hamwe n'urutonde rw'abatahembwe. [4] Nizeyimana Jean Marie Vianney yaburanye mu rukiko rwisumbuye ahakana icyaha aregwa akavuga ko bamuhaye amafaranga yo guhemba abakozi maze ngo arahomba ko kandi yemera kwishyura ayo mafaranga yahombye, [5] Avuga ko guhomba byatewe n'imikorere mibi ngo kuko yagira akazi kenshi kandi akaba atari afite aho abika amafaranga, asaba kugirwa umwere ko ahubwo ngo yagize igihombo, avuga kandi ko ibigize icyaha cyo kunyereza umutungo bituzuye. [6] Urukiko rwisumbuye rwakijije urubanza ko Nizeyimana Jean Marie Vianney ahamwa n'icyaha cyo kunyereza umutungo rubishingiye ku kuba:

- Imyiregurire ya Nizeyimana J M V aho avuga ko ari igihombo yagize ko itahabwa ishingiro ngo kubera ko atigeze amenyesha ubuyobozi bwe ko yagize igihombo kandi kuba hari imvugo ya Murorunkwere Anisie(umuyobozi mukuru ushinze abakozi), ashinja Nizeyimana J M V ko yahawe cheque ya miliyoni 2.770.000Frw ya COGEBANK, amafaranga yamara kuyabikuzza akayajyana kuyikoreshereza ibyo mu nyungu ze (umushinga w'inkoko) kandi kuba muri dosiye harimo photocopie ya cheque yo kuwa 23/11/2018 ya COGEBANK ya miliyoni 2.770.000Frw Nizeyimana J M V yahawe ngo ajye kubikuzza amafaranga yo guhembabakozi kandi kuba hari na historique ya Banque igaragaza ko kuri iriya tariki ya 23/11/2018, Nizeyimana J M V yabikuje ariya mafaranga 2.770.000Frw kandi kuba hari inyandiko zitandukanye Nizeyimana J M V yandikiwe n'umuyobozi we amusaba gutanga ibisobanuro by'imikoreshereze y'ariya mafaranga 2.770.000Frw kandi kuba hari ibaruwa Nizeyimana J M V yandikiye umuyobozi we asaba ko ayo mafaranga yazajya ayishyura buri kwezi kandi kuba hari inyandiko bamwe mu bakozi banditse basaba uruganda umushahara wabo kandi kuba MEMO yo kuwa 21/12/2018, isaba kongera guhembabakozi hamwe n'urutonde rw'abatarahembwe kandi kuba harimo n'inyandiko igaragaza inshingano za Nizeyimana J M V mu ruganda rwanga inzoga rwa Skol.
- Urukiko rurasanga kandi ibyo Nizeyimana Jean Marie Vianney avuga ko yagiye ahomba mu bihe bitandukanye nta shingiro byahabwa kuko bitumvikana uburyo yahombye maze ingano y'amafaranga yahombye akaba angana na 2.770.000Frw yari kuri sheki yo kuwa 23/11/2018. [7] Urukiko rwisumbuye rwashingiye kubivugwa haruguru no kuba hari amasezerano agaragaza ko Nizeyimana Jean Marie Vianney yari umukozi, rukiza ko Nizeyimana Jean Marie Vianney ahamwe n'icyaha cyo kunyereza umutungo, ruhanishwa igihano cy'igifungo cy'imyaka irindwi (7ans) n'ihazabu ya 8,310,000Frw, [8] Nizeyimana Jean Marie Vianney yajuririyeye urukiko rukuru byandikwa ku nimeron RPA/ECON 00085/2021/HC/KIG; urubanza rwaburanishijwe mu rukiko rukuru kuwa 07/02/2024 Nizeyimana Jean Marie Vianney yiburanira, ubushinjacyaha buhagarariwe na PN Harindintwari Come.

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- [9] Mu rukiko rukuru yajuririyeye urukiko rukuru Nizeyimana Jean Marie Vianney avuga ko ari umwere, akavugaga ko atigeze anyereza amafaranga ko ahubwo yagize igihombo kubera ko yahembaga abantu ba nyakabyizi bigatuma ahorana amafaranga menshi, ko yarimo ahemba bamutumaho ngo ajye gukurikirana ibyo mu kabari ngo y'amafaranga ayashyira muri „tiroire“ aho yayashyiraga ko nyuma y'iminsi 2 agarutse aje kuyareba abona ya mafaranga ntayariho, ko ayo mafaranga 2,770,000 yibwe. [10] Ubushinjacyaha bwaburanaye mu rukiko rukuru buhagarariwe na PN Harindintwari Come, buvugaga ko imyiregurire ya Nizeyimana Jean Marie Vianney ko itahabwa gaciro kuko amafaranga uko bayamuhaye kuri sheki ariko yabuze, ko ahubwo we yagiye kuyakoramo umushinga w'inkoko nk'uko bivugwa n'abatangabuhamya; ko ibyo Nizeyimana Jean Marie Vianney aburana avugaga haruguru ko yahembaga abakozi asigaye akayabika ko atari ukuri ngo kuko yari kuba yarakoze urutonde rwabo yahombye nasigaye, ariko ko atariko byagenze ko ahubwo yayitwariye, ubushinjacyaha bukabishingira ku bimenyetso byagaragajwe n'Urukiko rwisumbuye mu

rubanza rwajuririye biri mu gika cya 5 nicya 6 bishinja Nizeyimana Jean Marie Vianney icyaha cyo kunyereza umutungo Nizeyimana Jean Marie Vianney atashoboye kuvuguruza aribyo bivugwa haruguru muri uru rubanza mu gika cya 6 cy'uru rubanza. [11] Urukiko rukuru rwasuzumye: -niba Nizeyimana Jean Marie Vianney atanyereje amafaranga ko ahubwo yayahombye. -gusuzuma ibyerekeye igihango cyahabwa Nizeyimana Jean Marie Vianney

- Gusuzuma ibyerekeye no gusubiza SKOL amafaranga yanyerejwe II. ISESENGURA RY'IBIBAZO BIGIZE URU RUBANZA A. Gusuzuma niba Nizeyimana Jean Marie Vianney ko atanyereje amafaranga ko ahubwo yayahombye. [12] Mu rukiko rukuru Nizeyimana Jean Marie Vianney yajuririye urukiko rukuru avuga ko ari umwere, akavuga ko atigeze anyereza amafaranga ko ahubwo yagize igihombo kubera ko yahembaga abantu ba nyakabyizi bigatuma ahorana amafaranga menshi, ko hari abantu bamwe batazaga kuyafata kandi yaretiraga amafaranga buri cyumweru; [13] Nizeyimana Jean Marie Vianney avuga ko amafaranga 2.700,000 yayabikuje kuri banki ariko ba nyirayo ntibaza kuyatora, ko yarimo ahemba abakozi ariko bamutumaho ngo ajye gukurikirana ibyo mu kabari ngo y'amafaranga ayashyira muri „tiroire“ aho yayashyiraga ngo agarutse aje kureba ari nyuma y'iminsi 2 ngo kuko yagiye nko kuwa 3 ajya kureba aho yayashize ari kuwa 5 abona ya mafaranga ntayarimo, ko yabimenyesheje ukuriye abakozi HR nawe abibwira abayobozi baraterana bemeza ko kuva basanze hadafunguye ko ariwe Nizeyimana Jean Marie Vianney ugomba kuyazane cyangwa akayishyura kumushahara, ko yabyemeye ngo kuko bari bamaze kumufungirana aho ngaho; ko ariyo mpamvu asaba urukiko rukuru kwemeza ko ari nta cyaha cyo kunyereza umutungo yakoze. [14] Nizeyimana Jean Marie Vianney avuga ko akorerwa decomppte final ko umukoresha yiyishyuye amafaranga 688.000, ko ariko amafaranga kugirango abure ko byatewe n'uburangare bwa Skol n'imikorere mibi yayo, ko yari yarasabye ko bajya babahembera kuri MOMO ngo ntibyakorwa, kubera kandi ko bamuhaye inshingano zo guhorana amafaranga n'uko yayabikaga ahantu muri sale, ko akeka ko umuntu yaje agakingura akayitwara akoresheje urufunguzo yibikiye cyangwa yacurishije, ko amafaranga 2,700,000 yibwe. [15] Ubushinjacyaha bwaburanye mu rukiko rukuru buhagarariwe na PN Harindintwari Come, buvuga ko imyiregurire ya Nizeyimana Jean Marie Vianney ko itahabwa gaciro kuko amafaranga uko bayamuhaye

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kuri sheki ariko yabuze, ko ahubwo we yagiye kuyakoramo urnushingha w'inkoko nk'uko bivugwa n'abatangabuhamya; ko ibyo Nizeyimana Jean Marie Vianney aburana avuga haruguru ko yahembaga abakozo asigaye akayabika ko atari ukuri ngo kuko yari kuba yarakoze urutonde rwabo yahembye nasigaye, ariko ko atariko byagenze ko ahubwo yayitwariye yose. [16] Buvuga ko iyo Nizeyimana Jean Marie Vianney avuga ko yibwe ko atari ukuri ngo kuko bari bafite service ya comptabilite aho yari gusiga ayo mafaranga, ko ahubwo icyabayeho aruko Nizeyimana Jean Marie Vianney yabikuje cheques y'amafaranga 2.700.000 yo guhemba abakozi yose akayitwatira, ko hanashingirwa ku bimenyetso byagaragajwe n'Urukiko rwisumbuye mu rubanza rwajuririye biri mu gika cya 5 nicya 6 bishinja Nizeyimana Jean Marie Vianney icyaha cyo kunyereza

umutungo ko kandi atashoboye kubivuguruzwa. UKO URUKIKO RUBIBONA [17] Impaka zikubiye muri iki gika ni ukumenya niba amafaranga 2,770,000 yanyerejwe na Nizeyimana Jean Marie Vianney nk'uko urukiko rwisumbuye rwaciye urubanza rubivuga cyangwa se ko Nizeyimana Jean Marie Vianney yayahombye nk'uko ajurira abivuga ngo kubera imikorere mibi ya SKOL. [18] Urubanza N° RPAA 00120/2020/CA, rwaciye n'Urukiko rw'Ubujurire ku wa 26/05/2023 haburana ubushinjacyaha na Gahigi Anastase (igika cya 17). Ikibazo cyasuzumwe: Kumenya agaciro k'imvugo z'abatangabuhamya bafite icyo bapfa n'uregwa, umurongo watanze: Nubwo abatangabuhamya babajijwe baba bafite icyo bapfa n'abaregwa, ibyo ntibyafatwa nk'umuziro kuribo utuma batabazwa, icy'ingenzi ni uko imvugo yabo itapfa kwemerwa cyangwa ngo ihakanwe itabanje gusuzumwa n'Urukiko; izindi manza zafashwemo uyu murongo:

- Urubanza N° RPAA 0117/07/CS rwaciye n'Urukiko rw'Ikirenga ku wa 17/09/2010 haburana Cpl Ngabonziza Faustin na Sgt Biziyaremye Jean Baptiste (igika cya 8).
- Ingingo ya 48 y'Itegeko n° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ko: "Ubuhamya bw'uwigize uruhare mu ikorwa ry'icyaha cyangwa uwakorewe icyaha Umuntu wese wagize uruhare mu ikorwa ry'icyaha cyangwa uwakorewe icyaha ashobora kumvwa nk'umutangabuhamya". [19] Urukiko rukuru rwashingiye ku manza N° RPAA 00120/2020/CA na N° RPAA 0117/07/CS ndetse no ku ngingo ya Ingingo ya 48 y'Itegeko n° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha rusuzuma ubuhamya bwa "human resource" Murorunkwere Anisie mu icibwa ry'uru rubanza, rusanga ko mu ibazwa rye mu bugenzacyaha ahamya ko Nizeyimana Jean Marie Vianney yafashe amafaranga 2,770,000 yari agenewe guhamba ba Nyakabyizi akayakoresha mu nyungu ze, ko hari hashize iminsi atamubwira uko amafaranga yasabye yakoresheje, ko yabanje kubimubaza mu magambo hashize iminsi aramwandikira "message" kuri "outlook" ku itariki 27/11/2018 amusaba gutanga ibimenyetso bigaragaza ko yishyuye ba nyakabyizi guhera tariki 8/10 kugeza 18/11/2018; ko nyuma yaho ntabisobanuro yigeze amuha aribwo yandikiwe, ko kandi no muri serivisi za "finance" nta na raporo yabagejejeho yayo mafaranga 2,700,000, ko yamubajije impamvu atahembye abo banyakabyizi ambwira ko yakoresheje umushinga we w' inkoko. [20] Urukiko rukuru rusanga ko ubuhamya bwa Murorunkwere Anisie bushinja Nizeyimana Jean Marie Vianney ko yanyereje amafaranga 2,770,000, ayo mafaranga akaba yari yayawe ngo ahembe abakozi ba nyakabyizi ariko Nizeyimana Jean Marie Vianney akayakoresha mu mushinga we w'inkoko, ibyo bigize ikimenyetso cy'uko atari igihombo Nizeyimana Jean Marie Vianney yagize kubera guhamba banyakabyizi; hakurikijwe kandi ko Nizeyimana Jean Marie Vianney aburana mu rukiko rukuru yivugira ko amafaranga 2,770,000 yibwe aho yayashize muri "tiroir" ko agarutse aje kureba ari nyuma y'iminsi 2 ngo kuko yagiye

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nko kuwa 3 aya kureba aho yayashize ari kuwa 5 abona ya mafaranga ntayariho hakinze, rusanga ko aburana ahunga ububi bw'icyaha kimuhama aho avuga ko akeka ko umuntu yaje agakingura akayatwara akoresheje urufunguzo yibikiye cyangwa yacurishije. Urukiko rukaba

rusanga ko iyo miburanire ya Nizeyimana Jean Marie Vianney ari nta kimenyetso na kimwe ayitangira usibye kuyivugisha umunwa gusa bituma urukiko rutayihisha ishingiro hakurikijwe ibiteganywa n'ingingo ya 3 igika cya 1 y'itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo.¹ [21] Urukiko rukuru rusanga Nizeyimana Jean Marie Vianney atarigeze y'ibwa hakurikijwe ibyasobanuwe haruguru, hakurikijwe kandi ko iyo biza kuba aribyo koko niwe Nizeyimana Jean Marie Vianney wari gufata iya mbere abimenyesha inzego zimukiriye mu kazi cyangwa inzego za leta agaragaza ko yibwe koko, ahubwo usanga ari Nizeyimana Jean Marie Vianney wagiye wandikirwa n'umuyobozi we mu kazi amusaba gutanga raporo y'amafaranga 2,770,000 yahawe yo guhamba ba nyakabyizi, iyo myitwarire ye yo guceceka ntihagire icyo avuga kugeza yandikiwe n'umukoresha we amusaba ibisobanuro bigize ikimenyetso gishimangira imvugo ya Murorunkwere Anisie aho avuga ko yabajije Nizeyimana Jean Marie Vianney impamvu atahembye abo banyakabyizi amubwira ko amafaranga yayakoresheje umushinga we w' inkoko. [22] Urukiko rukuru rusanga ko iyo Nizeyimana Jean Marie Vianney aburana avuga ko amafaranga 2,770,000 ko atariyo yonyine yamubiriyeho ko yari afite andi mafaranga y'ibindi by'umweru atahembye abakozi, ko byashingirwaho hemezwa ko yahombye, urukiko rwarabisuzumye rusanga ko ibyo avuga bitahabwa ishingiro kuko abivugisha umunwa atabigaragariza ibimenyetso bivuguruzwa ko yararezwe gusa amafaranga 2,770,000 yaherewe cheque akayabikuzwa ariko ntayakoreshe ibyo yayaherewe n'umukoresha we byo guhamba ba nyakabyizi, rusanga ko Nizeyimana Jean Marie Vianney atabasha kuvuguruzwa ibimenyetso bimuhamya icyaha cyo kunyereza umutungo wa SKOL akawukoresha mu nyungu ze hakurikijwe ibyasobanuwe haruguru ndetse n'ibivugwa n'urukiko rwisumbuye mu rubanza RP/ECON 00013/2019/TGI/NYGE yajuririye, ndetse bikagarukwaho mu gika cya 6 cy'uru rubanza. B. Gusuzuma ibyerekeye igihano cyahabwa Nizeyimana Jean Marie Vianney [23] Urukiko rukuru rwashingiye k'Urubanza N° RPAA 00189/2021/CA rwaciye ku wa 28/10/2022 haburana Ubushinjacyaha na Bakunzibake Emmanuel aho rwemeje ko hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha kabone n'ubwo iby'igihano byaba bitaburanyweho n'impamvu z'ubujurire zitahawe ishingiro ko habaho kugabanya igihano. [24] Urukiko rukuru rusanga ko hashingirwa ku bivugwa haruguru mu rubanza N° RPAA 00189/2021/CA ndetse hashingirwa no kuba ari ubwa mbere Nizeyimana Jean Marie Vianney yari aguye mu cyaha ku buryo buzwi no kubivugwa mu ngingo ya 2(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 rusange², Nizeyimana Jean Marie Vianney akagabanyirizwa igihano cy'igifungo cy'imyaka irindwi (7) n'ihazabu y'amafaranga 8.310,000 yahawe n'urukiko rwisumbuye rwa Nyarugenga mu rubanza RP/ECON 00013/2019/TGI/NYGE, agahanishwa igifungo cy'imyaka itanu (5 ans) n'ihazabu y'amafaranga 8.310,000. C. Gusuzuma ibyerekeye no gusubiza SKOL amafaranga yanyerejwe. [25] Urukiko rukuru rusanga Nizeyimana Jean Marie Vianney ategetswe gusubiza SKOL, itarabaye umuburanyi mu rukiko, amafaranga 2,082,000 yanyerejwe kuko habayeho kwita kubyo Nizeyimana Jean

1 Ingingo ya 3 igika cya 1 y'itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko:” Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana”. 2 Ingingo ya 2(b)(d) 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 aho iteganya ko:”(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;

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Marie Vianney yaburanishije ko havanwemo mu mafaranga 2,770,000 ayo bamukase biyishyura ya decomppte final ahwanye n'amafaranga 688.000, urukiko rukuru rukaba rwarabishingiye ku ngingo ya 34 y'itegeko N°68/2018 ryavuzwe haruguru iteganya ko : « Mu rubanza rw'inshinjabyaha rugennye igihano, iyo hari ibyarigishijwe, ibyibwe, ibyambuwe ku buryo bw'uburiganya cyangwa ibyatanzwe bitari ngombwa urukiko rugomba gutegeka kubisubiza». I. ICYEMEZO CY'URUKIKO [26] Rwemeje ko ubujurire bwa Nizeyimana Jean Marie Vianney ko bufite ishingiro kuri bimwe, ko Nizeyimana Jean Marie Vianney agabanyirijwe igihano cy'igifungo cy'inyaka irindwi (7) n'ihazabu y'amafaranga 8.310,000 yahawe n'urukiko rwisumbuye rwa Nyarugenga mu rubanza RP/ECON 00013/2019/TGI/NYGE, agahanishwa igifungo cy'inyaka itanu (5 ans) n'ihazabu y' amafaranga 8.310,000; [27] Rutegetse Nizeyimana Jean Marie Vianney gusubiza SKOL amafaranga yanyereje ahwanye n'amafaranga 2,082,000; [28] Ruvuze ko ingwate y'amagarama y'urubanza yatanze na Nizeyimana Jean Marie Vianney ahwanye n'ibyakozwe muri uru rubanza.

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