

RWANDA / JUDGMENT

Gahamanyi v Muhoza

RCA00078/2022/HC/RWG

COURT

High Court

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Gahamanyi v Muhoza

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Text

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GAHAMANYI v UMUHOZA N'UNDI [Rwanda URUKIKO RUKURU URUGEREKO RWA RWAMAGANA – RCA00078/2022/HC/RWG (Nyirabagande, P.J.) 29 Kamena 2023] Itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano – Kujurira – ibihe byo kujurira – Ibihe byo kujurira k'umuntu waburanye adahari, bibarwa bahereye ku gihe yamenyeye imikirize y'urubanza. Itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano – urubanza rwabaye Itegeko – Ntabwo umuntu yakwitwaza ko urubanza rwabaye Itegeko kuko rwateweho kashe mpuruza ngo asabe ko ikirego cy'uwajuriye kitakirwa kandi urubanza rwaraburanishijwe adahari kuko ibihe byo kujurira bibarwa uherye igihe yarumenyeye. Incamake y'ikibazo: Uru rubanza rwatangiye Muhoza arega Gahamanyi mu Rukiko Rwisumbuye rwa Nyagatare asaba ko amukorera ihererekanya (mutation) ku mutungo baguze mu masezerano yo kuwa 10/12/2018. Urubanza rwaburanishijwe abaregwa batitabye, Urukiko mu rubanza RC00028/2021/TGI/NYG rwemeje ko umutungo waregwe wandikwa kuri Muhoza kuko yishyuye ikiguzi bumvikanye. Gahamanyi yajuririye Urukiko Rukuru, avuga ko Urukiko rwemeje ko umutungo wose wandikwa kuri Muhoza hashingiwe ku masezerano y'agateganyo, kandi Muhoza yaraguze igice cy'umutungo ubaruwe kuri UPI 5/02/10/06/482 nk'uko biri mu masezerano. Muhoza we avuga ko amasezerano

avugwa atari ay'agateganyo kuko haterekanwa aya burundu, kandi ntagaragaza ko hagurishijwe igice. Muhoza avuga kandi ko ikirego cya Gahamanyi kitakwirwa kubera ko atubahirije ibihe byo kujurira kuko urubanza rwaciwe ku wa 19/10/2022, ajurira ku wa 29/11/2022 urubanza ruterwaho kashe mpuruza kandi itararegwe ngo ikurweho. Gahamanyi avuga ko ibihe byo kujurira byubahirijwe hagendewe ku itariki ya 01/11/2022, yamenyeyeho urubanza kuko rwari rwaburanishijwe abaregwa badahari. Urukiko Rukuru Urugereko rwa Rwamagana mu rubanza RCA00078/2022/HC/RWG, rwemeje ko Gahamanyi yubahirije ibihe byo kujurira, hashingiwe ku gihe yamenyesherejwe imikirize y'urubanza kuko yaburanishijwe adahari, rwemeje kandi ko kuba urubanza rujuririrwa rwarateweho kashe mpuruza atari impamvu yo kutakira ikirego, kuko ari icyemezo cy'ubuyizi kandi kuba uregwa ataramenyeshwe imikirize y'urubanza, uwayitereshejeho atahindukira ngo ayigire impamvu yo kutakira ikirego. Urukiko rwemeje kandi ko mbere y'iherekanya hagomba kubanza gusuzumwa agaciro k'amasezerano ababuranyi bagaragaza, n'uburyo yakozwemo; iherekanya rikazaba inkurikizi ku cyemezo cyaba cyafashwe kuko hari ukugoboka kwa Mbabazi Urukiko rwemeje ko gufite ishingiro. Bityo, rwemeza ko ikirego kitari mu bubasha bw'Urukiko Rwisumbuye, bityo ko kirego cyatanzwe mu buryo budakurikije Amategeko ko kigomba guteshwa agaciro, ababifitemo inyungu bakazabiregera mu buryo buteganywa n'Amategeko. Urukiko rwemeje kandi ko nta ndishyi zigomba gutangwa ku mpande zose. Incamake y'icyemezo: 1. Ibihe byo kujurira k'umuntu waburanye adahari, bibarwa bahereye ku gihe yamenyeye imikirize y'urubanza. Bityo ntabwo uwo baburana yavugaga ko uwajuriye atubahirije ibihe ashingiye ku itariki urubanza rwaciriweho kandi rwaraburanishijwe adahari.

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2. Ntabwo umuntu yakwitwaza ko urubanza rwabaye Itegeko kuko rwateweho kashe mpuruza ngo asabe ko ikirego cy'uwajuriye kitakirwa kandi urubanza rwaraburanishijwe adahari kuko ibihe byo kujurira bibarwa uherye igihe yarumenyeye. Amategeko yashingiye: Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsi ingingo ya 12, 94, 111, 113, 114, 148 Itegeko No 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, Ingingo ya 27 Nta manza zifashishijwe. Urubanza I. IMITERERE Y'URUBANZA [1] Uru rubanza ruri ku rwego rw'ubujurire, Gahamanyi Deo anenga icyemezo cyafashwe n'Urukiko Rwisumbuye rwa Nyagatare rwemeje ko ikirego cya Muhoza Vincent gifite ishingiro, ko ubutaka bwanditse kuri No UPI 5/02/10/06/492 buherereye mu Mudugudu wa Nsheke, Akagari ka Nsheke, Umurenge wa Nyagatare, Akarere ka Nyagatare, buva kuri Gahamanyi Deo na Kabera Beatrice bukandikwa kuri Muhoza Vincent, rutegeka Gahamanyi Deo kwishyura Muhoza Vincent 500.000Frw yo gusiragizwa mu manza na 700.000Frw y'igihembo cya avoka. [2] Amasezerano y'ubugure yo ku wa 10/12/2018 agaragaza ko Muhoza Vincent aguze isambu na Gahamanyi Deo n'umugore we Kabera Beatrice (ubu yarapfuye) yanditse kuri UPI 5/02/10/06/492 buherereye ahavuzwe ku 10.000.000Frw, ako kanya yishyura 5.000.000Frw, asigaye anyuzwa kuri konti ya Gahamanyi Deo iri muri BPR hishyurwa umwenda Gahamanyi yari afitiye iyo banki ariko ntihakorwa iherekanya. Muhoza Vincent yaregeye Urukiko

asaba kwandikwaho uwo mutungo n'indishyi zinyuranye. Gahamanyi Deo na Kabera Beatrice (+) ntibitabiriye iburanisha, urubanza ruburanishwa badahari. [3] Mu rubanza RC00028/2021/TGI/NYG rwemeje ko umutungo waregewe wandikwa kuri Muhoza Vincent, Urukiko rwasobanuye ko nk'uko bikubiye mu masezerano y'impande zombi, Muhoza Vincent yaguze umutungo yishyura ikiguzi, amafaranga amwe yishyurwa umwenda Gahamanyi yari afitiye banki, ko rero agomba kwandikwaho umutungo. [4] Gahamanyi Deo utaritabiriye iburanisha yajuririye Urukiko Rukuru, we na Me Intwazayamugabo Almand bavuga ko Urukiko rwemeje ko umutungo wose wandikwa kuri Muhoza Vincent hashingiwe ku masezerano y'agateganyo, Muhoza Vincent yirengagiza ko yaguze igice cy'umutungo ubaruwe kuri UPI 5/02/10/06/482 nk'uko biri mu masezerano hagati ya Gahamanyi na Mbabazi Comfort mu 2019. [5] Muhoza Vincent na Me Ngabo Claude bavuga ko ariya masezerano y'ubugure yo ku wa 10/12/2018 ku mutungo wanditswe kuri UPI :5/02/10/06/492 atari ay'agateganyo kuko haterekanywa aya burundu, ko yagombaga kubahirizwa Gahamanyi agakora ihererekanya kandi ntagaragaza ko hagurishijwe igice. Urukiko rurasuzuma niba muri uru rubanza haburanwa ihererekanywa ku mutungo mu gihe havugwamo amasezerano ababuranyi batumvikanaho.

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- [6] Muhoza Vincent na Me Ngabo Claude bavuga ko ikirego cye kitakwagirwa kubera ko Gahamanyi Deo atubahirije ibihe byo kujurira kuko urubanza rwaciye ku wa 19/10/2022, ajurira ku wa 29/11/2022 urubanza ruterwaho kashe mpuruza kandi itararegewe ngo ikurweho. [7] Gahamanyi Deo na Me Intwazayamugabo Almand bavuga ko ibihe byo kujurira byubahirijwe hagendewe ku itariki ya 01/11/2022, yamenyeyeho urubanza kuko rwari rwaburanishijwe abaregwa badahari. Urukiko rurasuzuma niba kuba Gahamanyi Deo, yaraburanishijwe adahari akajurira nyuma y'ukwezi urubanza ruriho kashe mpuruza ari impamvu yo kutakira ikirego. [8] Urubanza rwaburanishijwe mu ruhamwe ku wa 19/06/2023, Gahamanyi Deo yunganiwe na Me Intwazayamugabo Almand, Muhoza Vincent ahagarariwe na Me Ngabo Claude naho Mbabazi R. Comfort ahagarariwe na Me Gatama. [9] Ibibazo bisuzumwa mu rubanza ni ibi bikurikira : Kumenya niba Gahamanyi Deo waburanishijwe adahari, akajuririra urubanza ruteyeho kashe mpuruza nyuma y'aho arumenyesherezwe, atarubahirije ibihe. Kumenya niba kuba Mbabazi R. Comfort agaragaza amasezerano ko yaguze igice ku mutungo usabirwa ihererekanya ari impamvu yo kwemererwa kugoboka. Kumenya niba ababuranyi batumvikana ku ngano y'umutungo waguzwe hategekwa ihererekanya. Kumenya ishingiro z'indishyi zisabwa mu rubanza. II. IBIBAZO BIRI MU RUBANZA N'ISESENGURWA RYABYO A. Kumenya niba Gahamanyi Deo waburanishijwe adahari, akajuririra urubanza ruteyeho kashe mpuruza nyuma y'aho arumenyesherezwe, atarubahirije ibihe. [10] Ingingo ya 148 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko igihe ntarengwa cyo kujurira ni ukwezi kumwe (1) gitangira kubarwa kuva ku munsu umuburanyi yamenyeyeho ko urubanza rwasomwe. Ingingo ya 12 y'Iryo Tegeko igateganya ko buri muburanyi agaragaza ikimenyetso cy'ibyo aburana. Izi ingingo

zumvikanisha ko kujurira bikorwa mu gihe cy'ukwezi umuburanyi amenye imikirie y'urubanza ; ubihakana akabitangira ibimenyetso. [11] Mu rubanza rujuririrwa rwaburanishijwe Gahamanyi Deo n'umugore we (wapfuye) badahari, urubanza rucibwa ku wa 19/10/2021, ajurira ku wa 29/11/2022. Muhoza Vincent akavuga ko ibihe byo kujurira bitubahirijwe kuko yajuriye mu gihe cy'u mwaka kandi ajuririra urubanza ruteyeho kashe mpuruza kandi atarayiregeye ngo ikurweho, ko rero ikirego cye kitakwagirwa. Gahamanyi Deo na Me Intwazayamugabo Almand bavuga ko kuko urubanza rwaburanishijwe we adahari, aho yamenyeye urubanza ni bwo yatanze ubujurire mu gihe kitageze no ku kwezi, ikirego cye rero kikaba cyaragombaga kwagirwa. Bavuga ko ibyerekeranye na kashe mpuruza bitahabwa agaciro kubera ko yateweho mu buryo bunyuranyije n'amateko, kikaba kandi ari icyemezo cy'ubuyobozi. [12] Nk'uko biboneka muri iyi dosiye, ku rwego rwa mbere Gahamanyi Deo yaburanishijwe adahari ; habonekamo inyandiko y'umuhesha w'inkiko w'umwuga yiswe kumenyesha imikirize y'urubanza yo ku wa 11/01/2021 ivugwamo ko Gahamanyi Deo amenyeshejwe imikirize y'urubanza RC00028/2021/TGI/NYG rwo ku wa 19/10/2022. Urukiko rusanga rero hashingiwe

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ku nyandiko zigaragazwa, Gahamanyi Deo yubahirije ibihe byo kujurira, hashingiwe ku gihe kigaragazwa ko ari bwo yamenyesherezwemo kandi ntibivuguruzwa na Muhoza Vincent ngo agaragaze indi tariki Gahamanyi yaba yamenyesherezwemo imikirize y'urubanza. [13] Rusanga inyandiko z'ihamagara zigaragazwa muri dosiye zitashingirwaho kuko hatabonekaho imikono ya Gahamanyi Deo waregwaga ngo hemezwe ko yamenyeshejwe itariki y'iburanisha, bikaba bitari bikiri ngombwa kongera kumuhamagaza no kumenyesha imikirize y'urubanza. Rusanga rero igihe avugaga ko yamenye imikirize y'urubanza cyafatwaho ukuri kuko kitavuruguzwa ngo herekanwe uburyo yamenyeshejwemo imikirize y'urubanza. Rusanga kandi kuba urubanza rujuririrwa rwarateweho kashe mpuruza atari impamvu yo kutakira ikirego, kubera ko, uretse no kuba ari icyemezo cy'ubuyobozi kidakemurwa n'urubanza ariko kuba yarateweho nyamara uregwa atamenyeshejwe imikirize y'urubanza mu buryo bukurikije amategeko, uwayitereshejeho si we wahindukira ngo ayigire impamvu yo kutakira ikirego. B. Kumenya niba kuba Mbabazi R. Comfort agaragaza amasezerano ko yaguze igice ku mutungo usabirwa ihererekanya ari impamvu yo kwemererwa kugoboka. [14] Ingingo ya 113, igika cya 2 y'Itegeko No 22/2018 ryavuzwe haruguru, iteganya ko kugoboka mu rubanza ni ugusaba kuba umuburanyi cyangwa kugirwa we mu rubanza ataregeye cyangwa atarezwemo. Ingingo ya 144 yaryo igateganya ko ushaka kuburana mu rubanza ataregeye cyangwa atarezwemo abikora mu buryo bwo kuregera inkiko kandi agatanga ingwate y'amagarama. Kugira ngo ikirego cye cyakirwe, ugoboka ku bushake agomba kugaragaza inyungu yemewe n'amategeko, itaziguye kandi ye bwite. Ibisobanurwa muri izi ngingo bihuriye hamwe zumvikanisha ko umuntu wese ufite inyungu ye yemewe ashobora gusaba kuba umuburanyi mu rubanza atareze cyangwa ngo aregwemo. [15] Mu rubanza rujuririrwa, hemejwe ko umutungo wa Gahamanyi ubaruwe kuri No UPI 5/02/10/06/482 wandikwa kuri Muhoza Vincent. Me Gatama uhagarariye Mbabazi R. Comfort asaba kugoboka mu rubanza akavugaga ko kuri uwo mutungo yaguzeho igipande ubu kibarirwa mu

mutungo wandikwa kuri Muhoza Vincent, inyungu ye ikaba ishingiyeye ku mutungo. Muhoza Vincent na Me Ngabo Claude umwunganira bavuga ko nta nyungu Mbabazi R. Comfort afite kuko nta n'amasezerano yagiranye na Gahamanyi ahubwo bose bagambiriye kumuvutsa uburenganzira ku mutungo yaguze. [16] Nk'uko bigaragara muri dosiye, Mbabazi R. Comfort agaragaza amasezerano y'ubugure yo ku wa 12/06/2009 abonekamo ko aguze umutungo na Gahamanyi, ku 8.000.000Frw, hakanagaragazwamo ibipimo by'ubwo butaka, akavuga ko uwo mutungo ari igice cy'umutungo ubaruwe kuri UPI : 5/02/10/06/482, Urukiko rwemeje ko wandikwa wose kuri Muhoza Vincent. Ibi rero bikaba bigaragaza ko Mbabazi R. Comfort afite inyungu zo kuba umuburanyi muri uru rubanza kugira ngo agaragaze ibimenyetso by'uko na we yaguze umutungo ubarizwa ku mutungo Muhoza Vincent asaba kwandikwaho wose. Bityo rero, ukugoboka kwe kwakiriwe n'Urukiko akaba umuburanyi. C. Kumenya niba ababuranyi batumvikana ku ngano y'umutungo waguzwe hategekwe ihererekanya [17] Ingingo ya 27 y'Itegeko No 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, iteganya ko Inkiko z'ibanze ziburanisha mu rwego rwa mbere impaka ziri hagati y'abantu ku giti cyabo n'ibigo cyangwa imiryango bitari ibya Leta bifite ubuzima gatozi hagati yabyo zitarengeje miliyoni makumyabiri (20.000.000Frw). Ingingo ya 31 y'iryo Tegeko, igateganya ko Inkiko Zisumbuye ziburanisha mu rwego rwa mbere imanza zose zitahariwe kuburanishwa n'izindi Nkiko. Izi ngingo zisobanuriwe hamwe zumvikanisha ko ku kiburanwa gifite agaciro katarenze

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20.000.000Frw ububasha bufitwe n'Inkiko z'ibanze, naho ku bitaragenewe izindi, birimo n'ihererekanya, bikaburanishwa n'Inkiko Zisumbuye. [18] Mu rubanza RC00028/2021/TGI/NYG rwemeje ko umutungo waregwe wandikwa kuri Muhoza Vincent, Urukiko rwashingiye ku masezerano y'ubugure yo ku wa 10/12/2018 avugwamo ko yaguze umutungo na Gahamanyi na Kabera, kuri 10.000.000Frw, Muhoza Vincent yishyura ikiguzi, amafaranga amwe yishyurwa umwenda Gahamanyi yari afitiye banki, ko rero agomba kwandikwaho umutungo, hashingirwa ku ngingo ya 64 y'Itegeko rigenga amasezerano. [19] Gahamanyi Deo utaritabiriye iburanisha yajuririye Urukiko Rukuru, we na Me Intwazayamugabo Almand bavuga ko Urukiko rwemeje ko umutungo wose wandikwa kuri Muhoza Vincent hashingiwe ku masezerano y'agateganyo kuko amasezerano ya burundu yari gukorerwa imbere ya notaire. Bavuga ko Muhoza Vincent yirengagiza ko yaguze igice cy'umutungo ubaruwe kuri UPI 5/02/10/06/482 nk'uko yaterewe imbago n'inzego z'ibanze, bikanagaragazwa n'amasezerano hagati ya Gahamanyi na Mbabazi Comfort mu 2019, nk'uko byari mu gakayi Muhoza Vincent yagaragaje nyuma ; hakaba rero hatari kuregerwa ihererekanya mu Rukiko Rwisumbuye mu gihe hari ikibazo cy'amasezerano y'abantu babiri atari afatirwa icyemezo kandi agaciro k'ikiburanwa kakaba katari mu bubasha bw'Urukiko Rwisumbuye. [20] Muhoza Vincent na Me Ngabo Claude bavuga ko yaguze umutungo wose ubaruwe kuri UPI:5/02/10/06/492 nk'uko bigaragazwa n'amasezerano y'ubugure yo ku wa 10/12/2018 yanditswe na nyir'umutungo, kandi nta kimenyetso kigaragaza ko yari ay'agateganyo ngo hagaragazwe n'igihe yari kuzaba aya burundu. Bavuga ko aho kugira ngo Gahamanyi ayubahirize nk'uko biteganywa n'amategeko akore ihererekanya, ahubwo we na Mbabazi Comfort bafatanyije gushaka uburyo bwo kumunyaga umutungo yaguze, hagaragazwa

amasezerano adahuye n'ukuri, akaba rero atahabwa agaciro. Bavuga ko Urukiko Rwisumbuye rwari rufite ububasha kuko ikiburanwa atari agaciro k'umutungo ahubwo haburanwa ihererekanya ritakumirwa n'amasezerano atagaragaramo ko umutungo waguzwe na Mbabazi na wo ubaruwe kuri ya UPI imwe n'iyiye. [21] Me Gatama uhagarariye Mbabazi Comfort avuga ko amasezerano y'ubugure yo ku wa 12/06/2009 agaragaza ko yaguze igice ku mutungo urukiko rwemeje ko wandikwa kuri Muhoza Vincent kuko yanawibarujeho wose kandi azi ko bari bawufitanyeho amakimbirane yanagiye mu nkiko, bikaba byasuzumwa akabona uburenganzira bwe kuko amasezerano ya Mbabazi Comfort adahakanwa n'uwo bayagiranye. [22] Nk'uko biboneka muri iyi dosiye, hari amasezerano y'ubugure yakozwe ku wa 10/12/2018 hagati ya Gahamanyi Deo na Kabera Beatrice ku ruhande rumwe na Muhoza Innocent ku rundi ruhande, akorerwa ku mutungo w'ubutaka bwanditse kuri No UPI 5/02/10/06/492 buherereye mu Mudugudu wa Nsheke, Akagari ka Nsheke, Umurenge wa Nyagatare, Akarere ka Nyagatare, ni wo Muhoza asabira ihererekanya. Muri dosiye kandi habonekamo andi masezerano hagati ya Gahamanyi, Kabera na Muhoza, avugwamo ko Muhoza aguze igice cy'isambu iri muri Nsheke hepfo y'umuhanda, gihera ku kazu ka rukarakara kugera ku gihandagaza cyo ku muvumba ku 4.000.000Frw ko yishyuye 900.000Frw na sheki ya 3.100.000Frw. Hari andi masezerano yagaragajwe ku rwego rw'ubujurire hagati ya Gahamanyi na Mbabazi, bavuga ko mu mutungo Muhoza asaba kwandikwaho hari igice cyaguzwe na Mbabazi ku 8.000.000Frw ku wa 12/06/2009. [23] Kuri aya masezerano uko ari atatu, ababuranyi ntibayumvikanaho, Gahamanyi avuga ko aya masezerano avugwamo 4.000.000Frw yasimbuwe n'ariya masezerano ya 10.000.000Frw, Muhoza we akavuga ko ari amasezerano abiri atandukanye. Kuri izi mpaka hiyongeraho ko

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Mbabazi avuga ko na we yagurishijwe igice cy'umutungo ubaruwe ku UPI : UPI:5/02/10/06/492. Urukiko rukaba rusanga rero ibisobanuwe mu bika bibanza bigaragaza ko ikibazo nyamukuru kiri muri uru rubanza atari ihererekanya ahubwo ni agaciro k'amasezerano 3 ku mutungo umwe, ihererekanya rikaba ritakwemezwa mbere y'uko hakemuka ikibazo cy'amasezerano, ngo haragaragazwe niba yose yemewe n'ingano y'ubutaka buri wese yaguze, bwanakorerwaho ihererekanya. [24] Urukiko rusanga rero, n'ubwo ikirego cyatanze cyahawe inyito y'ihererekanya, bikaregerwa Urukiko Rwisumbuye, uru Rukiko Rukuru rusanga bitari ukuri kuko mbere y'ihererekanya hagomba kubanza gusuzumwa agaciro k'amasezerano ababuranyi bagaragaza, n'uburyo yakozwemo ; ihererekanya rikazaba inkurikizi ku cyemezo cyaba cyafashwe. Rusanga rero hashingiwe ku gaciro kagaragajwe, ikirego kitari mu bubasha bw'Urukiko Rwisumbuye, ikirego kikaba kitakwagirwa ngo gisuzumwe; bityo rero, urubanza rwaciye ku kirego cyatanze mu buryo budakurikije amategeko ruteshejwe agaciro, ababifitemo inyungu bakazabiregera mu buryo buteganywa n'amategek, nk'uko bisobanurwa mu ngingo ya 94, igika cya 5 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru1, cyangwa bakanabyumvikanaho. D. Ibyerekeranye n'ishingiro ry'indishyi zisabwa n'ababuranyi. [25] Ingingo ya 111 y'Itegeko No 22/2018 ku wa 29/04/2018 Itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, iteganya ko ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikiye ku kirego cy'iremezo kigamije

kwishyura ibyakoreshejwe mu rubanza. Ingingo ya 3 y'Itegeko No 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, iteganya ko buri muburanyi agaragaza ibimenyetso by'ibyo aregera. Izi ngingo zumvikanisha ko umuburanyi watakaje mu rubanza, iyo agaragaraje ibimenyetso by'ibyo yangirijwe, yishyurwa n'uwamuteye kujya mu manza nta mpamvu. [26] Mu rubanza rujuririrwa Gahamanyi yategetswe kwishyura Muhoza indishyi zinyuranye ; buri muburanyi yasabye indishyi zo gushorwa mu manza zigizwe n'igihembo cya avoka n'amafaranga y'ikurikiranarubanza. [27] Urukiko rusanga hakurikijwe uko ikibazo giteye, mu bushishozi nta ndishyi zigenwe kubera ko Muhoza ni we waregeye urukiko rutabifitiye ububasha, ariko n'ubwo Gahamanyi yajyanywe mu nkiko ariko hari impamvu kuko na we yemera ko yahawe ikiguzi akemura ibibazo bye, akaba rero atari we wahindukira ngo asabe indishyi. III. ICYEMEZO CY'URUKIKO [28] Rwemeje ko ikirego cyatanzwe na Gahamanyi Deo gifite ishingiro ; [29] Rwemeje ko ikiburanwa muri uru rubanza ari agaciro k'amasezerano yose aboneka muri iyi dosiye hagati ya Gahamanyi Deo na Kabera na Muhoza Innocent ku ruhande rumwe n'aya Mbabazi Comfort na Gahamanyi, aho kuba ihererekanya ; [30] Rwemeje ko iki kirego kitari mu bubasha bw'Urukiko Rwisumbuye, ko ibyemejwe mu rubanza RC00028/2021/TGI/NYG rwaciwe ku wa 19/10/2022 bikuweho ; 1 Iyo ngingo iteganya ko iyo Urukiko rwajuririwe rusanze urubanza rwararegewe mu rwego rwa mbere mu buryo budakurikije amategeko, nyamara urukiko rukaba rwarafashe icyemezo cyo kurwakira kandi rutaragombaga kurwakira, urukiko rwajuririrwe rwakira icyo kirego, rukagaragaza ko urwo rubanza rwajuririwe rwari rwararegewe urukiko rwa mbere mu buryo bunyuranyije n'amategeko, rugatesha agaciro ibyemezo byose byashingiye kuri iryo kosa; ubifitemo inyungu akaba yakongera agatanga ikirego bundi bushya.

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[31] Rwemeje ko nta ndishyi zigenwe muri uru rubanza ;

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