

RWANDA / JUDGMENT

Re MADAMU BERNADETTE N'UNDI

RC00002/2025/SC

COURT

Supreme Court

DECIDED

17 October 2025

CASE / FILE NUMBER

RC00002/2025/SC

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Re MADAMU BERNADETTE N'UNDI

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Text

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Re MADAMU BERNADETTE N'UNDI. [Rwanda URUKIKO RW'IKIRENGA – RC00002/2025/SC (Cyanzayire, P.J., Kalihangabo na Muhumuza J.) 17 Ukwakira 2025] Imiburanishirize y'imanza Mbenezamubano – Gusobanuzwa urubanza – Mu kwakira urubanza rusobanuzwa urundi, ni ngombwa kubanza kugaragaza ko icyemezo cyarufashwemo kitumvikana cyangwa giteye urujijo, ku buryo bigoranye kugishyira mu bikorwa. Incamke y'ikibazo: Uru rubanza rwatangiye Madamu Bernadette na Zaninka barega mu Rukiko Rwisumbuye rwa Rubavu abisengeneza babo Nzabonimpa n'abandi bakomoka kuri musaza wabo Baganizi ko mu buryo bw'uburiganya, bafashe isambu yari yasizwe na se Ruhabura, bayibaruza kuri Succession Baganizi, birengagije ko uwo mutungo wari uw'umuryango wa Ruhabura utigeze ugabanywa hagati y'abazungura be. Basabye Urukiko ko iyo sambu yakwandukurwa kuri Succession Baganizi, ikandikwa kuri Succession Ruhabura, ihagarariwe na Madamu Bernadette. Abaregwa bo bavuga ko isambu iburanwa atari iy'umuryango wa Ruhabura, kuko iyo sambu ari umunani wahawe Baganizi. Urukiko mu rubanza RC00167/2020/TGI/RBV rwanzuye ko ikirego cya Madamu Bernadette na Zaninka nta shingiro gifite, rwemeza ko ubutaka buburanwa bwari ubutaka bwa Baganizi ku giti cye. Bajuriye no mu Rukiko Rukuru urugereko rwa Musanze rwemeza mu rubanza

RCA00071/2021/HC/MUS ko ubujurire bwabo nta shingiro bufite ko urubanza rujuririrwa rudahindutse. Madamu Bernadette n'umuzungura wa Zaninka Espérance witwa Uwineza Diane, bandikiye Perezida w'Urukiko rw'Ubujurire basaba ko urubanza RCA00071/2021/HC/MUS, rusubirwamo ku mpamvu z'akarengane. Perezida w'Urukiko rw'Ubujurire amaze kubisuzuma, yandikiye Perezida w'Urukiko rw'Ikirenga asaba ko urwo rubanza rusubirwamo, maze nawe mu cyemezo No 170/CJ/2023, yemeza ko rwoherezwa mu Bwanditsi bw'Urukiko rw'Ikirenga kugira ngo ruzongere ruburanishwe. Urukiko mu rubanza RS/INJUST/RC 00010/2023/SC rwanzuye ko ikirego cyatanzwe na Madamu Bernadette na Zaninka waje gusimburwa n'umwana we Uwineza Diane, gisaba gusubirishamo ku mpamvu z'akarengane urubanza RCA00071/2021/HC/MUS, gifite ishingiro; rwemeza ko umutungo uburanwa ubu wagabanyijwemo ibibanza bifite UPI zitandukanye wandikwa kuri succession Ruhabura. Madamu Bernadette na uwineza batanze ikirego na none mu Rukiko rw'Ikirenga basaba ko hasobanurwa urubanza RS/INJUST/RC 00010/2023/SC, hakagaragazwa ubutaka bugomba gusubizwa mu muryango wa Ruhabura, kuko hari UPI zimwe zitagaragara mu zavuzwe n'Urukiko. Urukiko mu rubanza RC00002/2025/SC, rushingiye kuri raporo yatanzwe n'Ikigo cy'Igihugu gishinzwe Ubutaka, rwemeje ko hari UPI z'ibindi bibanza zikomoka ku mutungo uburanwa zitashyizwe mu mutungo uzungurwa, rwemeza ko ikirego cyo gukosoza urubanza RS/INJUST/RC00010/2023/SC cya Madamu Bernadette na Uwineza gifite ishingiro. Incamake y'icyemezo: Mu kwakira urubanza rusobanurwa urundi, ni ngombwa kubanza kugaragaza ko icyemezo cyarufashwemo kitumvikana cyangwa giteye urujijo, ku buryo bigoranye kugishyira mu bikorwa. Bityo, biri mu bubasha bw'abacamanza kwemeza ko urubanza rukwiye gusobanurwa, ko icyemezo cyarufashwemo kitumvikana cyangwa giteye urujijo. Ikirego cyo gusobanurwa urubanza RS/INJUST/RC 00010/2023/SC gifite ishingiro. Amategako yashingiweho:

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Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsi, nk'uko ryahinduwe kugeza ubu, Ingingo ya 140 igika cya mbere. Imanza zifashishijwe: Urubanza RS/RECT/RC00001/2024/SC, haburana Mukankundiye Agnès Agenesta n'undi rwaciye n'Urukiko rw'Ikirenga ku wa 25/04/2025, igika cya 28-29 Urubanza. I. IMITERERE Y'URUBANZA [1] Madamu Bernadette na Zaninka Espérance¹ bareze mu Rukiko Rwisumbuye rwa Rubavu abisengeneza babo Nzabonimpa Déogratias, Sebikari Oscar, Twagirumukiza Jean na Nyirazirakamwa Solange bakomoka kuri musaza we Baganizi François. Babarega ko mu buryo bw'uburiganya, bafashe isambu yari yarasizwe na se Ruhabura Jean, bayibaruza kuri Succession Baganizi François, ihabwa UPI: 3/03/11/03/637, birengagije ko uwo mutungo wari uw'umuryango wa Ruhabura Jean utigeze ugabanywa hagati y'abazungura be. Basabye Urukiko ko iyo sambu yakwandukurwa kuri Succession Baganizi François, ikandikwa kuri Succession Ruhabura Jean, ihagarariwe na Madamu Bernadette. Abaregwa bo bavugaga ko isambu iburanwa atari iy'umuryango wa Ruhabura Jean, kuko iyo sambu ari umunani wahawe Baganizi François, akaba yarakomeje kuyitunga kuva mu 1976 kugeza apfuye mu 1994. [2] Mu rubanza RC00167/2020/TGI/RBV rwaciye ku wa 19/11/2021, Urukiko Rwisumbuye rwa Rubavu rwanzuye ko ikirego cya Madamu Bernadette na

Zaninka Espérance nta shingiro gifite, rwemeza ko ubutaka bufite UPI: 3/03/11/03/637 bwari ubutaka bwa Baganizi François ku giti cye; ndetse no mu bujurire batanze, mu Rurukiko Rukuru, Urugereko rwa Musanze, Urukiko rwavuze ko nta shingiro ubwo bujurire bufite mu rubanza RCA00071/2021/HC/MUS rwaciwe ku wa 12/10/2022, rwemeza ko imikirize y'urubanza RC00167/2020/TGI/RBV rwaciwe n'Urukiko Rwisumbuye rwa Rubavu ku wa 19/11/2021 igumyeho . [3] Ku wa 07/11/2022, Madamu Bernadette n'umuzungura wa Zaninka Espérance witwa Uwineza Diane, bandikiye Perezida w'Urukiko rw'Ubujurire basaba ko urubanza RCA00071/2021/HC/MUS rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze ku wa 12/10/2022, rusubirwamo ku mpamvu z'akarengane. Perezida w'Urukiko rw'Ubujurire amaze kubisuzuma, yandikiye Perezida w'Urukiko rw'Ikirenga asaba ko urwo rubanza rusubirwamo, maze mu cyemezo No 170/CJ/2023 cyo ku wa 14/11/2023, yemeza ko rwoherezwa mu Bwanditsi bw'Urukiko rw'Ikirenga kugira ngo ruzongere ruburanishwe. [4] Mu rubanza RS/INJUST/RC00010/2023/SC rwaciwe ku wa 27/09/2024, Urukiko rw'Ikirenga rwanzuye ko ikirego cyatanzwe na Madamu Bernadette na Zaninka Espérance waje gusimbirwa n'umwana we Uwineza Diane, gisaba gusubirishamo ku mpamvu z'akarengane urubanza RCA00071/2021/HC/MUS rwaciwe ku wa 12/10/2022 n'Urukiko Rukuru, Urugereko rwa Musanze, gifite ishingiro; rwemeza ko umutungo wari ufite UPI: 3/03/11/03/637 ubu wagabanyijwemo ibibanza bikurikira wandikwa kuri succession Ruhabura Jean: UPI: 3/03/11/03/3520; UPI: 3/03/11/03/3509; UPI:3/03/11/03/3500 ; UPI : 3/03/11/03/3499 ; UPI : 3/03/11/03/3512 ; UPI :

1 ZANINKA Espérance yapfuye ku wa 04/09/2022. Urubanza rwe rurakomezwa n'umwana we UWINEZA Diane wemeye kurukomeza.

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3/03/11/03/3510 ; UPI zanditswe kuri Sebikari Oscar n'umugore we: UPI: 3/03/11/03/3522; UPI: 3/03/11/03/3502; UPI: 3/03/11/03/3506; UPI: 3/03/11/03/3507 ; UPI : 3/03/11/03/3498 ; UPI : 3/03/11/03/3508 ; UPI zanditswe kuri Twagirayezu Jean n'umugore we: UPI: 3/03/11/03/3523; UPI: 3/03/11/03/3513; UPI: 3/03/11/03/3505; UPI: 3/03/11/03/3501; UPI: 3/03/11/03/3516 ; UPI zanditswe kuri Nyirazirakamwa Solange : UPI : 3/03/11/03/3521 ; UPI : 3/03/11/03/3503 ; UPI : 3/03/11/03/3511 ; UPI : 3/03/11/03/3513 ; UPI : 3/03/11/03/3504 ; Rutegeka ko Nzabonimpa Déogratias, Sebikari Oscar, Twagirumukiza Jean na Nyirazirakamwa Solange guha Madamu Bernadette na Uwineza Diane amafaranga bishyuye Avoka angana na 500.000Frw. [5] Ku wa 09/05/2025, Madamu Bernadette na Uwineza Diane batanze ikirego muri uru Rukiko basaba ko hasobanurwa urwo rubanza, hagasobanurwa ubutaka bugomba gusubizwa mu muryango wa Ruhabura, kuko hari UPI zitagaragara mu zavuzwe n'Urukiko. [6] Iburanisha ry'urubanza ryashyizwe ku wa 10/09/2025, uwo munsu Urukiko rusanga mu rwego rwo kugira ngo haboneke ibisobanuro bihagije ku bisabwa n'ababuranyi, ari ngombwa gusaba Ikigo cy'Igihugu gishinzwe Ubutaka kugaraga ibibanza byose bikomoka kuri UPI : 3/03/11/03/637. Urukiko rwandikiye icyo kigo, maze ku wa 17/09/2025 icyo kigo gitanga raporo igaragaza ibyo bibanza. [7] Urubanza rwongeye kuburanishwa ku wa 13/10/2025, hasuzumwa raporo yatanzwe n'Ikigo cy'Igihugu gishinzwe Ubutaka. II. IKIBAZO KIGIZE URUBANZA N'ISESENGURA RYACYO Kumenya niba hari ibikeneye gusobanurwa mu rubanza RS/INJUST/RC 00010/2023/SC [8] Madamu Bernadette na

Uwineza Diane bavuga ko mu rubanza RS/INJUST/RC 00010/2023/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 27/09/2024, Urukiko rwavuze mu bika bya 50 na 57 ko ubutaka bufite UPI : 3/03/11/03/637 bwagabanyijwemo ibice 22 aho kuba 30 nk'uko bigaragazwa n'ibimenyetso byatanzwe n'umutekinisiye wasabwe n'Urukiko ndetse n'ibyatanze n'icyo kigo ubwacyo. Bavuga ko umutekinisiye yagaragaje ahari ibara ry'icyatsi ku gishushanyo yatanze hagizwe n'ishyamba handitse kuri Baganizi kuri UPI ebyiri ari zo UPI : 3/03/11/03/13904 na UPI : 3/03/11/03/3905, naho UPI zanditswe mu ibara ry'ubururu zikaba ari 28, izi UPI zakaswe mu butaka UPI : 3/03/11/03/637 zose hamwe zikaba ari UPI 30, ari nazo zaburanwaga. Bavuga ko basaba Urukiko gukuraho inkomyi y'uko ibyanditswe muri kopi y'urubanza bidahuye n'ibiri kuri UPI ndetse n'ibiri muri raporo yakozwe n'umutekinisiye wasabwe n'Urukiko, kugira ngo ruzashobore kurangizwa. UKO URUKIKO RUBIBONA [9] Ingingo ya 140 igika cya mbere y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, nk'uko ryahinduwe kugeza ubu, iteganya ko "ikirego gisobanura urubanza kiburanishwa nk'inyandiko nsobanurakirego itanzwe n'umuranyi umwe [...]. Naho igika cya kabiri cy'iyi ngingo giteganya ko "urubanza rusobanura cyangwa rukosora urundi rwuzuzwa urubanza rwasabiwe gusobanurwa cyangwa gukosorwa [...]."

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[10] Ku bijyanye no kumenya ibishingirwaho kugira ngo ikirego gisobanura urubanza cyakirwe, uru rukiko rwabitanzeho umurongo mu rubanza rwa Mukankundiye Agnès Agenesta n'undi aho rwavuze ko igishingirwaho mu kwakira urubanza rusobanura urundi, ari ngombwa kubanza kugaragaza ko icyemezo cyarufashwemo kitumvikana cyangwa giteye urujijo, ku buryo bigoranye kugishyira mu bikorwa. Rwasobanuye kandi ko ibyo biri mu bubasha bw'abacamanza kwemeza ko urubanza rukwiye gusobanurwa, ko icyemezo cyarufashwemo kitumvikana cyangwa giteye urujijo.² [11] Mu rubanza RS/INJUST/RC 00010/2023/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 27/09/2024 rusabirwa gusobanurwa, Urukiko rwemeje ko umutungo wari ufite UPI : 3/03/11/03/637 waje kuvamo izindi UPI abazungura ba Baganizi bigabanyije utigeze utangwaho umunani ukaba ari uw'abazungura ba Ruhabura Jean ukaba ugomba kuzungurwa n'abawufitiye uburenganzira bose nta vangura ribayeho. [12] Urukiko rurasanga ibidasobanutse bigomba gusobanurwa muri uru rubanza ari uko rwemeje ko umutungo wahoze wanditse kuri UPI 3/03/11/03/637 ugarurwa mu mutungo w'abazungura ba Ruhabura Jean, ariko mu kuvuga UPI uwo mutungo waje kugabanywamo hakaba hari izitaravuzwe, bikaba byatera urukjijo mu kurangiza urubanza. [13] Urukiko rurasanga raporo yatanze n'Umubitsi w'Inyandikompamo z'Ubutaka mu Ntara y'Iburengerazuba, mu ibaruwa ye yo ku wa 17/09/2025, igaragaza ibi bikurikira: Ubutaka bwahoze bufite UPI 3/03/11/03/637 bwagabanyijwemo ibice bibiri bifite UPI : 3/03/11/03/3210 na UPI : 3/03/11/03/3211 ku wa 30/03/2017 bisabwe n'abazugura ba Baganizi bahagarariwe na Nzabonimpa Déogratias; Ubutaka bufite UPI 3/03/11/03/3210 bwaje kugabanywamo ibice bibiri bifite UPI : 3/03/11/03/13904 na UPI : 3/03/11/03/13905 ku wa 27/01/2023, bisabwe n'abazugura ba Baganizi bahagarariwe na Nzabonimpa Déogratias; Ku wa 03/01/2018, na none bisabwe n'abazugura ba Baganizi bahagarariwe na Nzabonimpa Déogratias, ubutaka

bufite UPI 3/03/11/03/3211 bwagabanyijwemo ibice 28 bikurikira: UPI : 3/03/11/03/3500, UPI : 3/03/11/03/3501, UPI : 3/03/11/03/3502, UPI : 3/03/11/03/3503, UPI : 3/03/11/03/3504, UPI : 3/03/11/03/3505, UPI : 3/03/11/03/3506, UPI : 3/03/11/03/3507, UPI : 3/03/11/03/3508, UPI : 3/03/11/03/3509, UPI : 3/03/11/03/3510, UPI : 3/03/11/03/3511, UPI : 3/03/11/03/3512,

2 Reba urubanza RS/RECT/RC 00001/2024/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 25/04/2025, haburana Mukankundiye Agnès Agenesta n'undi, igika cya 28-29.

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UPI : 3/03/11/03/3513, UPI : 3/03/11/03/3514, UPI : 3/03/11/03/3515, UPI : 3/03/11/03/3516, UPI : 3/03/11/03/3517, UPI : 3/03/11/03/3518 UPI : 3/03/11/03/3519, UPI : 3/03/11/03/3520, UPI : 3/03/11/03/3521, UPI : 3/03/11/03/3522, UPI : 3/03/11/03/3523, UPI : 3/03/11/03/3524, UPI : 3/03/11/03/3525, UPI : 3/03/11/03/3498 na UPI : 3/03/11/03/3499. [14] Urukiko rurasanga hakurikijwe iyi raporo, UPI 30 zikurikira ari zo zikomoka kuri UPI 3/03/11/03/637: UPI : 3/03/11/03/13904 UPI : 3/03/11/03/13905 UPI 28 zivugwa mu gika cya 13.3. [15] Urukiko rurasanga icyari kigenderewe mu rubanza RS/INJUST/RC00010/2023/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 27/09/2024, ari uko umutungo wari ubaruye kuri UPI 3/03/11/03/637 ugarurwa wose, ukandikwa kuri succession Ruhabura Jean. Rurasanga rero mu cyemezo cy'Urukiko muri urwo rubanza, hari UPI zikomoka kuri UPI 3/03/11/03/637 zitagaragaramo kandi nazo zigomba gushyirwa muri succession Ruhabura Jean. [16] Hashingiwe ku bisobanuro bimaze gutangwa, Urukiko rurasanga hari ibigomba gusobanurwa mu rubanza RS/INJUST/RC 00010/2023/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 27/09/2024, ibyo bikaba ari uko umutungo ugomba kwandikwa kuri succession Ruhabura Jean ugizwe n'ubutaka bwose bukomoka kuri UPI 3/03/11/03/637 nk'uko zagagarajwe mu gika cya 14. III. ICYEMEZO CY'URUKIKO [17] Rwemeje ko ikirego cyatanzwe na Madamu Bernadette na Uwineza Diane gisaba gusobanurwa urubanza RS/INJUST/RC 00010/2023/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 27/09/2024, gifite ishingiro; [18] Rwemeje ko umutungo uvugwa mu gika cya 50 n'icya 57 by'urubanza RS/INJUST/RC00010/2023/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 27/09/2024, ugomba kumvikana ko ari umutungo ukurikira:

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UPI: 3/03/11/03/13904 UPI: 3/03/11/03/13905 UPI: 3/03/11/03/3500, UPI: 3/03/11/03/3501, UPI: 3/03/11/03/3502, UPI: 3/03/11/03/3503, UPI: 3/03/11/03/3504, UPI: 3/03/11/03/3505, UPI: 3/03/11/03/3506, UPI: 3/03/11/03/3507, UPI: 3/03/11/03/3508, UPI: 3/03/11/03/3509, UPI: 3/03/11/03/3510, UPI: 3/03/11/03/3511, UPI: 3/03/11/03/3512, UPI: 3/03/11/03/3513, UPI: 3/03/11/03/3514, UPI: 3/03/11/03/3515, UPI: 3/03/11/03/3516, UPI: 3/03/11/03/3517, UPI: 3/03/11/03/3518 UPI: 3/03/11/03/3519, UPI: 3/03/11/03/3520, UPI: 3/03/11/03/3521, UPI: 3/03/11/03/3522, UPI: 3/03/11/03/3523, UPI: 3/03/11/03/3524, UPI: 3/03/11/03/3525, UPI: 3/03/11/03/3498, UPI: 3/03/11/03/3499. [19] Rwemeje ko uru rubanza rwujuje urubanza RS/INJUST/RC 00010/2023/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 27/09/2024.

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