

RWANDA / JUDGMENT

UBUSHINJACYAHA vs MUGABONAKE

RPAA 00253/2024/CA

COURT

Court of Appeal

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UBUSHINJACYAHA vs MUGABONAKE

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Text

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UBUSHINJACYAHA vs MUGABONAKE [Rwanda URUKIKO RW'UBUJURIRE – RPAA 00253/2024/CA (Rukundakuvuga, P.J.) 13 Ukuboza 2024] Amategeko yerekeye imiburanishirize y'imanza mpanabyaha – ubujurire – ingingo z'ubujurire zitanzwe impitagihe – Ingingo iyo ariyo yose itanzwe nyuma y'ibihe ntarengwa byo kujurira, uretse iyuzuza cyangwa isobanura iyatanzwe mu bihe byemewe byo kujurira, ntigomba kwakirwa ngo isuzumwe n'Urukiko rwajuririwe. Amategeko agenga ibimenyetso – kwemera icyaha – agaciro ko kwemera icyaha – Umucamanza uburanisha urubanza mu mizi niwe ureba agaciro imvugo yiyemerera icyaha mu rwego rw'iperereza ifite, kabone niyo nyirayo yageze imbere y'Urukiko akayihindura. Amategeko mpanabyaha – impamvu nyoroshyacyaha – kugabanya igihano – Umucamanza w'ubujurire ku rwego urwo ari rwo rwose ashobora kugabanyiriza uregwa igihano hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha, n'ubwo impamvu z'ubujurire zaba zitahawe ishingiro Incamake y'ikibazo: Uru rubanza rwatangiye, Ubushinjacyaha burega Mugabonake mu Rukiko Rwisumbuye rwa Muhanga, bumukurikiranyeho icyaha cyo gusambanya umwana, busaba ko kimuhama agahanishwa igifungo cya burundu. Ikirego gikomoka ku kuba Mushimiyimana nyina wa UWC w'imyaka 6 yatahanye kwa Mugabonake, yajya kumwoza agasanga afite ibisebe

n'amashyira ku gitsina, abajije umwana icyo yabaye, amubwira ko ari papa we (Mugabonake) wamubabaje, nyina atanga ikirego mu bugenzacyaha nabwo nyuma y'iperereza bushyiriza dosiye ubushinjacyaha. Mugabonake yaburanye yemera icyaha. Asobanura ko yasambanyije uwo mwana abitewe n'inzoga yari yanyoye yitwa Nguvu, ndetse abisabira imbabazi. Urukiko mu rubanza RP 00741/2020/TGI/MHG, rushingiye ku kuba uregwa yemera icyaha, imvugo z'abatangabuhamya na raporo ya muganga, rwemeje ko Mugabonake ahamwe n'icyaha cyo gusambanya umwana, rumuhanisha igifungo cya burundu. Mugabonake yajuririye imikirize y'urubanza mu Rukiko Rukuru, Urugereko rwa Nyanza, asaba kugabanyirizwa ibihano kuko yemera icyaha. Ku rundi ruhande akavuga mu myanzuro y'inyongera ko yagirwa umwere, ko yahamijwe icyaha atakozwe. Uhagarariye Ubushinjacyaha yagaragaje ko imyanzuro y'inyongera yatanze n'uregwa nyuma y'igihe cyagenwe, idakwiye kwakirwa. Yasobanuye ko ku bindi, uregwa yemeye icyaha kuva mu iperereza no mu Rukiko. Urukiko mu rubanza RPA00840/2020/HC/NYZ, rwasanze imyiregurire ya Mugabonake ivuga ko atasambanyije umwana UWC, kuko agifite akarangabusugi nta shingiro ifite, kuko icyaha cyo gusambanya umwana gishobora gukorwa mu bikorwa bitangiza akarangabusugi. Ruvuga kandi ko ibyo avuga mu myanzuro y'inyongera itavuguruzwa ibimenyetso bimuhamya icyaha kandi ko yayitanze impitagihe, ikaba itanahuye n'imyanzuro y'ubujurire yatanze mbere. Urukiko rwemeza ko imikirize y'urubanza rwajuririwe idahindutse, igihano cy'igifungo cya burundu cyakatiwe Mugabonake kigumishwaho. Mugabonake ntiyishimiye imikirize y'urwo rubanza yongera kurujuririra mu Rukiko rw'Ubujurire, avuga ko Urukiko Rukuru, rutahaye agaciro imyiregurire ye, ahubwo rushingira ku bimenyetso bitagaragaza ukuri. Anenga ko rwashingiye ku buhamya bw'umwana muto n'ubwumugore washakaga kumufungisha, avuga kandi ko raporo ya muganga itagaragaza isano ihamye hagati y'uburwayi bw'umwana n'uruhare rwa Mugabonake. Asaba Urukiko rw'Ubujurire kumugira umwere. Ubushinjacyaha buvuga ko Mugabonake atagaragaje inenge z'urubanza ajuririra n'uburyo zakosorwa nk'uko biteganywa n'amategeko. Buvuga kandi ko impamvu zose yatanze zitavuguruzwa ibimenyetso

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byashingiweho n'inkiko zabanje mu kumuhamya icyaha. Urukiko mu rubanza RPAA00253/2024/CA rwemeje ko ubujurire bwa Mugabonake nta shingiro bufite, ko urubanza rujuririrwa ruhindutse gusa ku bijyanye n'igihano, rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25). Incamake y'icyemezo: 1. Ingingo iyo ariyo yose itanzwe nyuma y'ibihe ntarengwa byo kujurira, uretse iyuzuza cyangwa isobanura iyatanze mu bihe byemewe byo kujurira, ntigomba kwakirwa ngo isuzumwe n'Urukiko rwajuririwe.

2. Umucamanza uburanisha urubanza mu mizi niwe ureba agaciro imvugo yiyemerera icyaha mu rwego rw'iperereza ifite, kabone niyo nyirayo yageze imbere y'Urukiko akayihindura. Bityo, umuburanyi wemeye icyaha mu bugenzacyaha kugera mu Rukiko ntiyahindukira ngo agihakane mu bujurire avuga ko yacyemejwe no gukubitwa.

3. Umucamanza w'ubujurire ku rwego urwo ari rwo rwose ashobora kugabanyiriza uregwa igihano hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha, n'ubwo impamvu z'ubujurire zaba zitahawe ishingiro. Bityo, iyo hari impamvu nyoroshyacyaha, ntacyabuza Urukiko kugabanya ibihano, uwari wahanishijwe igihano cya burundu agahabwa igihano cy'imyaka makumyabiri n'itanu (25). Ubujurire nta shingiro bufite. Urubanza rujuririrwa ruhindutse gusa ku bijyanye n'igihano. Nta mategeko yashingiweho. Imanza zifashishijwe: Urubanza RCOMAA00071/2017/CS haburana Mbuto Aimable na BRD, rwaciwe n'Urukiko rw'Ikirenga ku wa 26/10/2018 urubanza RPAA00061/2023/CA haburana Ubushinjacyaha na Barihima Thomas, rwaciwe ku wa 14/06/2024 Urubanza RPA0010/06/CS - RPA 0011/06/CS - RPA 0012/06/CS, haburana Ubushinjacyaha na Sgt Ntaganira na bagenzi be rwaciwe n'Urukiko rw'Ikirenga ku wa 18/07/2008, igika cya 46. Urubanza RPAA00610/2022/CA, haburana Ubushinjacyaha na Nahimana Christophe rwaciwe n'Urukiko rw'Ubujurire ku wa 25/09/2024 igika cya 13 Urubanza RPAA00039/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 02/07/2021 haburana Ubushinjacyaha na Shakabatenda Jean de Dieu igika cya 38, Urubanza RPAA00478/2022/CA, haburana Ubushinjacyaha na Ndayambaje rwaciwe n'Urukiko rw'Ubujurire ku wa 24/09/2024, igika cya 28. RPAA00081/2023/CA haburana Ubushinjacyaha na Mvuyekure Félicien rwaciwe n'Urukiko rw'Ubujurire ku wa 27/09/2024 Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 28/07/2020, mu Mudugudu wa Kanyinya, Akagari ka Rwasare, Umurenge wa Mushishiro, mu Karere ka Muhanga, uwitwa Mushimiyimana Véronique, umugore wa Mugabonake Vedaste, ubwo yari agiye gukarabya umwana we UWC w'imyaka 6 yatahanye muri urwo rugo, yabonye afite ibisebe n'amashyira ku gitsina, abajije umwana icyo yabaye, amubwira ko n'iyi agiye kwihagarika ababara, kandi ko ari papa we (Mugabonake Vedaste) wamubabaje. Mugabonake Vedaste yarafashwe, atangira gukurikiranwa. Iperereza rirangiye, Ubushinjacyaha bwamureze mu Rukiko Rwisumbuye rwa Muhanga, bumukurikiranyeho icyaha cyo gusambanya umwana, busaba ko kimuhama agahanishwa igifungo cya

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burundu. Mugabonake Vedaste yaburanye yemera icyaha. Asobanura ko yasambanyije uwo mwana abitewe n'inzoga yari yanyoye yitwa Nguvu, ndetse abisabira imbabazi. [2] Mu rubanza no RP00741/2020/TGI/MHG rwaciwe ku wa 19/08/2020, Urukiko Rwisumbuye rwa Muhanga rushingiye ku kuba uregwa yemera icyaha, imvugo za Mushimiyimana Véronique (nyina w'umwana), imvugo z'umwana wahohotewe, imvugo z'umutangabuhamya witwa Mukantaganda Thérèse na raporo ya muganga igaragaza ko n'ubwo umwana yari agifite akarangabusugi, ariko mu gitsina cye havagamo ibintu binuka by'amashyira, rwemeje ko Mugabonake Vedaste ahamwe n'icyaha cyo gusambanya umwana, rumuhanisha igifungo cya burundu. [3] Mugabonake Vedaste yajuririye imikirize y'urubanza mu Rukiko Rukuru, Urugereko rwa Nyanza, asaba kugabanyirizwa ibihano kubera ko yakomeje kwemera icyaha. Icyakora, mu myanzuro y'inyongera no mu Rukiko, yasabye kugirwa umwere, avuga ko yahamijwe icyaha atakoze. Uhagarariye Ubushinjacyaha yagaragaje ko imyanzuro y'inyongera yatanze n'uregwa nyuma y'igihe cyagenwe, idakwiye kwakirwa. Yasobanuye ko ku bindi, uregwa yemeye icyaha kuva mu

iperereza no mu Rukiko kandi ko ibyo atabivuguruza. [4] Mu rubanza RPA00840/2020/HC/NYZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Nyanza ku wa 06/03/2024, Urukiko rwasanze imyiregurire ya Mugabonake Vedaste ivuga ko atasambanyije umwana kuko agifite akarangabusugi nta shingiro ifite, kuko icyaha cyo gusambanya umwana gishobora gukorwa mu bikorwa bitangiza akarangabusugi. Ku bindi bisobanuro byagaragajwe mu myanzuro y'inyongera, birimo kuba ababajijwe baravuze ibyo babwiwe, kuba yarakubiswe mu gihe cy'iperereza, kuba ibyo aregwa ari ibihimbano bituruka ku makimbirane n'umugore we, ndetse no gusaba Urukiko gukora iperereza; Urukiko rwasanze ibyo bisobanuro bidashobora kuvuguruza ibimenyetso bimuhamyaga icyaha, byongeye, iyo myanzuro ikaba yatanze impitagihe kandi ikaba idahuye n'imyanzuro y'ubujurire yatanze mbere, aho yemeraga icyaha agasaba kugabanyirizwa ibihano. Urukiko rwemeje ko imikirize y'urubanza rwajuririwe idahindutse, igihano cy'igifungo cya burundu cyakatiwe Mugabonake Vedaste kigumaho. [5] Mugabonake Vedaste ntiyishimiye imikirize y'urubanza ajurira mu Rukiko rw'Ubujurire, urubanza rwe ruhabwa RPAA00253/2024/CA. Iburanisha mu ruhamye ryashyizwe ku wa 03 Ukuboza 2024, uwo munsu ugeze Mugabonake Vedaste yitaba yunganiwe na Me Ruturwa Rumande Esron naho Ubushinjacyaha buhagarariye na Butera Oscar, Umushinjacyaha ku rwego rw'Igihugu. [6] Mu bujurire bwe Mugabonake Vedaste, avuga ko Urukiko Rukuru, Urugereko rwa Nyanza rutahaye agaciro imyiregurire ye, ahubwo rushingira ku bimenyetso bitagaragaza ukuri. Mu byo anenga harimo ubuhamya bw'umwana muto, avuga ko bwagombaga gushyigikirwa n'ibindi bimenyetso bifatika, ariko ibyo bimenyetso bikaba bifite inenge. Agaragaza ko ubuhamya bwashingiweho bwatanze n'umugore we washakaga kumufungisha, naho raporo ya muganga ikaba itagaragaza isano ihamye hagati y'uburwayi bw'umwana n'uruhare rwa Mugabonake Vedaste. Asaba Urukiko rw'Ubujurire kubisuzumana ubushishozi akagirwa umwere. [7] Ubushinjacyaha bushingiye ku ngingo ya 183 y'itegeko No 027/2019, buvuga ko Mugabonake Vedaste atagaragaje inenge z'urubanza ajurira n'uburyo zakosorwa nk'uko biteganywa n'amategeko. Buvuga kandi ko impamvu zose yatanze zitavuguruza ibimenyetso byashingiweho n'inkiko zabanje mu kumuhamya icyaha, birimo ukwiyeemerera icyaha kuva mu Bugenzacyaha kugeza mu Rukiko, imvugo z'umwana wahohotewe n'iza nyina na raporo ya muganga yerekana ibimenyetso bifatika byemeza ko umwana yandujwe indwara. [8] Muri uru rubanza harasuzumwa ibibazo bikurikira : Kumenya niba hari inenge ziri mu rubanza rujuririrwa zatumye imikirize yarwo ihinduka.

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Kumenya niba hari ikosa Urukiko rwabanje rwakoze mu gushingira icyemezo cyarwo ku kwemera icyaha Mugabonake Vedaste yakoreye mu iperereza no mu Rukiko Rwisumbuye
Kumenya niba Mugabonake Vedaste yagabanyirizwa ibihano. II. ISESENGURA RY'IBIBAZO
BIGIZE URUBANZA

- a. Kumenya niba hari inenge ziri mu rubanza rujuririrwa zatumye imikirize yarwo ihinduka. [9] Mugabonake Vedaste avuga ko yajuriye asaba kugirwa umwere kuko yahamijwe icyaha cyo gusambanya umwana kandi ntacyo yakoze. Avuga ko Urukiko rwirengagije ukwisobanura kwe, kuko yagaragaje ko atari gusambanya umwana w'imyaka itandatu ngo akarangabusugi ke ntikangirike, cyane cyane ko na Raporo ya muganga yerekanye ko nta kintu cyinjye mu

gitsina cy'umwana, kandi uburwayi bamusanganye bukaba bushobora guterwa n'ibintu bitandukanye birimo n'isuku nke. Anenga kuba nawe atarapimwe ngo bigaragare ko hari isano yaba afitanye n'ubwo burwayi bwagaragaye ku mwana. Anenga kandi ubuhamya bw'umwana kuko nk'uko biteganywa n'amategeko butagombaga gushingirwaho budashyigikiwe n'ibindi bimenyetso bifatika. Agasobanura ko ubuhamya bw'umugore we burimo kumubeshyera agamije kumufungisha kugira ngo asubirane n'uwo babyaranye umwana ashinjwa gusambanya. [10] Me Ruturwa Rumande Esron umwunganira ashimangira ko icyaha Mugabonake Vedaste ashinjwa gishingiye ku kinyoma cy'umugore we wifuzaga ko afungwa kugira ngo ajye kwibanira na se w'uwo mwana. Yongeraho ko nyuma yo gufungwa, umugore yahise abana n'uwo mugabo mu mutungo wa Mugabonake Vedaste. Asobanura ko ibigize icyaha cyo gusambanya umwana bituzuye kuko nta bushake bwo gukora icyaha bugaragazwa n'Ubushinjacyaha, ko nta kimenyetso kigaragaza ko Mugabonake Vedaste yagambiriye gukora icyaha, uretse amagambo adafitiwe gihamya, ndetse nta n'ibimenyetso bifatika byatanze bimuhamya icyaha ashinjwa. Asoza avuga ko kuri we, kuba mu rubanza rujurirwa urukiko rutarashingiye kuri ibi bisobanuro ubwabyo bikurikije amategeko kuko Urukiko rutari guhera ku myanzuro yaje impitagihe. [11] Ubushinjacyaha bushingiye ku biteganywa n'ingingo ya 183 y'Itegeko No 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, mu gace kayo ka 5° n'aka 6°, buvuga ko Mugabonake Vedaste atabasha kugaragaza inenge ziri mu rubanza yajuririye ngo anagaragaze uburyo zakosorwa. Busobanuro ko impamvu zose ashingiraho ajurira zitavuguruzwa ibyasobanuwe mu rubanza yajuririye mu gika cyarwo cya [10], cyane ko mu kumuhamya icyaha mu nkiko zombi, hashingiwe ku kuba yaremeye icyaha kuva mu Bugenzacyaha kugeza mu Rukiko Rukuru, ndetse uko kwemera icyaha kugashimangirwa n'ibindi bimenyetso bigizwe n'imvugo z'umwana wahohotewe, iza nyina w'umwana wahohotewe na raporo ya muganga, busanga kuba ari we ufite inshingano zo kuvuguruzwa ibyasobanuwe n'Urukiko rubanza ariko akaba atabivuguruzwa, ubujurire bwe nta shingiro bukwiye guhabwa. UKO URUKIKO RUBIBONA [12] Impaka kuri iyi ngingo zishingiye ku kumenya niba Urukiko Rukuru/urugereko rwa Nyanza rwarakoze ikosa mu kudaha agaciro ibisobanuro Mugabonake Vedaste yatanze mu mwanzuro w'inyongera agamije guhakana icyaha. [13] Ikibazo cy'igihe impamvu z'ubujurire zigomba gutangirwa, cyatanzweho umurongo n'Urukiko rw'Ikirenga mu rubanza RCOMAA 00071/2017/CS rwaciwe ku wa 26/10/2018 haburana Mbuto Aimable na BRD, wakurikijwe mu zindi manza zaciwe nyuma harimo n'imanza nshinjabyaha, nk'urubanza n° RPAA 00061/2023/CA rwaciwe ku wa 14/06/2024 haburana Ubushinjacyaha na Barihima Thomas. Muri izo manza zose inkiko zemeje ko ingingo iyo ariyo yose itanzwe nyuma y'ibihe ntarengwa byo kujurira, uretse iyuzuzwa cyangwa isobanura iyatanzwe mu bihe byemewe byo kujurira, itagomba kwakirwa.

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- [14] Nk'uko bigaragara ku rwego rubanza Mugabonake Vedaste yahamijwe icyaha cyo gusambanya umwana hashingiwe ku kuba yemera icyaha, ku mvugo y'umwana wahohotewe umushinja, ku mvugo ya nyina w'umwana yemeza ko umwana yamubwiye ko ari

Mugabonake Vedaste wamusambanyije, na raporo ya muganga igaragaza ko n'ubwo umwana agifite akarangabusugi ariko mu gitsina cye havagamo ibintu binuka by'amashyira. [15] Mu rubanza rujuririrwa, Mugabonake Vedaste yajuriye asaba Urukiko kugabanyirizwa ibihano kuko yemera icyaha, atanga n'umwanzuro w'inyongera ku wa 09/06/2022, asaba kugirwa umwere kuko nta cyaha yakoze, ndetse ibyo yemeye yabyemejwe n'inkoni yakubitwaga. Urukiko rwasanze icyaha cyo gusambanya umwana gishobora gukorwa ariko akarangabusugi ntikangirike, naho ibyo yagaragaje mu mwanzuro w'inyongera avuga ko ababajijwe bavuze ibyo babwiwe, kuba yarakubiswe mu gihe cy'iperereza, kuba ibyo aregwa ari ibihimbano bituruka ku makimbirane n'umugore we, no gusaba Urukiko gukora iperereza; biri mu myanzuro yatanze impitagihe ndetse ikaba idahuye n'imyanzuro y'ubujurire yatanze mbere yemeraga icyaha agasaba kugabanyirizwa ibihano, bituma rwemeza ko ubujurire bwe nta shingiro bufite. [16] Urukiko rw'ubujurire rusanga nk'uko bigaragara mu miburanire ya Mugabonake Vedaste, impamvu z'ubujurire atanga anenga imikirize y'urubanza ajuririra, zose azishingira ku mpamvu yari yatanze mu mwanzuro w'ubujurire utarasuzumwe n'Urukiko kuko yawutanze ku wa 09/06/2022 kandi urubanza rwaraciwe ku wa 06/03/2024 bivuze ko yawutanze nyuma y'amezi agera muri 3 urubanza ruciwe, bituma Urukiko rudasuzuma impamvu ziwukubiyemo kuko zatanzwe impitagihe. [17] Urukiko rw'Ubujurire rusanga rero impamvu z'ubujurire Mugabonake Vedaste atanga, anenga icyemezo cyafashwe n'Urukiko Rukuru zijyanye no kuba yarahamijwe icyaha atakoze, ko kuba akarangabusugi k'umwana katarangiritse bisobanura ko atasambanyijwe, kuba indwara basanganye umwana zitandurira mu gusambanywa gusa kandi ko nawe atapimwe ngo harebwe ko azifite, kandi ko ubuhamya bw'umwana butari gushingirwaho budashimangiwe n'ibindi bimenyetso no kuba nyina w'umwana umushinja bafite icyo bapfa; ari nazo yatanze mu bujurire ntizakirwa kuko yazitanze impitagihe, akaba rero atazishingiraho ngo anenge icyemezo cyafashwe, dore ko n'umwunganira yavugiyemo mu iburanisha ko ntacyo banenga urubanza rwaciwe ku bijyanye n'amategeko kuko umwanzuro w'inyongera watanze impitagihe.

- b. Kumenya niba hari ikosa Urukiko rwabanje rwakoze mu gushingira icyemezo cyarwo ku kwemera icyaha, Mugabonake Vedaste yakoreye mu iperereza no mu Rukiko Rwisumbuye [18] Mugabonake Vedaste n'umwunganizi we Me Ruturwa Rumande Eron bavuga ko atigeze yemera icyaha kuva yafatwa, ko ibyo yemeye mu Bugenzacyaha yabitewe n'inkoni, naho mu Bushinjacyaha no mu Rukiko bamwandikira ibyo atavuze, bagendeye ku mvugo zo muri RIB kandi we atazi gusoma, naho imyanzuro y'ubujurire yatanze mu Rukiko Rukuru uwayimwandikiye yanditse ibyo atomubwiye, kuko yabyanditse we ari mu kato arwaye COVID-19, ntiyamenya ibyo yamwandikiye, akaba ariyo mpamvu nyuma yakoze indi myanzuro ibivuguruza. [19] Ubushinjacyaha buvuga ko ibivugwa na Mugabonake Vedaste ko yakubiswe, nta gaciro byahabwa kuko nta bimenyetso abitangira, akaba atagaragaza uwamukubise n'aho yivuye kuko icyaha yakomeje no kucyemera mu Bushinjacyaha no mu Rukiko aburana ku rwego rwa mbere, ibyo bavuga ko atazi gusoma ko bamwandikiye ibitari byo nabyo nta shingiro bifite, busaba ko hagumaho imikirize y'urubanza rwajuririwe. UKO URUKIKO RUBIBONA [20] Impaka kuri iyi ngingo zishingiye ku kumenya agaciro kahabwa

ukwemera icyaha kwa Mugabonake Vedaste mu gihe yageze imbere y'Urukiko akaguhakana.

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- [21] Ibijyanye n'agaciro gahabwa imvugo z'uregwa wemeye icyaha mu nzego z'iperereza yagera imbere y'Urukiko akagihakana, Urukiko rw'Ikirenga rwabitanzeho umurongo mu rubanza RPA0010/06/CS - RPA0011/06/CS - RPA0012/06/CS, rwaciwe ku wa 18/07/2008, haburana Ubushinjacyaha na Sgt Ntaganira na bagenzi be igika cya 46. Muri urwo rubanza Urukiko rwasobanuye ko : « umucamanza uburanisha urubanza mu mizi ari we ureba agaciro imvugo yiyemerera icyaha mu rwego rw'iperereza ifite, kabone niyo nyirayo yageze imbere y'Urukiko akayihindura" Uyu murongo kandi wafaswe no mu zindi manza zaciwe n'uru Rukiko, uruherutse akaba ari urubanza RPAA00610/2022/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 25/09/2024 Ubushinjacyaha buburana na Nahimana Christophe (igika cya 13). [22] Nk'uko dosiye y'urubanza ibigaragaza, Mugabonake Vedaste abazwa mu bugenzacyaha ku wa 01/07/2020 yavuze ko yemera icyaha cyo gusambanya umwana w'umugore we, asobanura ko yamusambanyije mu matariki ya mbere y'ukwezi kwa gatanu aryamye ku gasambi, abana baraza bamuryama iruhande, aramusambanya kuko yari yasinze. Mu ibazwa rya Mugabonake Vedaste mu Bushinjacyaha nabwo yemeye icyaha avuga ko yasambanyije uwo mwana abitewe n'inzoga. Mu Rukiko Rwisumbuye rwa Muhanga, Mugabonake Vedaste yaburanye avuga ko yemera icyaha, asobanura ko yasambanyije uwo mwana abitewe n'inzoga yari yanyweye yitwa Nguvu, abisabira imbabazi. [23] Bigaragara kandi ko mu mwanzuro w'ubujurire Mugabonake Vedaste yashyikirije Urukiko Rukuru, Urugereko rwa Nyanza ku wa 17/09/2020 yagaragazaga ko asaba imbabazi abikuye ku mutima, agasaba Urukiko ko rwamugabanyiriza igihano rushingiye ku kuba yemera icyaha ku buryo budashidikanywaho no kuba ari ubwa mbere akoze icyaha, naho mu mwanzuro w'inyongera yatanze yavugaga ko nta cyaha yakoze agasaba kugirwa umwere avuga ko ibyo yemeye yabyemejwe n'inkoni, ko mu Rukiko no mu mwanzuro w'ubujurire bamwandikiye ibyo atavuze kuko atazi gusoma, iyo miburanire akaba ari nayo yakomeje ajurira muri uru Rukiko. [24] Urukiko rw'Ubujurire rurasanga nk'uko bigaragara kuva mu nzego z'iperereza mu Bugenzacyaha no mu Bushinjacyaha, Mugabonake Vedaste yaremeye icyaha asobanura n'uko yagikoze, akomeza kucyemera no mu Rukiko Rwisumbuye rwa Muhanga, ajurira acyemera, ariko nyuma mu myanzuro y'inyongera no muri uru Rukiko aburana ahakana icyaha, asaba kugirwa umwere kuko nta cyaha yakoze. Urukiko rurasanga ariko imvugo za Mugabonake Vedaste yavugiye mu nzego z'iperereza yemera icyaha zitateshwa agaciro n'ubwo nyuma yazihakanye, hashingiwe ku murongo watanzwe mu manza zagaragajwe haruguru, kuko no mu Rukiko Rwisumbuye rwa Muhanga yakomeje no kucyemera akanasobanura neza uko byagenze nta gahato ashyizweho. [25] Urukiko rw'Ubujurire rurasanga kandi ibyo Mugabonake Vedaste n'umwunganizi we bavuga ko mu nzego z'iperereza icyaha yacyemejwe n'inkoni kandi ko mu Rukiko Rwisumbuye rwa Muhanga no mu mwanzuro we ajurira mu Rukiko Rukuru/Urugereko rwa Nyanza bamwandikiye ibyo atavuze kuko atazi gusoma nta shingiro bifite kuko nta kigaragaza ko yakubiswe uretse kubivuga gusa. Ikindi kigaragaza ko ibyo avuga nta shingiro bifite ni uko

uko kwemera icyaha yagukoreye no mu Rukiko Rwisumbuye rwa Muhanga ndetse no mu myanzuro ye ajurira abisubiramo, bikaba bidashoboka ko mu Rukiko yaba yarandikiwe ibyo atavuze ngo anarenge abishyire no mu myanzuro ye y'ubujurire mu Rukiko Rukuru.

c.Kumenya niba MUGABONAKE Vedaste yagabanyirizwa [26] Me Ruturwa Rumande Esron asaba Urukiko gusuzuma ibimenyetso byose neza, maze rukarenganura Mugabonake Vedaste, kandi ko mu gihe rwabibona ukundi rwashingira ku ngingo ya 49 y'itegeko N°68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, igena ibijyanye no guhana hakurikijwe uburemere bw'icyaha, ingaruka zacyo, n'imitwarire y'uregwa, rukazirikana ko ari ubwa mbere Mugabonake Vedaste akurikiranwe n'inzego z'ubutabera, kandi asanzwe afite imyitwarire myiza.

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- [27] Ubushinjacyaha buvuga ko impamvu z'ubujurire zatanze na MUGABONAKE Vedaste nta shingiro zifite, busaba Urukiko kwemeza ko urubanza rwajuririwe rugumana agaciro karwo mu ngingo zose. UKO URUKIKO RUBIBONA [28] Impaka kuri iyi ngingo zishingiye ku kumenya niba Mugabonake Vedaste ashobora kugabanyirizwa igihano. [29] Ibijyanye no kuba Urukiko rwagabanyiriza uregwa igihano byatanzweho umurongo n'Urukiko rw'Ubujurire mu rubanza RPAA00039/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 02/07/2021 haburana Ubushinjacyaha na Shakabatenda Jean de Dieu igika cya 38, uwo murongo akaba ari nawo wakomeje gukoreshwa mu manza zaciwe n'uru Rukiko zirimo n'Urubanza RPAA00478/2022/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 24/09/2024 haburana Ubushinjacyaha na Ndayambaje (igika cya 28). Muri izi manza zose Urukiko rwemeje ko umucamanza w'ubujurire ku rwego urwo ari rwo rwose ashobora kugabanyiriza uregwa igihano hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha, n'ubwo impamvu z'ubujurire zaba zitahawe ishingiro. [30] Ku bijyanye n'uru rubanza, dosiye igaragaza ko Mugabonake Vedaste yakozwe icyaha afite imyaka 36 y'amavuko, naho umwana wasambanyijwe akaba yari afite imyaka 6 y'amavuko. Mu rubanza rujuririrwa Urukiko rukaba rwarasanze Mugabonake Vedaste ahamwe n'icyaha cyo gusambanya umwana rwemeza ko imikiriye y'urubanza rwajuririwe idahinduka, ko igihano cy'igifungo cya burundu yahanishijwe ku rwego rwa mbere kigumyeho. [31] Urukiko rw'Ubujurire rwaciye imanza zitandukanye ku bantu baregwaga icyaha cyo gusambanya umwana umuntu ashinzwe kurera nk'icyo Mugabonake Vedaste akurikiranyweho. Muri zo uruhuruka ni urubanza RPAA00081/2023/CA rwaciwe ku wa 27/09/2024 haburana Ubushinjacyaha na Mvuyekure Félicien. Muri urwo rubanza uregwa yari afite imyaka 36, asambanya umwana w'umugore we yari ashinzwe kurera w'imyaka umunani (8), Urukiko rumugabanyiriza igihano rushingiye ku mpamvu z'uko ari ubwa mbere akurikiranweho icyaha mu buryo buzwi, rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25) aho kuba igifungo cya burundu. Kimwe no muri urwo rubanza, Mugabonake Vedaste nawe afite 36, akaba yarasambanyije umwana w'umugore we w'imyaka 6 ; bikaba bigaragara ko bombi bangana, bakaba barasambanyije abana bari mu kigero kijya kungana. Kubera izo mpamvu, mu rwego rwo gutanga ibihano bimwe ku bibazo bisa, Mugabonake Vedaste nawe akaba

agomba kugabanyirizwa igihano, agahanishwa igifungo cy'imyaka makumyabiri n'itanu (25), aho kuba igifungo cya burundu yari yahanishijwe mu rubanza rujuririrwa. III.ICYEMEZO CY'URUKIKO [32] Rwemeje ko ubujurire bwa Mugabonake Vedaste nta shingiro bufite ; [33] Rwemeje ko urubanza RPA00840/2020/HC/NYZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Nyanza kuwa 06/03/2024, ruhindutse gusa ku bijyanye n'ibihano Mugabonake Vedaste yahanishijwe n'Urukiko rubanza [34] Ruhanishije Mugabonake Vedaste igifungo cy'imyaka makumyabiri n'itanu (25) ; [35] Rutegetse ko Mugabonake Vedaste asonewe gutanga amagarama y'urubanza kuko aburana afunze.

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