

RWANDA / JUDGMENT

MUKADISI N'ABANDI v NZARORISHYEREZO

RS/INJUST/RC 00014/2018/SC

COURT

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MUKADISI N'ABANDI v NZARORISHYEREZO

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Text

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MUKADISI N'ABANDI v NZARORISHYEREZO [Rwanda URUKIKO RW'IKIRENGA – RS/INJUST/RC 00014/2018/SC (Mukamulisa, P.J., Hitiyaremye, Nyirinkwaya, Muhumuza na Rukundakuvuga) 09 Mata 2021] Amategeko agenga imanza mbonezamubano – Ubutaka – Inkomoko y'ubutaka bw'umuntu ku giti cye – Uregera ko ubutaka ko ari ubwe agomba kugaragaza inkomoko yabwo. Incamake y'ikibazo: Mukadisi na Mukandekazi ni bene Makuba na Rushigajiki, naho Mukakarihira, Gatera, Vuningoma na Rusagara, bakaba ari abuzukuru ba Makuba na Rushigajiki. Makuba yagize undi mugore muto witwa Nyirabazungu babyarana abana barimo Nzarorishyerezo, Mukandamye na Habiyaakare witabye Imana ariko asiga umugore we Mukandane. Mukadisi na Mukandekazi n'abuzukuru ba Makuba, bareze Nzarorishyerezo na Mukandamye bakomoka kuri Nyirabazungu babaregana n'umukazana we Mukandane, babarega mu Rukiko rw'Ibanze rwa Byumba basaba kuzungura umutungo wasizwe na Makuba na Rushigajiki aho bavugaga ko ababyeyi babo bamaze gupfa, umutungo ugizwe n'imirima 4 n'amashyamba 3 wigaruriwe n'abana b'umugore muto bahagarariwe na Nzarorishyerezo. Urukiko

rwemeje ko ikirego cyabo nta shingiro gifite kubwo kubura ibimenyetso by'ibyo baregera, bajurira mu Rukiko Rwisumbuye nanone batsindwa no kubura ibimenyetso byerekana ko abaregwa bafite imitungo yasizwe na Rushigajiki. Mukadisi na bagenzi be basabye ko urwo rubanza rwasubirwamo ku mpamvu z'akarengane hanyuma Urukiko rw'Ikirenga rurusubiramo hasuzumwa ikibazo cyo kumenya niba hari imitungo yasizwe na Makuba na Rushigajiki yigaruriwe na Nzarorishyerezo na bagenzi be bo ku ruhande rw'umugore muto.

Abasubirishijemo urubanza bavuga ko hari imitungo yasizwe na Makuba na Rushigajiki yigaruriwe na Nzarorishyerezo na bagenzi be baregwa bakaba basaba ko bayizungura. Abaregwa bo barabihakana bakavuga ko nta mitungo yasizwe na Makuba na Rushigajiki yigaruriwe na Nzarorishyerezo na bagenzi be baregwa kubera ko imitungo yose bafite bayikomora kuri nyina Nyirabazungu. Abatangabuhamya babajijwe n'urukiko bese bemeje ko Makuba yari afite abagore 2 ari bo Rushigajiki na Nyirabazungu, kandi ko buri mugore yagiraga imitungo ye harimo imirima n'amashyamba yigengagaho ndetse ko mu izungura, abana bahererezwaga ku mitungo yahoze ari iya nyina. Incamake y'icyemezo: 1. Urega agomba kugaragaza ibimenyetso by'ibyo aregera. Iyo abibuze, uwarezwe aratsinda bityo Nta mitungo yasizwe na Makuba na Rushigajiki yigaruriwe na Nzarorishyerezo na bagenzi be bo ku ruhande rwa Nyirabazungu nk'uko bivugwa na Mukadisi na bagenzi be kubera ko byavugurujwe n'atangabuhamya.

2. Uregera ko ubutaka ari ubwe agomba kugaragaza inkomoko yabwo bityo Nzarorishyerezo na bagenzi be bagomba kugumana imitungo iburanwa kubera ko bayitunze mu buryo bukurikije amategako agenga ubutaka.

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Ikirego cyatanze na Mukadisi na bagenzi be basaba gusubirishamo ku mpamvu z'akarengane urubanza No RCA 0389/13/TGI/GIC nta shingiro gifite. Imikirize y'urubanza rwasabiwe gusubirishwamo ntihindutse. Amategako yashingiweho: Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 12, 111. Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 65. Amategako yifashishijwe atagikoreshwa Itegeko N° 43/2013 ryo kuwa 16/06/2013 rigenga ubutaka mu Rwanda, ingingo ya 10, 21. Nta manza zifashishijwe Urubanza I. IMITERERE Y'URUBANZA [1] Mukadisi Didacienne na Mukandekizi Euphrasie ni bene Makuba na Rushigajiki, naho Mukakarihira Alivera, Gatera Juvenal, Vuningoma Anastase na Rusagara Sylvere n'abavandimwe babo bahagarariye muri uru rubanza, bakaba ari abuzukuru ba Makuba na Rushigajiki. Makuba yari yarashatse undi mugore utari uw'isezerano ari we Nyirabazungu babyarana abana barimo Nzarorishyerezo Célestin, Mukandamage na Habiyakare witabye Imana ariko asiga umugore we Mukandane. [2] Mukadisi Didacienne, Mukandekizi Euphrasie, Mukakarihira Alivera, Gatera Juvenal, Vuningoma Anastase na Rusagara Sylvere bareze Nzarorishyerezo Célestin na Mukandamage bakomoka kuri Nyirabazungu babaregana n'umukazana we Mukandane mu Rukiko rw'Ibanze rwa Byumba, basaba kuzungura umutungo wasizwe na Makuba na Rushigajiki aho bavugaga ko nyina Rushigajiki amaze gupfa, umutungo yigengagaho ugizwe n'imirima 4 n'amashyamba 3 wasigaranwe n'umugabo we Makuba ariko nawe amaze gupfa, uwo mutungo wigarurirwa n'abana

b'umugore muto bahagarariwe na Nzarorishyerezo Célestin bitwaje ko abakomoka kuri Rushigajiki ari abakobwa gusa. Abaregwa bo bakavuga ko nta mitungo y'abakomoka kuri Rushigajiki bafite. [3] Mu rubanza No RC 0160/12/TB/BY rwaciwe ku wa 21/11/2013, Urukiko rw'Ibanze rwa Byumba rwemeje ko ikirego cyabo nta shingiro gifite, rushingiye ku kuba nta bimenyetso bafite bigaragaza ko abaregwa batunze umutungo wasizwe n'ababyeyi babo ari bo Makuba na Rushigajiki. [4] Mukadisi na bagenzi be bajuririye mu Rukiko Rwisumbuye rwa Gicumbi, bavuga ko Urukiko rw'Ibanze rwa Byumba rwirengagije ko basabaga kuzungura imitungo yo ku ruhande rwa Rushigajiki yigaruriwe n'abana bo ku ruhande rwa Nyirabazungu, bitwaje ko ari abakobwa,

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kandi ko rwirengagije ko nta zungura rishingiye ku irage ryigeze ribaho, ngo ribe ari ryo ryaba ryarahaye abaregwa uwo mutungo. [5] Mu rubanza No RCA 0389/13/TGI/GIC rwaciwe ku wa 14/03/2014, Urukiko Rwisumbuye rwa Gicumbi rwemeje ko ikirego cy'ubujurire cyatanze na Mukadisi Didacienne na bagenzi be nta shingiro gifite, ko imikirize y'urubanza No RC 0160/12/TB/BY idahindutse kubera ko abarega batabashije kugaragaza ibimenyetso byerekana ko abaregwa bafite imitungo yasizwe na Rushigajiki wari umugore w'isezerano. [6] Mukadisi Didacienne ahagarariye bagenzi be yandikiye Urwego rw'Umuwunyoni asaba ko urubanza No RCA 0389/13/TGI/GIC rusubirwamo ku mpamvu z'akarengane maze nyuma yo kurusesengura, Urwego rw'Umuwunyoni rwandikira Perezida w'Urukiko rw'Ikirenga rusaba ko urubanza No RCA 0389/13/TGI/GIC rwaciwe n'Urukiko Rwisumbuye rwa Gicumbi rusubirwamo ku mpamvu z'akarengane. [7] Nyuma yo kurusesengura, Perezida w'Urukiko rw'Ikirenga ashingiye kuri Raporo y'Ubugenzuzi Bukuru bw'Inkiko, yemeje ko urwo rubanza rusubirwamo maze rwandikwa kuri No RS/INJUST/RC 00014/2018/SC. [8] Uru rubanza rwaburanishijwe mu ruhame ku wa 12/10/2020, Mukadisi na bagenzi be bahagarariwe na Me Nkuriyingoma Jean Damascène naho Nzarorishyerezo Célestin, Mukandamage na Mukandane bahagararirwa na Me Rutaganira Alexandre ariko ntirwapfundikirwa kuko Urukiko rwasanze ari ngombwa ko ababuranyi n'abavoka babo bafatanyije n'ubuyobozi bw'inzego z'ibanze bajya aho ikiburanwa kiri, bakazagaruka mu Rukiko bafite ibipimo by'imitungo iburanwa, aho iherereye n'ibyangombwa byayo (aho bishoboka), uyitunze n'aho ayikomora n' abahana imbibi nayo. [9] Urubanza rwasubukuwe kuwa 12/10/2020, Mukadisi na bagenzi be baburanirwa na Me Nkuriyingoma Jean Damascène naho Nzarorishyerezo Célestin, Mukandamage na Mukandane bahagararirwa na Me Rutaganira Alexandre, Urukiko rwumva imvugo z'ababuranyi ku bijyanye n'imitungo iburanwa, aho iherereye, uyifite n'aho ayikomora, rwemeza ko Rugerinyange, Munyabarenzi na Mukeshimana bagobokeshwa muri uru rubanza kubera ko batigeze barubamo ababuranyi kandi bafite imwe mu mitungo iburanwa, runategeka ko ruzakora iperereza rukagera aho imitungo iburanwa iri mu rwego kumenya ukuri. [10] Kuwa 10/12/2020, Urukiko rw'Ikirenga rwageze aho ikiburanwa kiri, nyuma yo kugenzura ahaburanwa rubifashijwemo n'abaturanyi rwahasanze, rwabajije ababuranyi niba batahitamo ko ibibazo byabo bikemurwa mu bwumvikane nk'uko biteganywa n'ingingo ya 9 igika cya 3 y'Itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsi, barabyanga. 1 Ingingo ya 100

y'Itegeko N° 15/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko "Igihe cyose iburanisha ritararangira, urukiko rushobora gutegeka iperereza ku rubanza rubyibwirije cyangwa rubisabwe n'umwe mu baburanyi. Rushobora kandi kwemeza kuja aho ikiburanwa kiri cyangwa se rugatuma umwe mu bacamanza baburanishije urwo rubanza kugirango arukorere uwo murimo. 2 Iyo ngingo iteganya ko:" ... umucamanza ashobora gushishikariza ababuranyi gukoresha ubwunzi iyo abona ko aribwo buryo buboneye mu kurangiza impaka...". 2 Iyo ngingo iteganya ko:" ... umucamanza ashobora gushishikariza ababuranyi gukoresha ubwunzi iyo abona ko aribwo buryo buboneye mu kurangiza impaka...".

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[11] Kuwa 15/03/2021, urubanza rwarasubukuwe, Me Nkuriyingoma Jean Damascène ahagarariye Mukadisi na bagenzi be naho Me Rutaganira Alexandre ahagararira Nzarorishyerezo Célestin, Mukandamage na Mukandane baregwa, anahagararira Rugerinyange, Munyabarenzi na Mukeshimana bagobokeshejwe muri uru rubanza, ababuranyi bajya impaka ku bivugwa n'abaregwa ko hari imitungo yasizwe na Makuba na Rushigajiki yigaruriwe na Nzarorishyerezo na bagenzi be bo ku ruhande rw'umugore muto. II. ISESENGURWA RY'IBIBAZO BIGIZE URUBANZA

1. Kumenya niba hari imitungo yasizwe na Makuba na Rushigajiki yigaruriwe na Nzarorishyerezo na bagenzi be bo ku ruhande rwa Nyirabazungu: [12] Me Nkuriyingoma Jean Damascène uhagarariye Mukadisi Didacienne na bagenzi be avuga ko hari imitungo yasizwe na Makuba na Rushigajiki yigaruriwe na Nzarorishyerezo na bagenzi be baregwa, iyo mitungo ikaba igizwe n'imirima 4 harimo umurima (itongo rya Rushigajiki) uherereye Nyamwijima mu Mudugudu wa Kararama, Akagali ka Mabare, Umurenge wa Rukomo, Akarere ka Gicumbi, Intara y'Amajyaruguru ufitwe na Munyabarenzi (Umwuzukuru wa Nyirabazungu), umurima uherereye mu Mudugudu wa Rumarangoga, Akagali ka Mabare, Umurenge wa Rukomo, Akarere ka Gicumbi, Intara y'Amajyaruguru ufitwe na Mukandane, umurima uherereye mu Mudugudu wa Kararama, Akagali ka Mabare, Umurenge wa Rukomo, Akarere ka Gicumbi, Intara y'Amajyaruguru ufitwe na Nzarorishyerezo n'umurima uherereye mu Mudugudu wa Rwasama, Akagali Gacurabwenge, Umurenge wa Byumba, Akarere ka Gicumbi ufitwe na Mukandamage. Hakaba n'amashyamba 3, harimo iriherereye Nyamyumba, irindi rikaba riri i Mataba n'iriherereye Nyamwijima, hose hakaba ari mu Mudugudu wa Kararama, Akagali ka Mabare, Umurenge wa Rukomo, Akarere ka Gicumbi, Intara y'Amajyaruguru yose akaba atunzwe na Nzarorishyerezo. [13] Me Rutaganira Alexandre avuga ko nta mitungo yasizwe na Makuba na Rushigajiki yigaruriwe na Nzarorishyerezo na bagenzi be baregwa kubera ko imitungo yose bafite bayikomora kuri nyina Nyirabazungu. Yakomeje avuga ko umurima (itongo) uherereye Nyamwijima, Munyabarenzi uwutunze awukomora kuri nyirakuru Nyirabazungu kuko yawumuhaye ku wa 11/11/1995 ukaba unamwanditseho kuri UPI: 4/05/16/05/2316, naho umurima uherereye Rumarangoga, Mukandane akaba yarawusigiwe n'umugabo we Habiyaakare (+) ariko nawe akaba yarawuhaye umwana we Mukeshimana ndetse ukaba unamwanditseho aho ufite UPI: 4/05/16/05/2796, naho umurima uherereye mu Mudugudu wa Kararama akaba ari itongo rya

Makuba na Nyirabazungu kandi hakaba hafitwe n'umuhungu wabo Nzarorishyerezo hakaba hanamwanditseho kuri UPI 4/05/16/05/2345. Avuga kandi ko undi murima uherereye mu Mudugudu wa Rwasama, Mukandamage yawuhawe nk'indushyi awubakamo kandi akaba awufite kuva mu mwaka wa 1979. [14] Me Rutaganira Alexandre yakomeje avuga ko ishyamba rihereye Nyamyumba, Nzarorishyerezo yariteye mu murima yatekeshejwe na se Makuba mu mwaka wa 1981 naho ishyamba riri i Mataba, Nzarorishyerezo akaba yararitekeshejwe na se Makuba mu mwaka wa 1981 nyuma yo kuriburana na Munyakazi ukomoka kwa Rushigajiki akamutsinda mu Rukiko rwa Mbere rw'Iremezo rwa Byumba ku wa 22/06/1977 (RCA22/X/77/BY. Akavuga ko nyuma Nzarorishyerezo yahahaye Rugerinyange, wagobokeshejwe muri uru rubanza naho ishyamba riri

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Nyamwijima, akavuga ko Nzarorishyerezo yariteye mu murima yatekeshejwe na se Makuba mu mwaka wa 1981 hakaba hanamwanditseho kuri UPI 4/05/16/05/6958. [15] Asoza avuga ko imirima n'amashyamba baregwa byose bitigeze bitungwa na Rushigajiki kuko abamukomokaho bahawe imigabane yabo aho Nyemera yari afite imirima 8, Muhinyuza akagira imirima 7, Munyakazi nawe akagira imirima 8, Mukashema (+) akagira imirima 2, Mukadisi nawe akagira imirima 2 naho Mukandekazi akagira umurima 1. UKO URUKIKO RUBIBONA [16] Ingingo ya 10 y'itegeko N° 43/2013 ryo kuwa 16/06/2013 rigenga ubutaka mu Rwanda iteganya ko "Ubutaka bw'umuntu ku giti cye bugizwe n'ubutaka atunze ku buryo bw'umuco cyangwa ubw'amategeko, ubwo butaka abutunze yarabuhawe n'ubuyobozi bubifitiye ububasha, ubwo yaguze, yahawe ho impano, umurage, izungura, umunani, ingurane cyangwa isaranganya ". [17] Ingingo ya 21 y'iryo tegeko ikavuga ko "(.....) uburenganzira ku butaka bushobora guhererekanywa biciye mu izungura, impano, umurage, umunani, ikodeshwa, igurishwa, iyatisha, ingurane, inshingano yo gutanga inzira ku butaka bw'undi bukomoka ku miterere y'ahantu, gutangwaho ingwate n'ubundi buryo bwose bw'iherekanya hakurikijwe uburyo bugenwa n'amategeko n'amabwiriza ". [18] Mu gusuzuma ikibazo nyamukuru kiri muri uru rubanza kijyanye no kumenya niba imitungo iburanwa ari iya Nzarorishyerezo na bagenzi be cyangwa iya Mukadisi na bagenzi be, hakwiye kumenyekanana inkomoko nyakuri y'iyi mitungo kubera ko Mukadisi na bagenzi be barega bavuga ko ikomoka kuri Makuba na Rushigajiki naho abaregwa bakavuga ko bayikomora kuri Makuba na Nyirabazungu, kandi ikaba inabanditseho. [19] Ingingo ya 12, igika cya 1, y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ivuga ko "Urega agomba agomba kugaragaza ibimenyetso by'ibyo aregera. Iyo abibuze, uwarezwe aratsinda". [20] Urukiko rurasanga ababuranyi bose ndetse n'abaturage bari aho ikiburanwa kiri ku munsu rwakozeho iperereza rukabaza abatangabuhamya batandukanye, bese barahuriye ku kuba Makuba yari afite abagore 2 ari bo Rushigajiki na Nyirabazungu, kandi ko buri mugore yagiraga imitungo ye harimo imirima n'amashyamba yigengagaho ndetse habaho izungura, abana bagahererezwa ku mitungo yahoze ari iya nyina. [21] Urukiko rurasanga nyuma yo kubaza abaturage batandukanye ku munsu rwakozeho iperereza, abatangabuhamya umunani (8) ari bo Barahebuza Emmanuel, Ntamuvurira Cassien, Nyiridandi Jeremie, Karemera Celestin, Ndabarishye Edouard, Ntanturo Athanase na Kamuhanda

Yohani bese baragaragaje ko ibivugwa na Mukadisi na bagenzi be nta gaciro bikwiye guhabwa kubera ko imwe mu mitungo iburanwa, abayirimo bayikomora kuri Nyirabazungu, indi ikaba ituwemo n'abazukuru ba Rushigajiki.

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[22] Abo batangabuhamyaga bagaragaje ko ahahozwe ari kwa Rushigajiki (itongo rye) ubu hari inzu ituwemo na Bizimana mwene Muhinyuza akaba umwuzukuru wa Rushigajiki, akaba ari we uhahinga binyuranye n'ibyavuzwe na Mukadisi Didacienne na bagenzi be barega, ko itongo rya Rushigajiki rituwemo n'umuhungu wa Nzarorishyereze witwa Munyabarenzi. Imvugo y'abarega ikaba rero nta gaciro yahabwa. [23] Ku birebana n'umurima uherereye Rumarangoga, umutangabuhamyaga Hakizimana mwene Muhinyuza (umwuzukuru wa Rushigajiki) yavuze ko kuri uwo murima, afiteho igice kimwe, ikindi kikaba ari icya Nzarorishyereze yahawe na se Makuba. Ibi bikaba byaranashimangiye n'umutangabuhamyaga Ndabarishye Edouard wavuze ko Rushigajiki yari afite igisate cy'uwo murima uburanwa akaba ari nacyo cyasigaranywe n'umuhungu we Muhinyuza. Yavuze ko ubu gitunzwe na Hakizimana. Banashimangiye ko undi murima uherereye Rumarangoga, Mukandane yawusigiye n'umugabo we Habiyakare (+) nawe akaba yarawuhaye umwana we Mukeshimana. [24] Ku bijyanye n'umurima uherereye mu Mudugudu wa Rwasama, Akagari ka Gacurabwenge, umutangabuhamyaga Ndabarishye Edouard na Ntanturo Athanase bemeje ko Mukandamanga yawuhaweho nk'indushyi awubakamo, kubera ko wakomokaga kuri Nyirabazungu, anaguriraho ahandi. [25] Abatangabuhamyaga Barahebuza Emmanuel, Ntamuvurira Cassien, Nyiridandi Jeremie, Karemera Celestin, Ndabarishye Edouard, Ntanturo Athanase na Kamuhanda Yohani banagaragaje ko amashyamba aburanwa atigeze aba aya Rushigajiki ku buryo yazungurwa n'abamukomokaho, ko Nzarorishyereze ayatunze nk'umugabane akomora kuri se Makuba na Nyirabazungu. Ikindi bavuze ni uko abakomoka kuri Nyirabazungu bazunguye umubyeyi wabo n'abakomoka kuri Rushigajiki bakazungura umubyeyi wabo ko kandi bitanashobokaga ko Makuba yari kugira indi mitungo ku ruhande yo kumurera kandi yari afite abagore 2 ari nayo mpamvu yapfushije uwa 1, agahita agumana n'uwa 2. [26] Urukiko rw'Ikirenga rushingiye ku ngingo ya 65 y'Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo³, rurasanga ibivugwa n'abo batangabuhamyaga bikwiye guhabwa agaciro hakemewe ko nta mitungo yasizwe na Makuba na Rushigajiki yigaruriwe na Nzarorishyereze na bagenzi be bo ku ruhande rwa Nyirabazungu nk'uko bivugwa na Mukadisi na bagenzi be kubera ko byavugurujwe n'abatangabuhamyaga bavuzwe haruguru. [27] Urukiko rw'Ikirenga rurasanga kandi n'imvugo z'abatangabuhamyaga abarega bashingiraho zigizwe n'iya Rukandonda na Karemera aho ngo mu iburanisha ryo kuwa 23/10/2013 mu Rukiko rw'Ibanze rwa Byumba bavuze ko imitungo iburanwa ikomoka kuri Rushigajiki, ikaba yarageze kwa Nyirabazungu (nyina w'abaregwa) izanywe na Makuba ubwo Rushigajiki yari amaze gupfa, nta gaciro zikwiye guhabwa kubera ko ubwo Urukiko rwari mu iperereza byagaragaye abo batangabuhamyaga batazi n'aho iyo mitungo iburanwa iherereye ndetse ntibanamenyaye aho itongo rya Rushigajiki n'irya Nyirabazungu yari aherereye. 3 Ingingo ya 65, igira iti « Urukiko ni rwo rwonyine rupima ko

imikirize y'abatangabuhamya ihuye n'ikiburanwa, ifite ingingo zikiranuye kandi ikaba ikwiye kwemerwa cyangwa guhakanwa. Ntirwitsitsa ku mubare w'abatangabuhamya. Rwita cyane cyane ku bumenyi bwabo bw'ibyabaye, no ku buryo babivuga uko byagenze nta cyo bihimbira».

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- [28] Urukiko rusanga kandi ibyo kuba Nzarorishyerezo yararanzwe no kwivuguruzwa mu miburanire ye mu Rukiko no mu bunzi ku bijyanye n'inkomoko y'amashyamba aregwa nk'uko bivugwa na Mukadisi na bagenzi be, uretse no kuba ibyo bitaba impamvu yo kwemeza ko ayo mashyamba bayafiteho uburenganzira, n'abatangabuhamya bavuzwe haruguru, bagaragaje ko ayo mashyamba atigeze aba aya Rushigajiki ku buryo yazungurwa n'abamukomokaho. [29] Kubera izo mpamvu zose, Urukiko rukaba rusanga ibivugwa na Mukadisi na bagenzi be ko imirima n'amashyamba biburanwa bikomoka kuri nyina Rushigajiki byigaruriwe n'abana b'umugore muto bahagarariwe na Nzarorishyerezo Célestin bitwaje ko abakomoka kuri Rushigajiki bari abakobwa gusa nta shingiro bifite kubera ko batabashije kugaragaza ibimenyetso byerekana ko iyo mitungo ikomoka kuri Rushigajiki dore ko urega afite inshingano yo gutanga ibimenyetso, yabibura agatsindwa hakurrikijwe ingingo ya 12, igika cya 1, y'Itegeko No 22/2018 ryo ku wa 29/04/2018 yavuzwe haruguru. [30] Hashingiwe ku bimaze kuvugwa, Urukiko rw'Ikirenga rusanga Nzarorishyerezo Célestin na bagenzi be bagomba kugumana iyo mitungo kubera ko bayitunze mu buryo bukurikije amategeko agenga ubutaka yasobanuwe haruguru.
2. Gusuzuma niba indishyi ababuranyi basaba bakwiye kuzihabwa. [31] Me Nkuriyingoma Jean Damascène uhagarariye Mukadisi, Mukandekezi Euphrasie, Bitihariye Laurent, Mukakarihira Alivéra, Gatera Juvénal, Vuningoma Anastase, Rusagara Sylvere bavugaga ko kuba abaregwa barakozwe amakosa yo gutuma haba imanza zitari ngombwa, n'andi makosa yo kubambura imitungo bakoresheje uburiganya; byatumye batakaza amafaranga n'igihe. Asaba ko babiharerwa indishyi z'ikurikiranarubanza zingana na 1.200.000 Frw, n'iz'igihembo cy'Avoka zingana na 500.000 Frw. [32] Me Rutaganira Alexandre uhagarariye Nzarorishyerezo Célestin, Mukandamanga na Mukandane avugaga ko Mukadisi na bagenzi be ari bo bishoye mu manza bazi neza ko ibyo baburana bitari ukuri, bityo ko indishyi basaba batazikiye. Asaba ahubwo ko buri wese mu barega atanga indishyi zingana na 300.000 Frw zo kubashora mu manza nta mpamvu, zose hamwe zikaba 1.800.000 Frw. Asaba kandi ko buri wese yanatanga indishyi z'ikurikiranarubanza zingana na 200.000Frw, zose hamwe zikaba 1.200.000 Frw, bakanafatanyaga gutanga igihembo cy'Avoka kingana na 500.000 Frw. UKO URUKIKO RUBIBONA [33] Ingingo ya 111 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsi iteganyaga ko «Ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikira ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishirizwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikanaburanishwa n'iyi ikirego cy'iremezo cyaba kitakiriwe». [34] Hashingiwe kuri iyi ngingo, Urukiko rurasanga indishyi zisabwa na Mukadisi na bagenzi be, ntazo

bagomba guhabwa kubera ko ntacyo batsindiye muri uru rubanza.

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[35] Urukiko rurasanga ku ndishyi zisabwa na Nzarorishyerezo Célestin, Mukandamage na Mukandane, bakwiye guhabwa amafaranga y'ikurikiranarubanza n'igihembo cya Avoka, kubera ko bigaragara ko bashatse Avoka ubaburanira, banakurikirana uru rubanza, ariko kubera ko ayo basaba ari menshi kandi bakaba batabasha kuyatangira ibisobanuro, mu bushishozi bwarwo, rukaba rubageneye bose hamwe 500.000 Frw y'igihembo cy' Avoka na 100.000 Frw y'ikurikiranarubanza kuri bose. [36] Urukiko rurasanga nta ndishyi zo gushorwa mu manza ku maherere Nzarorishyerezo Célestin, Mukandamage na Mukandane bagomba kugenerwa, kubera ko Mukadisi na bagenzi be bari bafite uburenganzira bwo kwiambaza inkiko mu gihe bumvaga ko hari inyungu bagomba kurengera, bityo n'ubwo batsinzwe, hakaba nta kigaragaza ko icyo bari bagamije kwari ugushora abo baburana mu nkiko ku maherere, cyane cyane ko na mbere y'uko ikibazo cyabo kigera muri uru rukiko hari izindi nzego zabanje kugisuzuma. III. ICYEMEZO CY'URUKIKO [37] Rwemeje ko ikirego cyatanzwe na Mukadisi Didacienne na bagenzi be basaba gusubirishamo ku mpamvu z'akarengane urubanza No RCA 0389/13/TGI/GIC rwaciwe n'Urukiko Rwisumbuye rwa Gicumbi ku wa 14/03/2014 nta shingiro gifite. [38] Rwemeje ko nta karengane kari muri urwo rubanza. [39] Rwemeje ko imikirize y'urubanza No RCA 0389/13/TGI/GIC idahindutse. [40] Rutegetse abareze guha Nzarorishyerezo Célestin, Mukandamage na Mukandane 500.000 Frw y'igihembo cy'Avoka kuri bose na 100.000 Frw y'ikurikiranarubanza kuri bose, yose hamwe akaba 600.000 Frw; buri ruhande mu bareze rukishyura uruhare rwarwo mu buryo bungana.

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