

RWANDA / JUDGMENT

UBUSHINJACYAHA v. MUKASHYAKA

RPAA 01249/2024/CA

COURT

Court of Appeal

DECIDED

29 September 2025

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UBUSHINJACYAHA v. MUKASHYAKA

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Text

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UBUSHINJACYAHA v. MUKASHYAKA [Rwanda URUKIKO RW'UBUJURIRE – RPAA 01249/2024/CA (Umugwaneza, P.J.) 29 Nzeri 2025] Amategeko agenga imanza nshinjabyaha – Igabanyagihano – Uregwa ntashobora kongera kugabanyirizwa igihano iyo mu nkiko zabanje yamaze guhabwa igihano gito ntarengwa giteganyijwe n'amategeko ku cyaha kimuhama. Amategeko agenga imanza nshinjabyaha – Kugabanyirizwa igihano – Isubikagihano – Mu gihe Uregwa yagabanyirijwe agahanishwa igihano gito ntarengwa ku cyaha kimuhama giteganyirijwe igihano cy'igifungo cya burundu, ntiyasaba ko icyo gihano yahawe gisubikwa kuko kirenze imyaka itanu amategeko ateganya. Incamake y'ikibazo: Mukashyaka yafatanywe agapfunyika kamwe k'urumogi, ashyikirizwa Ubushinjacyaha bumurenga mu Rukiko Rwisumbuye rwa rwa Muhanga, bumukurikiranyeho icyaha cyo gukora ibikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoreshwa nka byo mu buryo bunyuranyije n'amategeko. Mukashyaka yaburanye yemera icyaha avuga ko yatangiye gucuruza urumogi kuva mu kwezi kwa 03/2020 kugira ngo abone ibitunga abana umugabo yamutanye bari bagiye kwicwa n'inzara. Urukiko Rwisumbuye rwaciye urubanza rwemeza ko ahamwe n'icyo cyaha, rushingiye kuri uko kwemera icyaha, raporo y'ubuyobozi bw'umudugudu imishinja n'inyandiko y'ifatira, rumuhanisha igifungo

cy'imyaka 25 n'ihazabu y'amafaranga miliyoni makumyabiri. Uregwa yajuriye mu Rukiko Rukuru, urugereko rwa Nyanza, asaba guhindura inyito y'icyaha, ngo kuko agapfunyika kamwe (1) k'urumogi yafatanwe rwari urwo gukoresha yivura. Asobanura ko yemeye icyaha cyo gucuruza urumogi kuko bamuteye ubwoba bamubwira ko nacyemera azagabanyirizwa igihano. Yasabye kandi ko yagabanyirizwa akanasubikirwa igihano agasanga abana. Ubushinjacyaha bwashubije ubujurire bwe, buvuga ko nta shingiro bufite kubera ko yatangiye kuburana yemera icyaha cyo gucuruza ibiyobyabwenge anagisabira imbabazi ndetse ko no kugira ngo bajye kumusaka byaturutse ku makuru yatanze avuga ko asanzwe acuruza ibiyobyabwenge. Urukiko Rukuru rwemeje ko ubujurire bw'Uregwa nta shingiro bufite kuko kuva mu nzego z'iperereza no mu Rukiko Rwisumbuye yaburanye yemera icyaha cyo gucuruza urumogi, agisabira imbabazi, maze rumuhanisha igihano gito cy'igifungo cy'imyaka 15 n'ihazabu y'amafaranga y'u Rwanda miliyoni 5, kuko yafatanywe ingano ntoya y'urumogi. Iki cyemezo Uregwa yakijuririye muri uru Rukiko rw'Ubujurire. Uregwa avuga ko yahamijwe icyaha cyo gucuruza ibiyobyabwenge by'urumogi kandi agapfunyika kamwe k'urumogi yafatanwe kari ako yari avuye kugura ngo arukoreshe yivura, afatwa arimo kurwereka mugenzi we wari umubajije aho avuye, kuko yari yarupfunditse ku gitenge ke. Asobanura ko Umuyobozi w'umudugudu yamubonye aza kumubaza ibyo aribyo ariko anamukubita, amubwira ko ari urumogi rw'umuti, Umuyobozi w'Umudugudu akomeza kumukubita amubwira ngo yemere ko ari urwo gucuruza, undi akomeza kubyangira, ahita akora raporo ko amufashe acuruza urumogi. Yamujyanye kuri RIB amugejeje bamubwira ko niyemera icyaha arigushinje n'Umuyobozi w'Umudugudu bamurekura agataha, maze arabyemera bitewe n'umubabaro w'abana yari yasize badafite kirengera ndetse n'ihungabana yari afite. Avuga kandi ko adacuruza urumogi, akaba asaba ko inyito y'icyaha yahamijwe yahinduka hakemezwa ko ahamwe n'icyaha cyo kunywa ibiyobyabwenge Ubushinjacyaha buvuga ko ibyo Uregwa asaba atabihabwa kuko inyito y'icyaha yahamijwe cyo gucuruza ibiyobyabwenge idakwiriye guhinduka, harebwe ibikorwa yakoze n'ibimenyetso bimushinje. Busobanura ko, ubwo yabazwaga mu nzego z'iperereza no mu miburanire ye mu Rukiko rwa mbere, Uregwa yemeye icyaha ashinjwa, aho yasobanuye umuha urumogi, amafaranga arurangura n'ayo arucuruza, ndetse n'igihe yari amaze arucuruza kibazwe kugeza ku muni yafatiweho. Ubushinjacyaha buvuga ko ibimenyetso birimo imvugo y'Uregwa yo kwemera icyaha, raporo y'ubuyobozi bw'umudugudu n'ubuhamya

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bwatanze, bigaragaza ko ibikorwa yakoze bihura neza n'inyito y'icyaha yahamijwe cyahawe yo gucuruza ibiyobyabwenge (urumogi), bityo ikaba idakwiriye guhinduka. Muri uru rubanza kandi hasuzumwe ikibazo cyo kumenya niba Uregwa yagabanyirizwa ibihano ndetse akabisubikirwa, aho asaba ko igihano yahanishijwe cyagabanywa kigahuzwa n'icyaha yakoze kandi yemera cyo gukoresha umuti w'ibiyobyabwenge, kubera ko yahanishijwe igihano kirekire cyane kandi yarashyize abana bato batagira kirengera. Ubushinjacyaha bwashubije kuri iki kibazo buvuga ko iyi mpamvu y'ubujurire nta shingiro ifite, kuko Uregwa yagabanyirijwe igihano bihagije ahanishwa igihano gito gishoboka ku cyaha cyamuhamye cyo gucuruza ibiyobyabwenge (urumogi) kikaba kitakongera kugabanywa. Buvuga kandi ko adakwiriye gusubikirwa igihano kuko nta bimenyetso

yatanze bigaragaza ko afite abana kandi ko badafite abandi bantu babareberera. Bityo, akaba agomba gukora igihano yahawe akakirangiza kugira ngo bimufashe kugororoka, nta zongere kwishora mu biyobyabwenge. Incamake y'icyemezo: Uregwa ntashobora kongera kugabanyirizwa igihano iyo mu nkiko zabanje yamaze guhabwa igihano gito ntarengwa giteganyijwe n'amategako ku cyaha kimuhama.

2. Mu gihe Uregwa yagabanyirijwe agahanishwa igihano gito ntarengwa ku cyaha kimuhama giteganyirijwe igihano cy'igifungo cya burundu, ntiyasaba ko icyo gihano yahawe gisubikwa kuko kirenze imyaka itanu amategako ateganya. Ubujurire nta shingiro bufite. Amategako yashingiweho: Itegeko N° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso, ingingo ya 4, 85 n'ya 87. 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, ingingo ya 2 n'ya 3. Itegeko N° 69/2019 ryo ku wa 08/11/2019 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 11. Imanza zifashishijwe: RPAA01312/2024/CA, Ubushinjacyaha na Ugwaneza Sylvestre rwaciwe n'Urukiko rw'Ubujurire ku wa 18/07/2025. RPAA00752/2024/CA, Ubushinjacyaha na Nsekanabo Augustin, rwaciwe n'Urukiko rw'Ubujurire ku wa 27/03/2025. RPAA00538/2024/CA, Ubushinjacyaha na Cyuzuzo Jean Claude rwaciwe n'Urukiko rw'Ubujurire ku wa 21/01/2025. Urubanza IMITERERE Y'URUBANZA [1] Ku wa 25/03/2021, saa kumi z'amanywa (16h:00), Mukashyaka Divine ari mu Mudugudu wa Bikimba, Akagari ka Gihara, Umurenge wa Runda, Akarere ka Kamonyi, Intara y'Amajyepfo yafatanwe agapfunyika kamwe (1 boule) k'urumogi, ahita ashyikirizwa inzego z'Ubugenacyaha atangira gukurikiranwa. [2] Ubushinjacyaha bwamureze mu Rukiko Rwisumbuye rwa Muhanga, bumukurikiranyeho icyaha cyo gukora ibikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoresheka nka byo mu buryo bunyuranyije n'amategako, aburana acyemera avuga ko yatangiye gucuruza urumogi kuva mu kwezi kwa 03/2020 kugira ngo abone ibitunga abana umugabo yamutanye bari bagiye kwicwa n'inzara.

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- [3] Mu rubanza RP00382/2021/TGI/MHG rwaciwe ku wa 25/06/2021, Urukiko Rwisumbuye rwa Muhanga rushingiye ku kwemera icyaha kwa Mukashyaka Divine, inyandikomvugo y'ifatira yo ku wa 25/3/2021 igaragaza urumogi yafatanwe, na raporo y'Umudugudu wa Bukimba yo ku wa 25/3/2021 imushinja; rwemeje ko ahamwa n'icyaha cyo gukora ibikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoresheka nka byo mu buryo bunyuranyije n'amategako, ahanishwa igifungo cy'imyaka makumyabiri n'itanu (25) n'ihazabu y'amafaranga y'u Rwanda miliyoni makumyabiri (20.000.000Frw). [4] Mukashyaka Divine yajuririye Urukiko Rukuru, Urugereko rwa Nyanza, asaba guhindura inyito y'icyaha kuko agapfunyika kamwe (1) k'urumogi yafatanwe rwari urwo gukoresha yivura, ko kuba ku rwego rwa mbere yaremeye icyaha cyo gucuruza urumogi yabitewe n'uko bamuteye ubwoba bamubwira ko nacyemera azagabanyirizwa igihano. Yasabye kandi ko yagabanyirizwa akanasubikirwa igihano agasanga abana. [5] Ubushinjacyaha bwavuze ko ubujurire bwa Mukashyaka Divine nta shingiro bufite kubera ko yatangiye kuburana yemera icyaha cyo

gucuruza ibiyobyabwenge anagisabira imbabazi ndetse ko no kugira ngo bajye kumusaka byaturutse ku makuru yatanzwe avuga ko asanzwe acuruza ibiyobyabwenge. [6] Mu rubanza PA00819/2021/HC/NYZ rwaciwe ku wa 12/11/2024, Urukiko Rukuru, Urugereko rwa Nyanza rwasanze ubujurire bwa Mukashyaka Divine busaba guhindura inyito y'icyaha, nta shingiro bufite kuko icyaha cyo gucuruza ibiyobyabwenge yacyemeye mu Bugenzacyaha, mu Bushinjacyaha ndetse no mu iburanisha mu Rukiko Rwisumbuye rwa Muhanga, akaba anashinjwa n'umutangabuhamya witwa Makaka Evariste wemeza ko babonye ariguha umuntu urumogi bajya kumufata ariruka bamwirukaho bamufashe bamusangana agapfunyika kamwe k'urumogi urundi yarutaye mu bwiherero kandi ko yari asanzwe acuruza urumogi ariko bajya kumusaka buri gihe bakarubura, hakaba hari na raporo y'Ubuyobozi bw'Inzego z'Ibanze nayo imushinja. Rusanga ariko Mukashyaka Divine akwiye kugabanyirizwa igihano kubera ko yafatanwe ingano nto y'urumogi rwo gucuruza, ahanishwa igifungo cy'imyaka cumi n'itanu (15) n'ihazabu y'amafaranga y'u Rwanda miliyoni eshanu (5.000.000Frw). [7] Mukashyaka Divine yajuririye Urukiko rw'Ubujurire, urubanza ruhabwa RPAA01249/2024/CA, ruburanishwa mu ruhame ku wa 12/09/2025, yunganiwe na Me Tuyisenge Tite Théogène, Ubushinjacyaha buhagarariwe na Butera Oscar, Umushinjacyaha ku rwego rw'Igihugu. [8] Mu myanzuro y'ubujurire no mu miburanire yabo, Mukashyaka Divine n'umwunganira bavuga ko yahamijwe icyaha cyo gucuruza ibiyobyabwenge kandi agapfunyika kamwe (1 boules) k'urumogi yafatanwe rwari urwo gukoresha yivura munda, basaba ko inyito y'icyaha yahinduka agahanirwa icyaha cyo kunywa ibiyobyabwenge aho kuba icyo kubicuruza, akanagabanyirizwa ibihano agahanishwa ibihwanye n'ibikorwa yakoze ndetse ibihano yahabwa bigasubikwa kugira ngo ajye kwitaba ku bana yasiza bonyine. [9] Ubushinjacyaha buvuga ko inyito y'icyaha Mukashyaka Divine yahamijwe yo gucuruza ibiyobyabwenge idakwiye guhinduka kuko harebwe ibikorwa yakoze n'ibimenyetso bimushinja biri muri dosiye, ariyo ikwiye. Buvuga kandi ko adashobora kugabanyirizwa igihano kuko yagabanyirijwe bihagije agahanishwa igihano gito giteganyirijwe icyaha yakoze ndetse ko atanakwiriywe gusubikirwa ibihano kuko uretse kuba abivuga mu magambo gusa atagaragaza ibimenyetso byemeza ko hari abana yasize kandi ko badafite undi muntu ushobora kubitaho. [10] Hakurikijwe izo mpaka, muri uru rubanza harasuzumwa ibibazo bikurikira:

- a. kumenya niba hashingiwe ku bikorwa Mukashyaka Divine yakoze n'ibimenyetso bibihamya, akwiriye guhamywa icyaha cyo kunywa ibiyobyabwenge aho kuba icyo kubicuruza;
- b. kumenya niba Mukashyaka Divine yagabanyirizwa igihano;
- c. kumenya niba Mukashyaka Divine yasubikirwa igihano.

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II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA A. Kumenya niba hashingiwe ku bikorwa Mukashyaka Divine yakoze n'ibimenyetso bibihamya, akwiriye guhamywa icyaha cyo kunywa ibiyobyabwenge aho kuba icyo kubicuruza [11] Mukashyaka Divine n'umwunganira bavuga ko yahamijwe icyaha cyo gucuruza ibiyobyabwenge by'urumogi kandi agapfunyika kamwe

k'urumogi yafatanwe ari urwo yari avuye kugura ngo arukoreshe yivura indwara yo kuva yari amaranye iminsi yarivuye biranga, bamurangira umuti w'urumogi, ajya kurugura kwa Uwineza, avuyeyo ageze ku kabari ahasanga umugore baturanye witwa Nyirabukeye amubaza aho avuye, amubwira ko avuye kugura umuti, mugihe arimo gupfundura rwa rumogi aho rwari rupfunditse ku gitenge ngo arumwereke, nibwo Umuyobozi w'Umudugudu yahise amubona aza kumubaza ibyo aribyo ariko anamukubita, amubwira ko ari urumogi rw'umuti, Umuyobozi w'Umudugudu akomeza kumukubita amubwira ngo yemere ko ari urwo gucuruza, undi akomeza kubyangana, Umuyobozi w'Umudugudu ahita yandika urupapuro ko amufashe acuruza urumogi, amujyana kuri RIB amugejeje bamubwira ko niyemera icyaha arigushinjwa n'Umuyobozi w'Umudugudu bamurekura agataha, bitewe n'umubabaro w'abana yari yasize badafite kirengera ndetse n'ihungabana yari afite, arabyemera kugira ngo arebe ko bamurekura agasanga abo bana. [12] Mukashyaka Divine n'umwunganira bakomeza bavuga ko nta wabonye Mukashyaka Divine acuruza urumogi, uretse kuba yarabonywe n'Umuyobozi w'Umudugudu arimo kurweka Nyirakubeye aho rwari rupfunyitse kugitenge, kandi ko yafatanwe ingano nto y'urumogi ku buryo rutafatwa ko rwari urwo gukwirakwiza, ariyo mpamvu basaba ko inyito y'icyaha yahamijwe yahinduka hakemezwa ko ahamwa n'icyaha cyo kunywa ibiyobyabwenge (urumogi) aho kuba icyo gucuruza ibiyobyabwenge. [13] Ubushinjacyaha buvuga ko inyito y'icyaha Mukashyaka Divine yahamijwe cyo gucuruza ibiyobyabwenge idakwiriye guhinduka kuko harebwe ibikorwa yakoze n'ibimenyetso bimushinja biri muri dosiye, ariyo ikwiye. Ubushinjacyaha buvuga ko ibyo bimenyetso birimo: kuba Mukashyaka Divine ubwe abazwa mu nzego z'iperereza anaburana mu Rukiko ku rwego rwa mbere yaremeye icyaha cyo gucuruza ibiyobyabwenge agasobanura neza uko yafashwe amaze igihe kinini acuruza urumogi yahabwaga n'uwitwa Uwineza n'uko yafatanwe agapfunyika kamwe k'urumogi nyuma yo kujugunya urundi mu bwiherero, ubuhamya na raporo y'Ubuyobozi bimushinja bigaragaza uko amakuru yamenyekanye n'uko Mukashyaka Divine yafashwe agafatanwa agapfunyika kamwe k'urumogi nyuma yo kujugunya urundi mu bwiherero, n'inyandikomvugo y'ifatira igaragaza ko Mukashyaka Divine yafatanwe agapfunyika kamwe k'urumogi. Ko ibyo bimenyetso bigaragaza ko ibikorwa Mukashyaka Divine yakoze bihura neza n'inyito icyaha yahamijwe cyahawe yo gucuruza ibiyobyabwenge (urumogi), bityo ikaba idakwiriye guhinduka. UKO URUKIKO RUBIBONA [14] Ingingo ya 87 y'Itegeko N° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso ivuga ko mu rubanza nshinjabyaha, ikimenyetso gishingira ku mpamvu zose z'ibyabaye n'ibyemejwe n'amategeko, ababuranyi bapfa kuba barahawe umwanya wo kubijyaho impaka. [15] Naho ingingo ya 85 y'Iryo Tegeko ikavuga ko: (1) Ukwiyemerera k'umuburanyi cyangwa k'umwe mu bafitanye ikibazo gukorewe imbere y'urwego rufite ububasha bigira agaciro iyo hari imwe mu mpamvu zikurikira: (a) uregwa asobanukiwe neza imiterere n'ingaruka byo kwemera ibyo aregwa; (b) ukwemera kwakozwe ku bushake bw'uregwa; (c) ukwemera ibyo aregwa gushyigikiwe n'ibindi bimenyetso..... (3) Umuburanyi cyangwa umwe mu bafitanye ikibazo wiyemereye ibyo aregwa mu buryo buvugwa mu gika cya (1) cy'iyi ngingo ntashobora kwisubiraho, keretse agaragaje ko yemejwe ku gahato, uburiganya cyangwa ko yibeshye ku cyabaye. Ntashobora kwisubiraho avuga ko yayobejwe no kwibeshya ku itegeko.

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[16] Nk'uko imikirize y'urubanza rujuririrwa ibigaragaza, ikibazo kijyanye no guhindura inyito y'icyaha cyabaye imwe mu mpamvu z'ubujurire bwa Mukashyaka Divine mu Rukiko Rukuru, Urugereko rwa Nyanza, aho yajuriye avuga ko agapfunyika kamwe k'urumogi yafatanwe rutari urwo gucuruza ahubwo rwari urwo gukoresha nk'umuti, abiheraho asaba ko inyito y'icyaha yahinduka kikaba kunywa ibiyobyabwenge. Mu gusuzuma icyo kibazo, Urukiko rushingiye ku kuba Mukashyaka Divine yaremeye icyaha cyo gucuruza urumogi haba mu Bugenzacyaha, mu Bushinja ndetse no mu Rukiko Rwisumbuye rwa Muhanga, ubuhamya bwa Makaka Evariste umushinja ndetse na raporo y'Ubuyobozi bw'Inzego z'ibanze nayo imushinja, rusanga ibyo bimenyetso bigaragaza ko Mukashyaka Divine acuruza ibiyobyabwenge (urumogi), rusanga inyito yicyaha idakwiye guhinduka. [17] Dosiye y'uru rubanza igaragaza ko Mukashyaka Divine abazwa mu Bugenzacyaha ku wa 25/03/2021, yemeye icyaha cyo gucuruza ibiyobyabwenge by'urumogi, avuga ko yatangiye ku bicuruza mu kwezi kwa 04/2020 kugeza igihe yafatiwe, ko yabitewe no kugira ngo abone icyo agaburira abana. Yakomeje asobanura ko urumogi yaruhabwaga n'uwitwa Uwineza baturiraga munzira iva ku kiraro cya Nyabarongo, mu Mudugudu wa Bikimba, ko yafatanwe agapfunyika kamwe k'urumogi yari apfunditse ku gitenga urundu rungana n'utundu 2 amaze kurujugunya mu bwiherero. [18] Ageze imbere y'Ubushinjacyaha ku wa 29/03/2021, Mukashyaka Divine yakomeje kwemera icyaha cyo gucuruza ibiyobyabwenge (urumogi) mu buryo bumwe n'ubwo yacyemeyemo mu Bugenzacyaha, avuga ko yafashwe amaze umwaka acuruza urumogi kugira ngo arebe ko yabona ibyo gutunga abana kuko yabonaga nta bundi buryo ashobora kubona ibyo kurya. Yakomeje avuga ko urumogi arurangura ku mafaranga 400Frw agapfunyika kamwe akarugurisha kuri 500Frw, ko agapfunyika kamwe bamufatanye ariko yari asigaranye ku rwo yari yaranguye kuko yarangura urw'amafanga ibihumbi 3.000Frw cyangwa 5.000Frw, ko uwo munsu yari yagurishije udupfunyika 2 gusa utundi 2 yatujugunye afatanwa agapfunyika 1. Imbere y'Urukiko Rwisumbuye rwa Muhanga Mukashyaka Divine naho yaburanye yemera icyaha cyo gucuruza ibiyobyabwenge, asobanura ko umugabo yamutanye abana 4 abonye bishwe n'inzara asaba umuntu nomero za telefone za Uwineza kuko yari azi ko aranguza urumogi, amaze kuzibona batangira gukorana kuva mu kwezi kwa 3/2020 kugeza umunsu yafatiweho. [19] Dosiye y'uru rubanza igaragaza kandi imvugo y'umutangabuhamya Makaka Evariste wabajijwe mu Bugenzacyaha ku wa 25/03/2021, uyu akaba ari n'Umuyobozi w'Umudugudu wa Bikimba ari naho icyaha gikurikiranywe cyakorewe, wemeza ko hari hashize amezi 3 bamenye amakuru ko Mukashyaka Divien acuruza urumogi ariko bajya kumusaka bakaruburu, nibwo kuri iyo tari ya 25/03/2021 saa kumi z'amanywa (16h:00) uwitwa Vuguziga Jean na Hishamunda Jean Bosco babonye ari guha umuntu urumogi, bagiye kumufata ariruka bamwirukaho baramufata bamusangana agapfunyika 1 k'urumogi urundi yarutaye mu bwiherero. [20] Dosiye y'uru rubanza igaragaza na none raporo z'inzego z'ibanze (Ubuyobozi w'Umudugudu wa Bukimba bufatanyije n'Umunyamabanga Nshingwabikorwa w'Akagari ka Gihara) yo ku 25/03/2021, igaragaza ko Mukashyaka Divine yafashwe acuruza urumogi arimo kuruha abantu mu kabari ka Mutsindashyaka, abonye abayobozi ariruka urwo yari asigaranye

arugunganya mu bwiherero, bamusangana agapfunyika kamwe, kandi ko yari amaze igihe kirekire arucuruza bajya kumufata bakabura aho aruhisha. [21] Hashingiwe ku ngingo ya 87 n'ya 85 z'Itegeko N° 062/2024 zibukijwe mu gika cya 14 na 15 by'uru rubanza, kuba haba mu Bugenzacyaha, mu Bushinjacyaha no mu iburanisha mu Rukiko Rwisumbuye rwa Muhanga Mukashyaka Divine yaremeye ko acuruza urumogi, akavuga igihe amaze urucuruza, aho yavuze ko yafashwe amaze umwaka arucuruza, akavuga n'icyabimuteye ko ari ukugira ngo abone ibyo gutungana bana umugabo yamutanye, akavuga aho arukura ko aruhabwa n'uwitwa Uwineza baturira munzira iva ku kitaro cya Nyabarongo, agasobanura igiciro aruguraho n'icyo

1Reba agace ka nyuma k'igika cya cya 3 cy'urubanza RP00382/2021/TGI/MHG rwaciwe n'Urukiko Rwisumbuye rwa Muhanga ku wa 25/06/2021.

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arugurishaho ko arugura ku mafaranga 400Frw agapfunyika kamwe akarugurisha kuri 500Frw, agasobanura n'uburyo agapfunyika kamwe yafatanwe ariko yari asigaranye kuri uwo muni yuma yo kugurisha utundi dupfunyika 2 no kujugunya utundi 2 mu bwiherero, Urukiko rw'Ubujurire rurasanga ibyo bikorwa Mukashyaka Divine yemeye bigize icyaha cyo gucuruza ibiyobyabwenge aho kuba icyo kubinywa nk'uko abivuga. [22] Urukiko rw'Ubujurire rusanga kandi ibyo Mukashyaka Divine yemeye abazwa mu Bugenzacyaha, mu bushinjacyaha no mu iburanisha ku rwego rwa mbere by'uko acuruza urumogi, bishyigikiwe n'ubuhamya bwa Makaka Evariste ndetse na raporo y'izego z'ibanze, bihuriza ku kuba kugira ngo Mukashyaka Divine afatwe byaturutse ku makuru yatanze ko bamubonye aha umuntu urumogi, bagiye kumufata ariruka bamwirukaho bamufatana agapfunyika kamwe k'urumogi urundi amaze kurugunganya. Urukiko rw'Ubujurire rurasanga ibyo nabyo byemeza ko Mukashyaka Divine acuruza urumogi, bityo ubujurire bwe busaba guhindura inyito y'icyaha bukaba nta shingiro bufite. [23] Ku bijyanye n'imiburanire ya Mukashyaka Divine y'uko kuba yaremeye ko acuruza urumogi yabitewe n'uko Umuyobozi w'Umudugudu yamukubise ngo abyemere, banamubwira ko niyemera bamurekura agataha, bitewe n'umubabaro w'abana yari yasize badafite kirengera ndetse n'ihungabana yari afite aremera; Urukiko rw'Ubujurire rusanga nta shingiro ifite kuko uretse kuba abivuga mu magambo gusa atagaragaza ibimenyetso byemeza ko ari ukuri nk'uko biteganywa n'ingingo ya 4, igika cya (1)2 y'Itegeko N° 062/2024 ryavuzwe haruguru kandi nk'uko bimaze kugaragazwa mu bika bibanziriza iki, ibyo yemeye bikaba bishyigikiwe n'ubuhamya bwa Makaka Evariste ndetse na raporo y'inze z'ibanze. [24] Urukiko rw'Ubujurire rurasanga kandi n'ubwo Mukashyaka Divine yaba yarakubiswe n'Ubuyobozi bw'Umudugudu bukamutegeka kwemera ko acuruza urumogi akabyemeweza n'inkoni hagakorwa raporo ko yemeye icyaha, atari gukomeza kubyemera imbere y'Ubuzungacyaha n'Ubushinjacyaha ndetse no mu iburanisha mu Rukiko Rwisumbuye rwa Muhanga kandi ho atari gukubitwa cyangwa gukorerwa ibindi bikorwa bibabaza umubiri. Ibyo kuvuga ko yasezeranyijwe ko niyemera icyaha arekurwa agasanga abana, nabyo ntabagarariza ibinyetso, nta nagaragaza niba no mu Rukiko Rwisumbuye rwa Muhanga naho yarasezeranyijwe ko niyemera icyaha arekurwa, bityo nabyo bikaba nta shingiro bifite. [25] Urukiko rw'Ubujurire rurasanga kandi hakurikijwe ubuho Mukashyaka Divine yasobanuye uko

yacurujwe urumogi nk'uko byagaragajwe mu bika bya 17, 18 na 21 by'uru rubanza, akabisobanura neza adategwa, ibyo yasobanuye bikaba byuzuzanya n'ibyo umutangabuhamya Makaka Evariste ndetse na raporo y'inzego z'ibanze yemeza, cyane cyane nk'aho avuga ko yafashwe amaze kugurisha udupfunyika 2 tw'urumogi amaze no kujugunya utundi 2 mu bwiherero, afatanwa agapfuka kamwe kandi ko yari amaze umwaka acuruza urumogi, hahujwe n'aho umutangabuhamya Makaka Evariste na raporo y'inzego zibaye bemeza ko bari bafite amakuru ko Mukashyaka Divine acuruza urumogi ariko bajya kumufata bakabura aho aruhishe, nyuma baza guhabwa amakuru ko hari umuntu amaze guha urumogi, bagiye kumufata ariruka bamwirukaho bamufatana agapfunyika kamwe k'urumogi amaze kujugunya utundi 2 mu bwiherero. Urukiko rusanga ibyo byemeza ku buryo budashidikanya ko agapfunyika kamwe k'urumogi Mukashyaka Divine yafatanwe rutari urwo gukoresha yivura nk'uko abivuga ahubwo rwari urwo kugurisha yari asigaranye nyuma yo kugurisha no kujugunya urundi, kandi ko yari amaze igihe arucuruza. Bityo inyito y'icyaha yahamijwe cyo gucuruza ibiyobyabwenge ikaba ariyo ikwiranye n'ibikorwa yakoze, ikaba itagomba guhinduka. B. Kumenya niba Mukashyaka Divine yagabanyirizwa igihano 2Ivuga ko urega cyangwa utanze ikibazo agaragaza ikimenyetso cy'ibyo aregera cyangwa asaba. Uwiregura agaragaza ikimenyetso gishyigikira ukwiregura kwe.

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[26] Mukashyaka Divine n'umwunganira basaba ko igihano yahanishijwe cyagabanywa kigahuzwa n'icyaha yakoze kandi yemera cyo gukoresha umuti w'ibiyobyabwenge, kuberako yahanishijwe igihano kirekire cyane kandi yarasize abana bato batagira kirengera. [27] Ubushinjacyaha buvuga ko iyi mpamvu y'ubujurire nta shingiro ifite, kuko Mukashyaka Divine yagabanyirijwe igihano bihagiye ahanishwa igihano gito gishoboka ku cyaha cyamuhamye cyo gucuruza ibiyobyabwenge (urumogi) kikaba kitakongera kugabanywa ngo kijye muni y'igiteganywa n'amategeko nk'uko byatanzweho umurongo n'Urukiko rw'Ubujurire mu rubanza RPAA00538/2024/CA rwaciwe ku wa 21/01/2025 haburana Ubushinjacyaha na Cyuzuzo Jean Claude igika cya 11 na 12. UKO URUKIKO RUBIBONA [28] Nk'uko imiburanire ya Mukashyaka Divine n'umwunganira ibigaragaza, basaba ko yagabanyirizwa igihano kigahuzwa n'icyaha yemera cyo gukoresha umuti w'ibiyobyabwenge. Muyandi magambo asaba guhanishwa igihano giteganyijwe ku cyaha cyo kunywa ibiyobyabwenge. Nyamara nk'uko byakomeje kugaragazwa mu bika bibanziriza iki, icyaha kimuhama ni icyo gucuruza ibiyobyabwenge bihambaye byo mubwo bw'urumogi, giteganywa kandi kigahanishwa ingingo ya 11, igika cya 3, agace ka 1° y'Itegeko N° 69/2019 ryo ku wa 08/11/2019 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, iteganya igifungo cya burundu n'ihazu y'amafaranga y'u Rwanda arenze 20.000.000Frw ariko atarenze 30.000.000Frw ku muntu wese uhamwa n'icyo cyaha. [29] Ku bijyanye no kumenya igihano gito gishobora guhabwa umuburanyi wahamijwe icyaha gihanishwa igifungo cya burundu mu gihe hari impamvu nyoroshyacyaha, byasesenguwe n'Urukiko rw'Ubujurire mu manza zitandukanye rwaciye, harimo urubanza RPAA00752/2024/CA3 n'urubanza RPAA01312/2024/CA4. Muri izo manza, Urukiko rwemeje ko igihe hari impamvu nyoroshyacyaha zemejwe n'umucamanza igihano cy'igifungo cya

burundu gishobora kugabanywa ariko ntikijye muni y'igifungo cy'imyaka cumi n'itanu (15), ko n'ihazabu iteganyijwe ishobora kugabanywa ariko ntijye muni ya kimwe cya kane cy'ihazabu nto iteganyirijwe icyaha cyakozwe. [30] Imikirize y'urubanza rujuririrwa mu gika cyarwo cya 18, igaragaza ko Mukashyaka Divine yagabanyirijwe igihano kuko yafatanwe ingano nto y'ibiyobyabwenge, hashingiwe ku ngingo ya 2 y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyira ibyaha n'ibihano muri rusange, ahanishwa igifungo cy'imyaka 15 n'ihazabu ya 5.000.000Frw, akuwe ku gifungo cy'imyaka 25 n'ihazabu 20.000.000Frw yari yahanishijwe n'Urukiko Rwisumbuye rwa Muhanga. [31] Urukiko rw'Ubujurire rushingiye ku mirongo watanze mu manza zibukijwe mu gika cya 29 cy'uru rubanza, rurasanga igihano cy'igifungo cy'imyaka 15 n'ihazabu ya 5.000.000Frw Mukashyaka Divine yahanishijwe n'Urukiko Rukuru, Urugereko rwa Nyanza, kitakongera kugabanywa kuko cyagabanyijwe bihagije kandi kikaba aricyo gihano gito ntarengwa giteganyijwe ku cyaha kimuhama cyo gucuruza ibiyobyabwenge bihambaye byo mubwoko bw'urumogi, kikaba kidashobora kugibwa muni. C. Kumenya niba Mukashyaka Divine yasubikirwa igihano

3 Reba igika cya 19 cy'urubanza RPAA00752/2024/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 27/03/2025, haburana Ubushinjacyaha na Nsekanabo Augustin. 4 Reba igika cya 15 cy'urubanza RPAA01312/2024/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 18/07/2025, haburana Ubushinjacyaha na Ugwaneza Sylvestre. 5 Ivuga ko iyo umucamanza yemeje impamvu nyoroshyacyaha, ashobora kugabanya igihano ku buryo bukurikira: (a) igifungo cya burundu gishobora kugabanywa ariko ntikijye muni y'igihano cy'igifungo cy'imyaka 15 (d) igihano cy'ihazabu gishobora kugabanywa kugeza kuri kimwe cya kane cy'igihano cy'ihazabu gito giteganyirijwe icyaha cyakozwe.

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[32] Mukashyaka Divine n'umwunganira basaba ko yasubikirwa igihano kugira ngo ajye kwita ku bana bato yasize batagira kirengera, ndetse akaba yaramaze kubona ububi bwo gukoresha ibiyobyabwenge kuburyo aramutse ahawe ibihano bisubitse akarekurwa nta muntu wazongera kumushuka ngo yongere kubyishoremo. [33] Ubushinjacyaha buvuga ko Mukashyaka Divine adakwiriye gusubikirwa igihano kuko nta bimenyetso yatanze bigaragaza ko afite abana kandi ko badafite abandi bantu babareberera, bityo ko akwiriye kurangiriza igifungo mu igororero kugira ngo afashwe gusubira ku murongo ku buryo azarekurwa yaragorotse adashobora kongera kwishora mu byaha. UKO URUKIKO RUBIBONA [34] Ingingo ya 3, agace ka (1) y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyira ibyaha n'ibihano muri rusange ivuga ko iyo uwakatiwe nta kindi gihano cy'igifungo kirenga amezi 6 yahanishijwe mbere, urukiko rukoresheje icyemezo gisobanura impamvu, rushobora gutegeka gusubika irangiza ry'igihano cyose cyangwa igice cy'igihano cy'iremezo cyangwa cy'ingereka, iyo igihano cy'iremezo cy'igifungo umuntu yakatiwe kitarenze imyaka 5. [35] Urukiko rw'Ubujurire rurasanga Mukashyaka Divine adashobora gusubikirwa igihano kuko yahanishijwe igihano cy'iremezo kirenze igifungo cy'imyaka 5. [36] Hashingiwe ku bisobanuro byose byatanze

muri uru rubanza, Urukiko rw'Ubujurire rurasanga ubujurire bwa Mukashyaka Divine nta shingiro bufite mu ngingo zabwo zose, urubanza yajuririye rukaba rudahindutse. III. ICYEMEZO CY'URUKIKO [37] Rwemeje ko ubujurire bwatanzwe na Mukashyaka Divine nta shingiro bufite. [38] Rwemeje ko imikirize y'urubanza PA00819/2021/HC/NYZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Nyanza ku wa 12/11/2024, idahindutse. [39] Rwemeje ko igihano cy'igifungo cy'imyaka 15 n'ihaza ya 5.000.000Frw Mukashyaka Divine yahanishijwe muri urwo rubanza kigumyeho. [40] Rutegetse ko Mukashyaka Divine asonewe gutanga amagarama y'urubanza kuko aburana afunze.

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