

RWANDA / JUDGMENT

Re NIYONSABA

RAD00002/2025/CA

COURT

Court of Appeal

DECIDED

3 October 2025

CASE / FILE NUMBER

RAD00002/2025/CA

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Re NIYONSABA

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2025-10-03
- Case/document no.: RAD00002/2025/CA
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Text

Page 1

Re NIYONSABA [Rwanda URUKIKO RW'UBUJURIRE – RAD00002/2025/CA (Ngagi, P.J.) 03 Ukwakira 2025] Amategeko agenga imiburanishirize y'imanza z'ubutegetsi – Gusobanuza urubanza – Umuburanyi ntakoresha inzira yo gusobanuza urubanza agamije kunenga icyemezo kitamunyuze. Incamake y'ikibazo: Niyonsaba yatanze ikirego asaba gusobanuza urubanza RS/INJUST/RAD00002/2024/CA rwaciwe n'uru Rukiko rw'Ubujurire, aho rwemeje ko ikirego cye cyo gusubirishamo ku mpamvu z'akarengane urubanza RADA00133/2023/HC/KIG rwaciwe n'Urukiko Rukuru, yaburanye na Rwanda Revenue Authority (RRA) agatsindwa, nta shingiro gifite. Avuga ko atumva aho icyemezo cyafashwe muri urwo rubanza rw'akarengane, gihurira no kuba Urukiko Rukuru ntacyo rwavuze ku ngingo ya 92 iri muri sitati nshya y'abakozi ba RRA ivuga ko ikibazo cyavutse mbere y'uko sitati nshya yemezwa kizakemurwa hakurikijwe sitati yayibanjirije yo muri 2011. Urega avuga kandi ko atumva impamvu uru Rukiko rwasesenguye ingingo ya 95 y'Itegeko Nshinga iteganya ko nta tegeko rivuguruzwa iririsumba, ko atumva impamvu rwashingiye ku ngingo ya 93 agace ka 2 y'Itegeko No 86/2013 ryo ku wa 11/09/2013 rishyiraho sitati rusange igenga abakozi ba Leta. Asoza avuga ko atumva ibivugwa mu gika cya 42 na 43 by'urubanza asabira gusobanurwa aho bihurira na Sitati igenga abakozi ba RRA yo muri 2011 ndetse n'ibyaregowe

muri urwo rubanza. Uru Rukiko rw'Ubujurire rwasuzumiye iki kirego cy'Urega mu nama y'abacamanza, bitabaye ngombwa guhamagara ababuranyi, kuko ikirego gisobanura cyangwa gisobanura urubanza kiburanishwa nk'inyandiko nsobanurakirego itanzwe n'umuranyi umwe. Incamake y'icyemezo: Ibyo Niyonsaba yita gusobanura urubanza RS/INJUST/RAD00002/2024/CA, ntaho bihuriye no gusobanura urubanza, ahubwo anenga imikirize yarwo, mu gihe nta muburanyi wemerewe gukoresha inzira yo gusobanura urubanza agamije kunenga icyemezo kitamunyuze. Ikirego gisaba gusobanura urubanza, nta shingiro gifite. Amategako yashingiweho: Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavugururwe mu 2023, ingingo ya 95. Itegeko No 86/2013 ryo ku wa 11/09/2013 rishyiraho sitati rusange igenga abakozi ba Leta, ingingo ya 93. Imanza zifashishijwe: RS/INTERT/RC00001/2022/SC, Re Ntagungira, rwaciwe n'Urukiko rw'Ikirenga ku wa 18/11/2022. Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 25/04/2025, Urukiko rw'Ubujurire rwaciye urubanza RS/INJUST/RAD00002/2024/CA rwemeza ko ikirego cya Niyonsaba François gisaba gusubirishamo ku mpamvu z'akarengane urubanza RADA 00133/2023/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 12/04/2024, nta shingiro gifite, rutegaka Niyonsaba François guha Rwanda Revenue Authority (RRA) 500.000Frw y'igihembo cya Avoka na 200.000 Frw y'ikurikiranarubanza, kuri uru rwego.

Page 2

[2] Nyuma yuko uru Rukiko ruciye urubanza RS/INJUST/RAD00002/2024/CA, ku wa 05/05/2025, Niyonsaba François yatanze ikirego asaba kurusobanura. [3] Mu kirego cya Niyonsaba François avuga ko kuba Urukiko Rukuru ntacyo rwavuze ku ngingo ya 92 iri muri sitati nshya y'abakozi ba RRA ivuga ko ikibazo cyavutse mbere y'uko sitati nshya yemezwa kizakemurwa hakurikijwe sitati yayibanjirije yo muri 2011, atumva aho bihurira n'icyemezo uru Rukiko rwafashe cy'uko ikirego cye gisaba gusubirishamo ku mpamvu z'akarengane urubanza RADA00133/2023/HC/KIG rwaciwe ku wa 12/04/2024, nta shingiro gifite; ko atumva impamvu uru Rukiko rwasesenguye ingingo ya 95 y'Itegeko Nshinga iteganya ko nta tegeko rivugurura iririsumba; ko atumva impamvu uru Rukiko rwashingiye ku ngingo ya 93 agace ka 2 y'Itegeko No 86/2013 ryo ku wa 11/09/2013 rishyiraho sitati rusange igenga abakozi ba Leta; ko kandi atumva aho ibivugwa mu bika bya 42, 43 by'urubanza RS/INJUST/RAD00002/2024/CA bihurira na Sitati igenga abakozi ba RRA yo muri 2011 ndetse n'ibyaregowe muri urwo rubanza. [4] Iburanisha ry'urubanza ryabereye mu nama y'abacamanza (en chambre du conseil) ku wa 01/10/2025, Urukiko rusuzuma ikirego cyatanze na Niyonsaba François rwifashishije inyandiko zikubiyemo ibisobanuro yatanze bitabaye ngombwa guhamagara ababuranyi, hashingiwe ku bikubiye mu gika cya mbere cy'ingingo ya 140 y'Itegeko N^o 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbenezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu. II. IKIBAZO KIGIZE URUBANZA N'ISESENGURA RYACYO Kumenya niba hari ibigomba gusobanurwa mu rubanza RS/INJUST/RAD00002/2024/CA [5] Mu kirego cya Niyonsaba François, avuga ko asaba Urukiko gusobanura urubanza RS/INJUST/RAD00002/2024/CA rwaciwe ku wa 25/04/2025, ibyo asaba gusobanura bikubiye mu gika cya gatatu cy'uru rubanza. UKO URUKIKO RUBIBONA [6] Mu rubanza RS/INTERT/RC00001/2022/SC rwaciwe ku wa 18/11/2022, Urukiko rw'Ikirenga rwatanze umurongo ko

hasobanurwa ibyaciweho urubanza bitumvikana mu myandikire yarwo cyangwa bishobora kumvikana mu buryo bunyuranye bitera urujijo mu rubanza kandi ko n'umuburanyi atakoresha iyo nzira agamije gusa kunenga icyemezo kitamunyuze. [7] Nk'uko bigaragara mu bika bya 42 na 43 by'urubanza RS/INJUST/RAD00002/2024/CA, uru Rukiko rwasanze ibyo Niyonsaba François n'umwunganira bavuga ko Urukiko Rukuru rwashingiye ku ngingo ya 88 ya Sitati nshya igenga abakozi ba RRA yagiyeho ku wa 27/06/2019 kandi ikibazo cyaravutse mbere y'uko rijyaho, ko rero rwirengagije ingingo ya 92 y'iyi Sitati nshya, iteganya ko ikibazo cyavutse mbere y'uko rijyaho kizakemurwa na Sitati yari iriho, nta shingiro byahabwa, kuko ingingo ya 88 ya Sitati nshya igenga abakozi ba RRA yagiyeho ku wa 27/06/2019 ihura n'ibiteganywa n'ingingo ya 93, agace ka 2, y'Itegeko N°86/2013 ryo ku wa 11/09/2013 rishyiraho Sitati rusange igenga abakozi ba Leta ryubahirizwaga igihe Niyonsaba François yasezererwaga ku kazi nta mpaka; rusanga kandi ibikubiye muri iyi ngingo ya 93 ya Sitati rusange igenga abakozi ba Leta aribyo bigomba kubahirizwa, aho kubarizwa ibikubiye mu ngingo ya 74, agace ka 4°, ya Sitati igenga abakozi ba RRA yo muri Werurwe 2011 yubahirizwaga igihe Niyonsaba François yasezererwaga ku kazi iteganya ko umukozi ufunzwe by'agateganyo ameze ariko atandatu (6) ahagarikwa by'agateganyo mu kazi, kuko nta tegeko rivuguruza iririsumba. Rusanga kuba Urukiko Rukuru rwarashingiye ku biteganywa n'ingingo 88 ya Sitati nshya

Ikirego gikosora cyangwa gisobanura urubanza kiburanishwa nk'inyandiko nsobanurakirego itanzwe n'umuranyi umwe. (....).

Page 3

igenga abakozi ba RRA yagiyeho ku wa 27/06/2019, nta kosa rwakoze. Bityo ko nta karengane Niyonsaba François yatewe n'urubanza RADA00133/2023/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 12/04/2024. [8] Urukiko rurasanga, icyo Niyonsaba François yita gusobanura urubanza RS/INJUST/RAD00002/2024/CA, ari uko atumva uburyo Urukiko Rukuru ntacyo rwavuze ku ngingo ya 92 iri muri sitati nshya y'abakozi ba RRA bihurira n'icyemezo uru Rukiko rwafashe cy'uko ikirego cye gisaba gusubirishamo ku mpamvu z'akarengane urubanza RADA00133/2023/HC/KIG rwaciwe ku wa 12/04/2024, nta shingiro gifite; ko atumva impamvu uru Rukiko rwasesenguye ingingo ya 95 y'Itegeko Nshya n'impamvu rwashingiye ku ngingo ya 93, agace ka 2, y'Itegeko No 86/2013 ryo ku wa 11/09/2013 rishyiraho sitati rusange igenga abakozi ba Leta; ko kandi atumva aho ibivugwa mu bika bya 42, 43 by'urubanza RS/INJUST/RAD00002/2024/CA bihurira na Sitati igenga abakozi ba RRA yo muri 2011 ndetse n'ibyaregowe muri urwo rubanza. [9] Urukiko rurasanga ibyo Niyonsaba François yita gusobanura urubanza RS/INJUST/RAD00002/2024/CA nk'uko byibukijwe haruguru, ntaho bihuriye no gusobanura urubanza, ahubwo ikigaragara nuko anenga imikirize y'urwo rubanza, kandi nk'uko byasobanuwe n'Urukiko rw'Ikirenga ntabwo umuburanyi yemerewe gukoresha inzira yo gusobanura urubanza agamije kunenga icyemezo kitamunyuze. Bityo ikirego cya Niyonsaba François gisaba gusobanura urubanza RS/INJUST/RAD00002/2024/CA, nta shingiro gifite. III. ICYEMEZO CY'URUKIKO [10] Rwemeje ko ikirego cya Niyonsaba François gisaba gusobanura urubanza RS/INJUST/RAD00002/2024/CA, nta shingiro gifite.

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Prepared on 13 October 2026 · Esheria