ICYEMEZO KU BWUMVIKANE MU RUBANZA RCAA 00038/2018/CA

[Rwanda URUKIKO RW'UBUJURIRE – RCAA 00038/2018/CA – (Karimunda, Perezida., Ngagi na Munyangeri, Abahuza) 02 Mata 019]

Umwaka wa 2019, umunsi wa kabiri w'ukwezi kwa Mata;

Twebwe abagize inteko iburanisha urubanza Nº RCAA 00038/2018/CA, dufashijwe na UWASE Zita, Umwanditsi w'Urukiko;

Tumaze kubona ko uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Nyarugenge abitwa Mbabazi Didier Ali, Mucyo Amadou, Uwamahoro Anny Black, Rudahinduka Sadi Kevin na RUDAHINDUKA Yasin Steve barega Se Saidi Sadala n'umuvandimwe wabo Umulinga Safina bahuriye kuri Se basaba Urukiko gutesha agaciro inyandikomvaho N°11.008 yo mu gitabo CCXVI yo ku wa 26/02/1992 yerekeye impano y'umunani w'inzu ifite agaciro ka 21.737.008 Frw, Saidi Sadala yahaye umukobwa we Umuringa Safina batabizi kandi abavanguye, bikanakorwa ku buryo bunyuranyije n'amategeko, ikirego gihabwa N° RC 0911/15/TGI/NYGE;

Tumaze kubona ko muri urwo rubanza hatanzwemo inzitizi zitandukanye harimo iyo kuba ikiburanwa cyarafashweho icyemezo mu rundi rubanza[1], Urukiko rukemeza ko izo nzitizi zose nta shingiro zifite, urubanza mu mizi rugacibwa ku wa 17/06/2016, Urukiko rukemeza ko inyandikomvaho N°11.008 yo mu gitabo CCXVI yo ku wa 26/02/1992 iteshejwe agaciro kimwe n'impano ishingiyeho.

Tumaze kubona ko Umulinga Safina atishimiye imikirize y'urubanza, ajuririra Urukiko Rukuru kuri Nº RCA 00335/2016/HC/KIG avuga ko ikirego cy'abavandimwe be kitagombaga kwakirwa mu Rukiko Rwisumbuye kuko abareze babaye ababuranyi mu zindi manza bazitsindwamo, hakaba hari kuba harifashishijwe ihame rya *non bis in idem*, Urukiko Rwisumbuye rugafata icyemezo cyo kutakira ikirego cyabo. Ku birebana n'urubanza mu mizi, Umulinga Safina yavugaga ko Urukiko Rwisumbuye rwashingiye icyemezo cyarwo ku mvugo ya SAIDI Sadala kandi ataravugishije ukuri, akaba yaragombaga kwerekana ibimenyetso bifatika by'igihe n'uburyo yamunyaze umunani yamuhaye;

Tumaze kubona ko Urukiko Rukuru rwaciye urubanza ku wa 29/11/2016, rwemeza ko ubujurire bwa UMULINGA Safina nta shingiro bufite, ruvuga ko nta gihindutse ku mikirize y'urubanza rwajuririwe uretse ku byerekeye amafaranga y'ikurikiranarubanza n'igihembo cya Avoka, rukamutegeka guha abavandimwe be, aribo Uwamahoro Anny Black, Mucyo Amadou na Mbabazi Didier, 300.000 Frw y'igihembo cya Avoka wababuraniye ku rwego rw'Urukiko Rukuru, akanaha Saidi Sadala 300.000 Frw y'igihembo cya Avoka wamuburaniye;

Tumaze kubona ko Umulinga Safina atishimiye imikirize y'urubanza, akarujuririra mu Rukiko rw'Ikirenga, nyuma y'ivugururwa ry'inkiko ubujurire bwe bukoherezwa mu Rukiko rw'Ubujurire;

Tumaze kubona ko iburanisha mu ruhame ryashyizwe ku wa 11/02/2019, uwo munsi Umulinga Safina akitaba yunganiwe na Me Muhodari Jean de Dieu, Saidi Sadala ahagarariwe na Me

[1] Uru rubanza ruvugwa ni Nº RCA 0250/15/TGI/NYGE, Nº RC 0259/15/TGI/ na Nº RC 00315/2016/2016/TGI/NYGE aho SAIDI Sadala yari yajuririye urubanza Umulinga Safina yari yamurezemo mu Rukiko rw'Ibanze rwa Nyamirambo kuri Nº RC 1063/14/TB/NYB asaba kwemeza ko umunani wo ku wa 26/02/1992 ugumana agaciro kawo,rukanategeka ko ikibanza cyahoze ari 1311 yahaweho umunani cyabaye 083 yagihaweho umunani kuko Se yaciye inyuma akacyiyandikishaho. Urukiko rw'Ibanze rwari rwategetse ko ikirego cya Umulinga Safina gifite ishingiro, Urukiko Rwisumbuye rwa Nyarugenge rurabishimangira,muri izi manza hari hagobotse abavandimwe ba Umulinga Safina ari bo Dusenge Abdul, Saidi Kevin na Rudahinduka Yasin Steve. Saidi Sadala, Dusenge Abdul, Saidi Kevin na Rudahinduka Yasin Steve barajuriye, ubujurire bwabo ntibwakirwa.

KAREGA Blaise Pascal, Uwamahoro Anny Black, Mucyo Amadou na Mbabazi Didier baba mu mahanga bakaba bari bahagarariwe na Me Nzeyimana Rusinga Innocent, nyuma yo gusuzuma inzitizi yatanzwe n'abaregwa, Urukiko rugasaba ababuranyi kureba niba batakemura ikibazo cyabo binyuze mu nzira y'ubwimvikane, ababuranyi bakabyemera, bagasabwa kuzagaruka ku wa 02/04/2019 bazanye umwanzuro w'ibyo bagezeho ndetse baherekejwe n'inshuti z'umuryango;

Tumaze kubona ko ku wa 02/04/2019, hitabye Umulinga Safina na Saidi Sadala baherekejwe n'abavandimwe n'ishuti z'umuryango bakurikira: Dusenge Abdul, Njejimana Mariam, Mukaruzima Priscilla, Rutayisire Twaibu, Bizimanagonzague, Umubyeyi Hamida na Sezirahiga Sadiki;

Tumaze kubona ko Saidi Sadala yahawe ijambo akagaragariza inteko y'abahuza inyandiko y'ubwumvikane bwavuye mu nama yabaye mu ijoro ryo ku wa 13/02/2019 rishyira ku wa 14/02/2019, ikaba yari irimo Saidi Sadala, Selemani Sadala, Umulinga Safina, Dusenge Abdul, mucyo Amadou, Kamali Rwema Kassim,Uwababyeyi Fatuma, na Bamuhongerwa Dahlia, naho Uwamahoro Anny Black akabazwa ibitekerezo bye kuri telefoni, inama y'umuryango ikanzura ko inzu iburanwa yandikwa kuri Saidi Sadala, agasinya ko atazigera ayigurisha akiriho, yaba atakiriho abana be bose uko ari cyenda bakazayigiraho uburenganzira;

Tumaze kubona inyandiko y'ubwumvikane yashyizweho umukono n'abari mu nama y'umuryango bose uretse Umulinga Safina, ahubwo ku wa 01/04/2019, Umulinga Safina agashyira muri dosiye urwandiko ruvuga ko atemera ibyabereye mu nama y'umuryango kuko yatumijwe atabizi kandi haboneka gusa abashyigikiye abo baburana;

Tumaze kumva ibisobanuro bya Saidi Sadala ku nyandiko y'ubwumvikane yakozwe n'inama y'umuryango, Umulinga Safina akongera kuvuga ko atayemera;

Tumaze kumva ibyo abavandimwe n'inshuti z'umuryango bavuzwe haruguru bavuga ku buryo basanga ikibazo kiri mu muryango wa Saidi Sadala cyakemuka mu mahoro no mu bwumvikane, bose bagahuriza ku kugaragaza ko ibyiza ari uko Saidi Sadala yakomeza kuba muri iyo nzu, igakomeza kumutunga, ntigurishwe cyangwa ngo itangwe nk'impano, kugeza igihe abana be bose bazagirira uburenganzira bwo kumuzungura, icyo gihe abana yabyaranye na Mwanuyera Fébronie bose bakayigiraho mu buryo bungana uruhare rungana na 50% bakomora kuri nyina ubabyara, hanyuma bakazazungura Saidi Sadala hamwe n'abandi bana uyu yabyaye ku bandi bagore kandi yemera;

Tumaze kumva Umulinga Safina na Saidi Sadala babajijwe icyo bavuga ku nama yatanzwe n'abavandimwe n'inshuti z'umuryango bababaherekeje, Umulinga Safina akavuga ko uwo mwanzuro awemera, Saidi Sadala nawe akavuga ko icyo yifuza ari uko yakomeza kuba muri iyo nzu mu gihe akiriho kuko atariwe uzagena iby'izungura rye.

Tumaze kumva ku bijyanye n'igihembo cya Avoka, Umulinga Safina avuga ko hari1.800.00Frw agomba kwishyura ba Avoka bamuburaniye, naho Saidi Sadala akavuga ko agomba kwishyura 1.000.000 Frw, Dusenge Abdul akemera ko yabonera Umulinga Safina 400.000Frw, ariko nyuma umuryango n'inshuti zawo bakumvikana ko bazaganira n'abandi bana ba Mwanuyera Fébronie baba hanze y'igihugu, bose bagateranya amafaranga kugirango babashe kwishyura amafaranga y'ibihembo by'aba Avoka buri ruhande rusabwa kugirango hatagira uwo biremerera;

Dusanze, nyuma yo kumva icyo Umulinga Safina, Saidi Sadala na buri wese mu bavandimwe n'inshuti bababaherekeje avuga ku buryo ikibazo kiri hagati ya Saidi Sadala n'umukobwa we Umulinga Safina cyakemuka mu mahoro no mu bwumvikane, umuryango ukongera ukabana mu mahoro, bikagaragara ko bose bahuriza ku kwemeza ko umutungo wakomeza kwandikwa kuri Saidi Sadala, yaba atakiriho abana be bose bakazawugiraho uburenganzira haherewe kubo yabyaranye na Mwanuyera Fébronie, Umulinga Safina yemeye kumvikana n'umubyeyi we saidi Sadala, impande zombi zikaba zemeranyijwe kuri ibi bikurikira:

a. Inzu iburanwa izakomeza kwandikwa kuri Saidi Sadala;

b. Saidi Sadala ntiyemerewe kuyigurisha cyangwa kuyitangaho impano;

c. Abana Saidi Sadala yabyaranye na Mwanuyera Fébronie bayifiteho uburenganzira bungana na 50% bakomora kuri nyina, hanyuma bakazungura Se hamwe n'abandi bana Se yabyaranye n'abandi bagore ku ruhare rwa Se rungana na 50%;

d. Abana bose ba Saidi Sadala na Mwanuyera Fébronie bazateranya amafaranga kugirango hishyurwe ibihembo by'aba Avoka baburaniye Saidi Sadala na Umulinga Safina kuri buri ruhande.

II. ICYEMEZO CY'UBWUMVIKANE

[1] Twemeje ko Saidi Sadala na Umulinga Safina bumvikanye ko inzu iburanwa mu rubanza Nº RCAA 00038/2018/CA, ikomeza kwandikwa kuri Saidi Sadala, akaba atemerewe kuyigurisha cyangwa kuyitangaho impano, abana yabyaranye na Mwanuyera Fébronie bakaba bayifiteho uburenganzira bungana na 50% bakomora kuri nyina, naho 50% bakazayigabana n'abandi bana saidi Sadala yabyaranye n'abandi bagore;

[2] Twemeje ko abana bose ba SAIDI Sadala na MWANUYERA Fébronie bazateranya amafaranga kugirango hishyurwe ibihembo by'aba Avoka baburaniye SAIDI Sadala na UMULINGA Safina kuri buri ruhande;

[3] Twemeje ko amagarama yatanzwe mu rubanza № RCAA 00038/2018/CA ahwanye n'ibyarukozwemo.