IMANIRIHO v MUHAWENIMANA

[Rwanda URUKIKO RUKURU – RCA00064/2022/HC/MUS (Gasore, P.J.) 24 Ugushyingo 2022]

Amategeko agenga imanza mbonezamubano – Umuryango – Ishyingirwa – Ikimenyetso cy'shyingirwa – Ishyingirwa rihamywa n'inyandiko y'ishyingirwa keretse igihe Itegeko riteganya ubundi bwoko bw'ikimenyetso.

Amategeko agenga imanza mbonezamubano – Umuryango – Ishyingirwa – Igihe ishyingirwa riba rirangiye – Ishyingirwa rigira agaciro uhereye igihe umwanditsi w'irangamimerere yakoze umuhango uteganywa n'itegeko wo gushyingira umugabo n'umugore.

Incamake y'ikibazo : Uru rubanza rwatangiye Maniriho arega Muhawenimana mu Rukiko Rwisumbuye rwa Rubavu, avuga ko yasezeranye mu buryo bwemewe n'amategeko na Mfitumukiza muri 2006 babyarana umwana, bakomeza kubana kugeza muri 2010, hanyuma ararwara ava murugo agiye kwivuza, Mfitumukiza asigara mu rugo, ahasigarana na Muhawenimana wari murumuna we wo kwa nyina wabo wari usanzwe ahaba, hanyuma batangira kubana nk'umugabo n'umugore.

Imaniriho avuga ko mu mwaka wa 2012 habaye ibarura ry'ubutaka, imitungo yari afitanye na Mfitumukiza ayibaruzaho we na Muhawenimana, hanyuma mwaka wa 2016 Mfitumukiza yarapfuye ngo iyo mitungo yose isigaranwa na Muhaweniman. Aho Imaniriho agarukiye yasanze Muhawenimana yaratuye mu nzu ye ndetsengo n'imitungo yarayigaruriye yose.

Muhawenimana yireguye avuga ko Mfitumukiza Donatien yabanye na Imaniriho batarasezeranye babyarana abana 2 ariko umwe arapfa, avuga ko mukubana kwabo baranzwe n'amakimbirane, ubwo mu mwaka wa 2006 mukwezi kwa 6 bashatse gusezerana bandikwa mu bitabo by'irangamimerere basinyirwa n'abagabo huzuzwa n'inyandiko y'inkwano yaje gucishwamo umurongo, ko ariko nubwo bwose banditswe mu bitabo by'Irangamimerere batigeze barahirira imbere y'umwanditsi w'Irangamimerere bafashe ku idarapo nk'uko amategeko abiteganya. Yasabye Urukiko kudaha agaciro ayo masezerano yo gushyingirwa kuko imihango yose itigeze ikorwa, ko kandi kuba yitwaza ko afite attestation de mariage nta shingiro bifite, ahubwo yakabaye agaragaza inyandiko y'ishyingirwa (acte de mariage). Avuga kandi ko ikibazo cyabo umuryango wakigiyemo, abo kireba bahibereye maze basinyira ko batabashije gusezerana imbere y'umwanditsi w'irangamimerere, ko buri wese yashakira aho ashaka, agaragaza inyandiko ibigaragaza yo kuwa 5/6/2008.

Urukiko , rwemeje mu rubanza RC00005/2021/TGI/RB ko nubwo bwose hagaragara inyandiko ziri mu bitabo by'Irangamimerere mu Murenge wa Nyakiriba zigaragaza ko Imaniriho Francoise yasezeranye byemewe n'amategeko na Mfitumukiza , ariko ko iri sezerano ritageze ku ndunduro yaryo, ahubwo habayeho kwandikwa mu bitabo ariko ntibyakurikirwa n'umuhango nyirizina wo gusezerana, kuko iyo iryo sezerano riza kuba ryarabaye Imaniriho atari kwemera ko hagira izindi nzego zisuzuma ikibazo cyari hagati ye na Mfitumukiza, netse akemera ko atazigera atambamira isezerano rya Mfitumukiza n'undi mugore. Bityo rwemeza ko ikirego cyatanzwe na Imaniriho asaba guhabwa imitungo yasizwe n'umugabo we Mfitumukiza akanayandikwaho nta shingiro gifite.

Imaniriho ntiyishimiye iki cyemezo, akijuririra mu Rukiko Rukuru, Urugereko rwa Musanze. Avuga ko Urukiko rwirengagije ibimenyetso rwashyikirijwe, rutesha agaciro isezerano rya mbere ryo kuwa 01/08/2006 kandi muri dosiye harimo ibaruwa yo kuwa 02/02/2012 Imanizabayo yandikiye umuyobozi w'umurenge wa Nyakiriba ahagarikisha iryo sezerano rya kabiri rya Mfitumikiza. Yasabye Urukiko kwemeza ko ari we mugore w'isezerano, agahabwa imitungo yose iburanwa.

Muhawenimana yireguye avuga ko hari ibimenyetso bigaragaza ko Imaniriho atasezeranye. Birimo Inyandiko yo kuwa kuwa 5/6/2008 ; inyandiko yo kuwa 31/1/2012 Imaniriho yiyemerera ko ikibazo yarafitanye na Mfitumukiza cy'indezo gikemutse, bityo ko atazatambamira isezerano

ry'umugore wa Mfitumukiza ; umwanzuro w'abunzi b'akagari ka Gikombe wabaye itegeko wemeje ko amakimbirane Mfitumukiza na Maniriho bari bafitanye yatumye amasezerano yo gusezerana imbere y'amategeko atubahirizwa.

Urukiko rwemeje ko ibimenyetso byagaragajwe na Imaniriho nta nyandiko y'ishyingirwa irimo, ahubwo yagaragaje icyemezo cyo kuba yarashyingiwe (cyangwa se attestation de mariage), rwemeje ko iki cyemezo gitandukanye n'icyo Itegeko rivuga ko ari cyo kigombaga guhamya ishyingirwa.

Ikindi kimenyetso yashingiyeho ni inyandikomvugo igaragaza ko yasezeranye na Mfitumikiza kuwa 01/08/2006, Ibi ariko Urukiko rwavuze ko bidahagije kugira ngo hemezwe ko iri shyingiranwa ryabayeho kuko kuba byanditse mu gitabo byonyine bitavuga ko byashyizwe mu bikorwa kuko Amategeko ateganya ko Ishyingirwa rigira agaciro uhereye igihe ryabereye imbere y'umwanditsi w'irangamimerere. Bityo, ibyanditswe mu gitabo nta gaciro bigira mu gihe umwanditsi w'irangamimerere atakoze umuhango uteganywa n'itegeko wo gushyingira umugabo n'umugore.

Urukiko rwanzuye mu rubanza RCA00064/2022/HC/MUS ko ubujurire bwa Imaniriho nta shingiro bufite kuko atabashije kuvuguruza ibyo Urukiko rwashingiyeho rwemeza ko atigeze ashyingiranwa na Mfitumukiza, bityo nta cyashingirwaho yegurirwa imitungo aburana.

Incamake y'icyemezo : 1. Ishyingirwa rihamywa n'inyandiko y'ishyingirwa keretse igihe itegeko riteganya ubundi bwoko bw'ikimenyetso. Iyo inyandiko y'ishyingirwa idashoboye kuboneka ku mpamvu iyo ariyo yose, ishobora gusimburwa n'urubanza. Inyandiko y'ishyingirwa ni marriage certificate cyangwa acte de marriage ntabwo ari attestaion de marriage.

2. Ishyingirwa rigira agaciro uhereye igihe ryabereye imbere y'umwanditsi w'irangamimerere. Bityo, iyo abantu banditswe mu bitabo by'abashyingiranywe ariko umwanditsi w'irangamimerere ntakore umuhango uteganywa n'itegeko wo gushyingira umugabo n'umugore, ibyanditswe muri icyo gitabo nta gaciro bigira.

Amategeko yashingiweho :
Itegeko Nº 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango, Ingingo ya 178, 202

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Rubavu. Imaniriho Francoise yatanze ikirego avuga ko yabanye nk'umugabo n'umugore na Mfitumukiza Donatien babyarana umwana, ngo basezeranye mu buryo bwemewe n'amategeko kuwa 01/08/2006 bashyingiranwa imbere y'amategeko mu Murenge wa Nyakiriba. Ngo bakomeje kubana kugeza mu mwaka wa 2010, Maniriho Francoise yafashwe n'uburwayi ava murugo, umugabo asigara mu rugo, ahasigarana na Muhawenimana Marie Chantal murumuna we wo kwa nyina wabo wahabaga bisanzwe, ari nabwo batangiye kubana nawe nk'umugabo n'umugore, bituma Mfitumukiza Donatien atongera kwita ku mugore we wa mbere kuko yari yashatse undi. Imaniriho Francoise yakomeje avuga ko mu mwaka wa 2012 habaye ibarura ry'ubutaka, imitungo Imaniriho Francoise yari afitanye na Mfitumukiza Donatien bayibaruzaho bombi na Muhawenimana Marie Chantal, ko kandi mu mwaka wa 2016 Mfitumukiza Donatien yaje kwitaba Imana iyo mitungo yose isigaranwa na Muhawenimana Marie Chantal. Mu mwaka wa 2018 uburwayi Imaniriho Francoise yari afite ubwo bwari bumaze koroha, yaje gusanga Muhawenimana Marie Chantal yaratuye mu nzu ye ndetse n'imitungo yarayigaruriye yose asanga kandi iyo mitungo yose imwanditseho we na Mfitumukiza Donatien, iyindi mitungo Muhawenimana Marie Chantal yarayigurishije nyuma y'urupfu rw'uwo mugabo we.

[2] Mu Rukiko Rwisumbuye rwa Musanze, Muhawenimana Chantal yireguye avuga ko Mfitumukiza Donatien yabanye na Imaniriho Francoise badasezeranye babyarana abana 2 ariko umwe arapfa, akomeza avuga ko mukubana kwabo baranzwe n'amakimbirane, ubwo mu mwaka wa 2006 mukwezi kwa 6 bashatse gusezerana bandikwa mu bitabo by'irangamimerere basinyirwa n'abagabo huzuzwa n'inyandiko y'inkwano yaje gucishwamo umurongo, ko ariko nubwo bwose banditswe mu bitabo by'Irangamimerere batigeze barahirira imbere y'umwanditsi w'Irangamimerere bafashe ku idarapo nk'uko amategeko abiteganya. Yasabye ba urukiko kudaha agaciro ayo masezerano yo gushyingirwa kuko imihango yose itigeze ikorwa, ko kandi kuba yitwaza ko afite attestation de mariage nta shingiro bifite, ahubwo yakabaye agaragaza inyandiko y'ishyingirwa (acte de mariage). Yongeyeho ko mu mwaka wa 2008 Imaniriho yataye umugabo mu nzu amusiga arwaye, nyuma ikibazo cyabo umuryango waje kukijyamo, abo kireba bahibereye maze basinyira ko batabashije gusezerana imbere y'umwanditsi w'irangamimerere, ko buri wese yashakira aho ashaka, agaragaza inyandiko ibigaragaza yo kuwa 5/6/2008 aho Imaniriho yasinye kuri iyo nyandiko ari kumwe na nyina umubyara witwa Uwimana Annonciata.

[3] Urukiko Rwisumbuye rwa Rubavu, nyuma yo gusuzuma imiburanire ya buri ruhande n'ibimenyetso rwashyikirijwe, rwasanze nubwo bwose hagaragara inyandiko ziri mu bitabo by'Irangamimerere mu Murenge wa Nyakiriba zigaragaza ko Imaniriho Francoise yasezeranye byemewe n'amategeko na Mfitumukiza Donatien, iyo usuzumye inyandiko yo kuwa kuwa 31/1/2012 igaragaza ko Imaniriho yiyemerera ko ikibazo yarafitanye na Mfitumukiza cy'indezo gikemutse, bityo ko atazatambamira isezerano ry'umugore wa Mfitumukiza, hakaba kandi hari umwanzuro w'abunzi b'Akagari ka Gikombe wo kuwa 14/6/2011 wabaye itegeko, aho mu cyemezo cyafashwemo n'inteko y'abunzi hagaragaramo ko amakimbirane Mfitumukiza Donatien na Imaniriho Francoise bari bafitanye yatumye amasezerano yo gusezerana imbere y'amategeko atubahirizwa, byumvikanisha ko ibyo bitabo byujujwe n'abakozi babishinzwe ariko ko iri sezerano ritageze ku ndunduro yaryo, ahubwo urukiko rusanga harabayeho kwandikwa mu bitabo ariko ntibyakurikirwa n'umuhango nyirizina wo gusezerana, kuko iyo iryo sezerano riza kuba ryarabaye uyu Imaniriho Francoise atari bwemere ko hagira izindi nzego zisuzuma ikibazo cyari hagati ye na Mfitumukiza Donatien, akanagaragaza ko atazigera atambamira isezerano rya Mfitumukiza Donatien n'undi mugore. Rwasanze kandi kuba ubu ibitabo by'Irangamimerere byo mu Murenge wa Nyakiriba bigaragaza ubushyingirane bwa Mfitumukiza Donatien ku bagore babiri aribo Imaniriho Francoise na Muhawenimana Marie Chantal, bidakwiye guteza urujijo uwari we wese kugirango habe hakumvikana ko ishyingiranwa rya mbere ariryo rikwiye guhabwa agaciro igihe icyari cyo cyose ritagaragarizwa ibindi bimenyetso birishimangira. Rwemeje ko ikirego cyatanzwe Imaniriho Francoise arega Muhawenimana Marie Chantal asaba guhabwa imitungo yasizwe n'umugabo we Mfitumukiza Donatien akanayandikwaho nta shingiro gifite.

[4] Imaniriho Francoise ntiyishimiye iki cyemezo. Yajuririye mu Rukiko Rukuru, Urugereko rwa Musanze. Yavuze ko icyatumye ajurira ari uko Urukiko rwirengagije ibimenyetso rwashyikirijwe, rutesha agaciro isezerano rya mbere ryo kuwa 01/08/2006 kandi muri dosiye harimo ibaruwa yo kuwa 02/02/2012 Imanizabayo Françoise yari yandikiye umuyobozi w'umurenge wa Nyakiriba ahagarikisha iryo sezerano rya kabiri rya Mfitumikiza Donatien. Yasabye Urukiko kwemeza ko ari we mugore w'isezerano, agahabwa imitungo yose iburanwa muri uru rubanza. Kuri uru rwego, hasabwe amafaranga y'ikurikiranarubanza n'ighembo cya avoka.

[5] Hakurikijwe ibimaze kuvugwa haruguru, muri uru rubanza hasuzumwe ibibazo bikurikira :

Kumenya niba Urukiko Rwisumbuye rwarirengagije ibimenyetso bigaragaza ko Imaniriho Francoise ari we mugore w'isezerano wa Mfitumikiza Donatien, ko ari we ugomba guhabwa imitungo yose iburanwa muri uru rubanza

Kumenya niba hari amafaranga y'ikurikiranarubanza n'igihembo cya avoka akwiye gutangwa kuri uru rwego rw'ubujurire.

II. ISESENGURA RY'IBIBAZO BIRI MU RUBANZA

A. Kumenya niba Urukiko Rwisumbuye rwarirengagije ibimenyetso bigaragaza ko Imaniriho Francoise ari we mugore w'isezerano wa Mfitumikiza Donatien, ko ari we ugomba guhabwa imitungo yose iburanwa muri uru rubanza

[6] Imaniriho Francoise yasobanuye ko ku rupapuro rwa 11 rw'urubanza RC00005/2021/TGI/RBV mu gace ka 20, urukiko rwemeje ko muri uru rubanza Imaniriho François atari umugore w'isezerano wemewe n'amategeko wa Mfitumukiza Donatien rwirengagije ibimenyetso bitandukanye yarushikirije. Muri ibyo bimenyetso ngo harimo Icyemezo cyo kuba warashyingiwe cyatanzwe n'umurenge wa Nyakiriba ; Inyandikomvugo y'iperereza ry'Urukiko igaragaza ku rupapuro rwayo rwa 12 ko yasezeranye na Mfitumikiza Donatien kuwa 01/08/2006, ubwo bushyingiranywe bukaba bwanditse bitabo by'abashyingiranywe, mu gitabo VOL I kuri No 104. Ngo ikindi Urukiko rwirengagije ni ubuhamya bw'umukozi ushinzwe irangamimerere mu murenge wa Nyakiriba bugaragara ku rupapuro rwa 14 rw'iryo perereza. Ngo urukiko rwabajije Umuhire Françoise ikibazo cyo kumenya isezerano ryahabwa agaciro imbere y'amategeko mu masezerano yombi avugwa muri uru rubanza. Yasubije ko ku bijyanye n'isezerano rifite agaciro, isezerano rya mbere ryo muri 2006 ari ryo ryahabwa agaciro kuko bitashoboka ko isezerano rya kabiri rigira agaciro irya mbere rikiriho, yakomeje asobanurira urukiko ko n'iyo urebye muri system ya NIDA usanga Imaniriho Françoise ari we ugaragara nk'umugore w'isezerano wa Mfitumukiza Donatien, naho iyo urebye kuri NIDA ku mwirondoro wa Muhawenimana Marie Chantal muri 2007 mu gihe cy'ibarura ry'abaturage usanga statut ya Muhawenimana Marie Chantal ari Ingaragu». Ngo ntiyumva icyo umucamanza yashingiyeho yemeza ko Imaniriho Françoise atari umugore w'isezerano wemewe n'amategeko wa Mfitumukiza Donatien. Yasoje avuga ko ari we mugore wa Mfitumukiza Donatien witabye Imana muri 2016, akaba asaba Urukiko kwemeza ko imitungo ye na Mfitumikuza Muhawenimana Marie Chantal yiyandikishijeho ayirekura, hakandikwaho amazina ya Imaniriho Françoise kuko uwo bashakanye yitabye Imana muri 2016. Yagaragaje iyo mitungo iyo ari yo.

[7] Muhawenimana Marie Chantal yireguye avuga ko hari ibimenyetso bigaragaza ko Imaniriho atasezeranye. Ibyo bimenyets birimo Inyandiko yo kuwa kuwa 5/6/2008; inyandiko yo kuwa 31/1/2012 Maniriho yiyemerera ko ikibazo yarafitanye na Mfitumukiza cy'indera gikemutse, bityo ko atazatambamira isezerano ry'umugore wa Mfitumukiza; umwanzuro w'abunzi b'akagari ka Gikombe wo kuwa 14/6/2011 wabaye itegeko mucyemezo cyafashwemo hagaragaramo ko amakimbirane Mfitumukiza Donatien na Maniriho Francoise bari bafitanye yatumye amasezerano yo gusezerana imbere y'amategeko atubahirizwa. Ku byerekeranye n'iperereza ryakozwe mubitabo by'irangamimerere, urukiko rugasanga Mfitumukiza yarasezeranye n'abagore 2 Maniriho na Muhawenimana, ushinzwe irangamimerere akabazwa isezerano rifite agaciro, agasubiza ko ari iryakozwe muri 2006, iki gisubizo yatanze ni imyumvire ye, cyane ko ari we wakuye Muhawenimana muri systeme agashyiramo Maniriho. Ngo ibarwa Maniriho avuga ko yanditse atambamira isezerano nta kigaragaza ko yayanditse akayigeza ku Murenge, ngo n'iyo ayigezayo nta gaciro yari guhabwa kuko atasezeranye nk'uko yabyiyemereye. Ngo kuba Maniriho aboneka nk'uwashyingiranywe na Mfitumukiza mu bitabo byandikwamo abashyingiranywe ntibihagije, ngo icyabayeho nuko mu mwaka 2006, habayeho gushishikariza abantu gusezerena, abantu bakiyandikisha, ibitabo bikuzurizwa mu kagari abiyandikishije bagasinya n'abahamya noneho bagahabwa itariki yo kuzasezerana, niko byagenze kuri Mfitumukiza na Maniriho, maze itariki yo gusezerana igeze ntibajyayo kuko batari bakibana bari barashwanye. Yakomeje avuga ko nta mpamvu yo kunenga extrait d'acte de marriage kuko yatanzwe n'ubuyobozi bubifitiye ububasha, kandi isezerana rya Muhawenimana ryanditse mu bitabo byandikwamo abashyingiranywe kandi n'urukiko rwarabyiboneye, ngo afite ibimyetso bimugaragaza asezerana. Yasoje avuga ko nta mutungo Imaniriho yasize kwa Mfitumukiza Donatien cyane ko batanasezeranye, kandi ngo si bwo bwa mbere Imaniriho aregeye iyi mitungo, yabanje kuyiregera Mfitumukiza mubunzi b'akagari ka Gikombe aho yamuregaga inzu n'imirima 5, inteko y'abunzi yemeza ko nta mirima Imaniriho yacanye na Mfitumukiza. Ngo Mfitumukiza amaze gupfa, Imaniriho ahagarariye umwana we Mfitimana Sifa yareze Muhawenimana iyi mirima n'inzu yaratsinzwe mu b'unzi b'umurenge wa Nyakiriba. Bikaba bitangaje ukuntu agarutse kuregera imitungo kuncuro ya 3, kandi yaragiye atsindwa n'imanza zikaba zarabaye itegeko.

UKO URUKIKO RUBIBONA

[8] Urukiko rurasanga ingingo ya 178 y'Itegeko Nº 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango iteganya ko Ishyingirwa rihamywa n'inyandiko y'ishyingirwa keretse igihe itegeko riteganya ubundi bwoko bw'ikimenyetso. Iyo inyandiko y'ishyingirwa idashoboye kuboneka ku mpamvu iyo ariyo yose, ishobora gusimburwa n'urubanza ruciwe, bisabwe n'umuntu wese ubifitemo inyungu, mu rukiko rubifitiye ububasha rw'aho atuye. Urukiko rushobora gukora iperereza igihe rubona ko ari ngombwa. Inyandiko y'ishyingirwa ivugwa ahangaha ni iyo bita mu ndimi z'amahanga marriage certificate cyangwa acte de marriage. Ibi bigasobanura ko hagati y'ababuranyi bombi muri uru rubanza, ugaragaza iyi nyandiko ari we ukwiye kwemezwa ko yasezeranye na Mfitumukiza Donatien

[9] Urukiko rurasanga mu bimenyetso byagaragajwe na Imaniriho Françoise wajuriye nta nyandiko y'ishyingirwa irimo, ahubwo yagaragaje icyemezo cyo kuba warashyingiwe (cyangwa se attestation de mariage), iki cyemezo ariko gitandukanye n'icyo ingingo yagaragajwe haruguru ko ari cyo kigombaga guhamya ishyingirwa. Ibi bikaba bikwiye gutuma kidahabwa agaciro muri uru rubanza. Ikindi kimenyetso yashingiyeho ni inyandikomvugo y'iperereza ku rubanza RC00005/2021/TGI/RBV igaragaza ku rupapuro rwayo rwa 12 ko yasezeranye na Mfitumikiza Donatien kuwa 01/08/2006 ubwo bushyingiranywe bukaba bwanditse mu bitabo by'abashyingiranywe, mu gitabo VOL I kuri No 104. Ibi ariko na byo bikaba bidahagije kugira ngo hemezwa ko iri shyingiranwa ryabayeho kuko kuba byanditse mu gitabo byonyine bitavuga ko byashyizwe mu bikorwa cyane cyane ko ingingo ya 202 y'Itego Nº 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango iteganya ko Ishyingirwa rigira agaciro uhereye igihe ryabereye imbere y'umwanditsi w'irangamimerere. Ibi bikaba bishatse kuvuga ko ibyanditswe mu gitabo nta gaciro bigira mu gihe umwanditsi w'irangamimerere atakoze umuhango uteganywa n'itegeko wo gushyingira umugabo n'umugore, kandi Imaniriho Françoise ntiyigeze agaragaza ko uyu muhango wabayeho. Imaniriho Françoise yavuze ko muri iryo perereza hakwiye kurebwa ubuhamya bwatanzwe na Umuhire Françoise wari ushinzwe irangamimerere mu Murenge wa Nyakiriba kuko ngo hari aho yavuze ko isezerano rifite agaciro ari irya mbere. Nyamara mbere yo kuvuga ibi yari yabanje gusobanura neza ko muri 2007 habaye ibarura ry'abaturage, buri muturage akaba yarabazwaga niba yubatse cyangwa niba atubatse, ngo ni muri urwo rwego Mfitumukiza Donatien yanditswe ko yasezeranye na imaniriho Françoise, ibi ngo ni byo byashyizwe muri system. Iyi mvugo ye yivuguruza ikaba nta gaciro ikwiye guhabwa. Ahubwo, ibyo yavuze ko hashyizwe muri system ibyavuzwe mu magambo byahuzwa n'ubuhamya bwatanzwe na Nzabandora Raheri (nyina wa Mfitumukiza Donatien) wavuze ko isezerano rya Imaniriho Francoise nta ryo azi, ko uwasezeranye ari Muhawenimana Chantal. Ibi kandi byashimangiwe n'undi mutangabuhamya witwa Budihori Oswald wavuze ko na we azi neza ko Imaniriho na Mfitumukiza bagiye kwiyandikisha ngo basezerane, mu gihe batarasezerana Mfitumukiza Donatien ararwara, ngo Imaniriho Françoise yaramutaye bituma ashaka Muhawenimana Chantal aba ari we basezerana.

[10] Urukiko rurasanga icyiyongera ku bimaze kuvugwa haruguru ari ibyo Imaniriho Françoise yivugiye mu nyandiko yo ku wa 31/01/2012, aho yemeye ko atazatambamira ugushyingirwa hagati ya Mfitumukiza Donatien n'undi mugore, ibi bikaba bishimangira ko atigeze asezerana mu buryo bwemewe n'amategeko ; ntiyari kuba azi neza ko isezerano rye ririho ngo yemere mu nyandiko ko atazatambamira isezerano ry'umugabo we n'undi mugore, akabyemerera mu ruhame hari abatangabuhamya batandukanye. Hari indi nyandiko yo kuwa 05/08/2008, yiswe imyanzuro y'imiryango ya Mfitumukiza Donatien na Imaniriho Francoise, aba bombi bakaba barayishyizeho umukono, aho basobanuye ko habayeho agasigane k'imiryango yombi bigatuma ibyari byanditswe mu gitabo cy'irangamimerere bitubahirizwa, bityo isezerano mu ruhame rikaba ritarigeze ribaho. Bavuzwe ko bigaragazwa cyane cyane n'amasezerano y'inkwano atarashyizweho umukono n'umwanditsi w'irangamimerere mu Murenge wa Nyakiriba. Muri dosiye hari na none inyandiko yakozwe n'inteko y'abunzi b'Umurenge wa Nyakiriba yo kuwa 14/06/2011, aho Imaniriho Francoise yari yatanze ikirego avuga ko Mfitumukiza Donatien amuheza mu mutungo bacanye. Icya mbere kigaragara muri iyi nyandiko ni uko nta gushyingiranwa kwigeze kuba hagati yabo bombi kuko iyo baba barashyingiranywe, Imaniriho Francoise ntiyari kujya kurega avuga ko

bacanye umutungo, ahubwo yari kuvuga ko basezeranye ivangamutungo. Ikindi gikomeye muri iyo nyandiko ni uko Mfitumukiza Donatien yarabajijwe niba yarasezeranye na Imaniriho Francoise asubiza ko nta mugore basezeranye kuko ngo atabana n’umugore wamuhuririje ngo yapfuye. Ibi bimenyetso byose bikaba biza byunganira ibyagaragajwe mu gika kibanza byerekana ko nta cyashingirwaho hemezwa ko Imaniriho Françoise yari yarashyingiranywe mu buryo bwemewe n’amategeko na Mfitumukiza Donatien. Bityo n’uburenganzira asaba bwo kwandikwaho imitungo ya Mfitumukiza Donatien akaba atabuhabwa.

[11] Ku bw’ibyo, ubujurire bwa Imaniriho Françoise nta shingiro bufite kuko atabashije kuvuguruza ibyo Urukiko rwashingiyeho rwemeza ko atigeze ashyingiranwa na Mfitumukiza Donatien, bityo nta cyashingirwaho yegurirwa imitungo aburana. Mu yandi magambo ibyo avuga ngo hari ibimenyetso byirengagijwe nta shingiro bifite. Hakaba rero hakwiye kugumaho icyemezo cyafashwe n’Urukiko Rwisumbuye rwa Rubavu rwemeje ko imitungo Imaniriho Francoise asaba kugiraho uburenganzira no kwandikwaho nta shingiro bifite.

B. Kumenya niba hari amafaranga y’ikurikiranarubanza n’igihembo cya avoka zikwiye gutangwa kuri uru rwego rw’ubujurire

[12] Imaniriho Francoise yavuze ko yabanye na Muhawenimana Marie Chantal nk’umwana wa nyinawabo. Ngo ikibabaje yaje gusambana n’umugabo we Mfitumukuza Donatien bagera naho bamwangaza bamukura mu rugo rwe no mu mitungo ye kuva muri 2010 noneho amuhindura umugore we ku mugaragaro bakora n’amanyanga barasezerana. Ngo icyo gikorwa cyamuteye agahinda, gituma ashaka Avocat wo kumuburanira, akaba agisabira indishyi za 5.000.000Frw akubiyemo indishyi z’akababaro za 4.000.000frw, 250.000frw y’ikurikirana rubanza na 750.000frw y’igihembo cya Avocat.

[13] Muhawenimana Marie Chantal yavuze ko indishyi Imaniriho asaba nta shingiro zifite kuko aregera ibyo adafiteho uburenganzira, ndetse ikurikiranarubanza n’igihembo cy'avoka na byo nta shingiro kuko niwe wishoye mu manza. Yasabye Urukiko gutegeka Imaniriho guha Muhawenimana indishyi z'ikurikirana rubanza zingana na 200.000Frw, kumusubiza igihembo cy'avoka ibihumbi maganatanu, n'indishyi z'akababaro zo gikomeza kumushora mumanza za 500.000Frw.

[14] Urukiko rurasanga ababurana muri uru rubanza bombi barasabye indishyi birengagije icyemezo cyafashwe n’Urukiko Rwisumbuye rwa Rubavu ku kibazo cy’indishyi. Mu mwanzuro warwo, rwavuze ko mu nyungu z’ubutabera muri uru rubanza ndetse no mu nyungu za Mfitumukiza Donatien wasize umwana umukomokaho yabyaranye na Imaniriho Francoise nk’uko yemeraga kumuha ibimutunga mu nyandiko zinyuranye yaba ari izabereye mu miryango bakomokamo cyangwa izafashweho icyemezo n’inzego zinyuranye, rukanashingira ku kuba ibyo Imaniriho Francoise aregera nta shingiro bifite, byumvikanisha ko hari byo agabomba kwishyura Muhawenimana Marie Chantal nk’umudamu wasizwe na nyakwigendera Mfitumukiza Donatien, akaba kandi anafite nawe inshingano yo kureberera umwana umugabo we Mfitumukiza Donatien yabyaranye na Imaniriho Francoise, rusanga buri ruhande rugomba kwirengera ibyakoreshejwe muri uru rubanza yaba amafaranga y’ikurikirana rubanza ndetse n’ay’igihembo cy’avoka, naho indishyi zo zikaba zitagomba gutangwa mu nyungu z’ubutabera.

[15] Urukiko rurasanga ibi bisobanuro byatanzwe n’Urukiko Rwisumbuye rwa Rubavu bikwiye kugamana agaciro no kuri uru rwego rw’ubujurire. Ibyo Urukiko rwemeje ku rwego rwa mbere bikaba bikwiye kugumaho no kuri uru rwego kuko ababurana batigeze bahinduka kandi n’inyungu Urukiko rwavuze ko zigomba kurengerwa zikaba zigihari.

III. ICYEMEZO CY’URUKIKO

[16] Rwemeje ko ikirego cy’ubujurire cyatanzwe na Imaniriho Françoise nta shingiro gifite.

[17] Rwemeje ko imikirize y’urubanza RC00005/2021/TGI/RBV rwaciwe n’Urukiko Rwisumbuye rwa Rubavu ku wa 29/06/2022 igumyeho.

[18] Rwemeje ko nta ndishyi zikwiye gutangwa muri uru rubanza.

[19] Rwemeje ko ingwate y'amagarama yatanzwe n'uwajuriye iheze mu isanduku ya Leta.