NYIRANDIKUBWIMANA v MUKAHIGIRO

[Rwanda URUKIKO RUKURU - RS/INJUST/RC 00004/2019/HC/NYZ (Badara, P.J.) 25 Ugushyingo 2022]

Amategeko agenga imanza z'imbonezamubano – Iyakirwa ry'ikirego – Ikibazo cy'amasano mu manza zisaba kuzungura – Mu manza zisaba kuzungura, ikibazo cy'amasano si impamvu ituma ikirego kitakirwa ahubwo ni impamvu ituma umuburanyi atsindwa n'urubanza kuko yabuze ibimenyetso byerekana ko uwo bazungura bafitanye amasano.

Incamake y'ikibazo: Uru rubanza rwatangiriye mu bunzi, aho Nyirandikubwimana yahawe n'abavandimwe be uburenganzira bwo gukurikirana ikibazo bafitanye na Mukahigiro ubahuguza imirima ine ikomoka ku munani wa se Bucyanayandi nawe yahawe na se witwa Ntawizerakundi, Bucyanayandi agiye kwimuka awusigira se kugirango ube umutunga mu gihe akiraho. Mukahigiro yavugaga ko nta hantu h'umuryango wa Bucyanayandi yatwaye aho afite ni aho se yamusigiye witwa Ntawizerakundi. Icyo asaba ni uko bazana inyandiko y'aho Ntawizerakundi yahaye Bucyanayandi umunani. Abunzi bemeje ko uregwa yasubiza abarega umurima umwe wasigaye utagurishijwe.

Uregwa ntiyanyuzwe n'uwo mwanzuro awuregera mu Rukiko rw'Ibanze rwa Nyamabuye ruca urubanza rwemeza kutakira icyo kirego ruvuga ko ikirego cy'izungura cyashyikirijwe komite y'abunzi ku rwego rw'akagari n'Umurenge wa Mushishiro cyahuje Nyirandikubwimana na Mukahigiro, cyasuzumwe kandi kigafatwaho umwanzuro hirengangijwe amategeko ndemyagihugu kuko Nyirandikubwimana atagaragaza ko ari umwana wa Bucyanayandi na Mukaruziga runategeka ko umwanzuro w'abunzi ukuweho ibintu bigasubira uko byari bimeze.

Nyirandikubwimana yasabye ko urubanza rwasubirwamo ku mpamvu z'akarengane hanyuma ruhabwa Urukiko Rukuru rusuzuma ibibazo birimo kumenya niba hari impamvu zari gutuma ikirego kitakirwa no kumenya kandi ko haba hari ibimenyetso bigaragaza nyiri umutungo uwo ari we.

Nyirandikubwimana yasubirishijemo urubanza ku mpamvu z'akarengane avuga ko icyemezo cyafashwe na komite y'abunzi b'umurenge cyagumaho. Icyo baregera ni umunani wa Bucyanayandi ugomba kwegukanwa n'abana be. Urukiko ntabwo rwari kubanza kwemeza ko hagomba kubanza kubaho inama y'umuryango kuko ikiburanwa ni umugabane wa Bucyanayandi kandi uyu Mukahigiro ni mushiki we ntabwo yari kuzungura musaza we mu gihe yari afite abana. Akomeza avuga ko hari abatangabuhamya batandukanye bemeza ko iyo mirima ari iya Bucyanayandi ko yayisigiye se ngo akomeze akuremo ibimutunga igihe we yari yimutse abana be bakzayisubizwa sekuru apfuye.

Mukahigiro avuga ko yaburanye na Nyirandikubwimana isambu yasigiwe na se kuko ari we mwana babanye kugeza apfuye, kugeza n'ubu aracyari mu rugo kwa se, ntiyigeze ashaka umugabo. Agiye gupfa yamusigiye ibye byose. Mu gihe batarazungura Nyirandikubwimana yaraje agurisha isambu ya se, atabizi ndetse n'abandi bavukana batabizi. Nibwo yagiye kumurega mu bunzi, bageze mu rukiko, rwemeza ko ikirego kitakiriwe kuko batigeze bagaragaza isano y'abo bazungura, kandi bakaba batarabanje kugeza ikibazo mu muryango. Ashimangira ko imirima iburanwa yasizwe n'umubyeyi we kandi yasize avuze ko ari iye kuko ariwe wabanye nawe kugeza apfuye.

Incamake y'icyemezo: 1. Ikibazo cy'amasano ntabwo cyari gutuma ikirego kitakirwa ahubwo cyari gutuma umuburanyi atsindwa n'urubanza kuko yabuze ibimenyetso byerekana ko uwo bazungura bafitanye amasano ndetse byarashobokaga ko urukiko rubasaba ibyo byemezo bakabizana kuko muri uru rubanza, ibyo byangombwa byose barabitanze bityo iki kirego kikba gikwiye kwakirwa.

2. Icyemezo cyafashwe n'abunzi b'Umurenge wa Mushishiro cyagumaho kuko Mukahigiro atashoboye kugaragaza ibimenyetso bikivuguruza cyane ko buri muburanyi agomba kugaragaza ukuri kw'ibyo aregera.

Ikirego cyo gusubirishamo urubanza RC 00057/2018/TB/ gifite ishingiro;

Amategeko yashingiweho:

Itegeko Nº27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura, ingingo ya 28.

Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 83.

Itegeko N° 15/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 3.

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Uru rubanza rwatangiriye mu bunzi, aho Nyirandikubwimana Agnes yahawe n'abavandimwe be uburenganzira bwo gukurikirana ikibazo bafitanye na Mukahigiro Vestine ubahuguza imirima ine iherereye mu murenge wa Mushishiro, Akagari ka Munazi, Umudugudu wa Kiyoro. Iyo mirima ikomoka ku munani wa se Bucyanayandi nawe yarawuhawe na se witwa Ntawizerakundi Petero, Bucyanayandi agiye kwimuka uwo munani we yawusigiye se Ntawizerakundi kugirango ube umutunga mu gihe akiraho.

[2] Mukahigiro Vestine yavugaga ko nta hantu h'umuryango wa Bucyanayandi yatwaye aho afite ni aho se yamusigiye witwa Ntawizerakundi. Icyo asaba ni uko bazana inyandiko y'aho Ntawizerakundi yahaye Bucyanayandi umunani.

[3] Inteko y'abunzi b'umurenge wa Mushishiro yemeje ko Mukahigiro Vestine agomba gusubiza abana ba Bucyanayandi bahagarariwe na Nyirandikubwimana umurima wasigaye utagurishijwe uri mu Gashongi ku irembo kwa Ntawizerakundi urimo udutsina. Iyindi mirima yaragurishijwe.

[4] Mukahigiro Vestine yatanze ikirego mu Rukiko rw'Ibanze rwa Nyamabuye asobanura ko yahawe imirima itatu (3) n'ababyeyi be ubwo bari bakiriho kandi abana nabo ndetse bamaze gusaza imirima barayimusigiye, igihe cy'ibarura ayibaruzaho kuko yari iye anayikoreramo kandi ko abandi bana bavukana nabo bahawe iminani n'ababyeyi bakiriho. Nyamara, mu mpera za 2016 umwisengeneza we yatangiye kuritura umukigo w'uwo murima avuga ko ari kuwitsa, aza no

gutangira guhinga afatanyije iyo mirima, bituma yitabaza ubuyobozi bw'inzego z'ibanze ndetse ashyikiriza icyo kibazo abunzi b'akagali maze bamutegeka kutagira ikindi gikorwa akorera mu murima we, aza nawe kujuririra abunzi b'umurenge wa Mushishiro bafata icyemezo bavuga ko agomba gutanga icyangombwa cy'ubutaka bw'abandi, birengangiza batyo ko mu ibarura ry'ubutaka Nyirandikubwimana Agnès atigeze ashyirishamo amakimbirane, ari nayo mpamvu yaregeye urukiko kugirango rumuheshe uburenganzira ku mutungo we bashaka kumuhuguza bitwaje ko atigeze ashaka umugabo kandi abo bavandimwe ahagarariye nta kibigaragaza, agasaba ko uwo mwanzuro wateshwa agaciro, akanabisabira indishyi.

[5] Nyirandikubwimana Agnès waburanye yunganirwa na Me Murekatete Birangamoya Marguerite avuga ko iyo mirima iburanwa atari iya Mukahigiro kuko yari ayiragiye nubwo yayibarujeho ndetse ko byemezwa n'inyandiko yometse ku kirego, ikaba inyandiko yo kuwa 14/08/2003 igaragaza ko se wa Bucyanayandi yari aharagiye, agasaba ko umwanzuro w'abunzi wafashwe wagumana agaciro kawo, bakagira uburenganzira ku izungura ry'ababyeyi babo ariko ko batigeze bageza icyo kibazo mu muryango kandi ko bombi ibyemezo ko ari abazungura b'ababyeyi babo bazabigaragaza.

[6] Urukiko rw'Ibanze rya Nyamabuye rwaciye urubanza rwemeza kutakira ikirego RC 00057/2018/TB/NYM cya Mukahigiro Vestine. Ruvuga ko ikibazo cy'izungura cyashyikirijwe komite y'abunzi ku rwego rw'akagari n'Umurenge wa Mushishiro cyahuje Nyirandikubwimana Agnès na Mukahigiro Vestine, cyasuzumwe kandi kigafatwaho umwanzuro hirengangijwe amategeko ndemyagihugu kuko Nyirandikubwimana Agnes atagaragaza ko ari umwana wa Bucyanayandi Patrice na Mukaruziga ndetse ko baba batakiriho abe afite ububasha bwo kubazungura na Mukahigiro akaba atagaragaza ko ari mwene Ntawizerakundi na Nyirabumwe babe batakiriho abe afite ububasha bwo kubazungura, byongeye kandi bombi bakaba batagaragaza ko ikibazo cyasuzumwe n'inama y'umuryango ikanagifataho icyemezo bakaba aricyo bashyikirije urwego rubifitiye ububasha. Rutegeka ko umwanzuro w'abunzi N0 004/2017 ku rwego rw'Umurenge wa Mushishishiro wo kuwa 27/07/2017, waje ukuraho umwanzuro w'abunzi b'Akagari ka Munazi, uvanyweho kuko wafashwe hirengangijwe amategeko ndemyagihugu, bityo hakubahirizwa ibyemezo by'urukiko, maze ibintu bigasubira uko byari bimeze mbere yo kuburana, uwaba afite ikibazo, akaba yakigeza ku nzego zibifitiye ububasha mu buryo no mu nzira amategeko ateganya. Rutegeka Nyirandikubwimana Agnes guha Mukahigiro Vestine indishyi z'ikurikiranarubanza zingana n'ibihumbi magana abiri (200.000Frw), akanamusubiza kimwe cya kabiri cya 25.000Frw y'ingwate y'amagarama yatanze aregera urukiko, ni ukuvuga 12.500Frw, yose hamwe akaba agomba kumuha 212.500Frw.

[7] Nyirandikubwimana Agnes yatanze ikirego cyo gusubirishamo urubanza RC 00057/2018/TB/NYM ku mpamvu z'akarengane avuga ko nk'uko byagaragajwe mu mwanzuro w'abunzi b'umurenge ndetse bakaba baranabajije abatangabuhamya batandukanye harimo n'umukuru w'umuryango ukomokamo Bucyanayandi ariwe Niwenshuti Ladislas bose bemeza ko iyo mirima ari iya Bucyanayandi kuko yayisigiye umusaza ngo imuherekeze imutunge mu gihe azaba akiriho, ariko abana ba Bucyanayandi bakazayisubizwa ari uko sekuru yapfuye.

[8] Muri uru rubanza, ibibazo bigiye gusuzumwa ni ibi bikurikira:

- Kumenya niba hari impamvu zari gutuma ikirego cya Mukahigiro Vestine kitakirwa n'Urukiko rw'Ibanze rwa Nyamabuye.

- Kumenya niba hari ibimenyetso byatanzwe n’ababuranyi bigaragaza nyir’umutungo uburanwa.
- Kumenya niba hari indishyi zatangwa muri uru rubanza.

II. ISESENGURA RY’IBIBAZO BIGIZE URUBANZA

1. Kumenya niba hari impamvu zari gutuma ikirego cya Mukahigiro Vestine kitakirwa n’Urukiko rw’Ibanze rwa Nyamabuye.

[9] Nk’uko bigaragara mu rubanza rwaciwe n’urukiko rw’ibanze rwa Nyamabuye, ikirego cya Mukahigiro Vestine ntabwo cyakiriwe kubera ko nta kimenyetso bagaragaza cyerekana ko Mukahigiro ari umwana wa Ntawizerakundi na Nyirabumwe ndetse na Nyirandikubwimana Agnes ari n’umwana wa Bucyanayandi Patrice na Mukaruziga, ko aba bombi nabo baba batakiriho ngo izungura kuri bo ribe rishoboka mu gihe haba hari imitungo igaragazwa basize. N’ubwo bari kuba bubahirije iyo ngingo imaze kuvugwa, bakagaragaza ko bari abazungura ba banyakwigendera nubwo nabyo nta kibigaragaza, bagomba no kugaragaza niba icyo kibazo cyarashyikirijwe inama y’umuryango ngo igisuzume, ari nayo mpamvu umwanzuro w’abunzi No 004/2017 ku rwego rw’umurenge wa Mushishishiro wo kuwa 27/07/2017, waje ukuraho umwanzuro w’abunzi b’akagari ka Munazi, uvanyweho kuko wafashwe hirengangijwe amategeko ndemyagihugu, bityo hakubahirizwa ibyemezo by’urukiko, maze ibintu bigasubira uko byari bimeze mbere yo kuburana, uwaba afite ikibazo, akaba yakigeza ku nzego zibifitiye ububasha mu buryo no mu nzira amategeko ateganya.

[10] Nyirandikubwimana yasubirishijemo urubanza ku mpamvu z’akarengane avuga ko icyemezo cyafashwe na komite y’abunzi b’umurenge cyagumaho. Icyo baregera ni umunani wa Bucyanayandi ugomba kwegukanwa n’abana be. Urukiko ntabwo rwari kubanza kwemeza ko hagomba kubanza kubaho inama y’umuryango kuko ikiburanwa ni umugabane wa Bucyanayandi kandi uyu Mukahigiro ni mushiki we ntabwo yari kuzungura Bucyanayandi mu gihe yari afite abana be bityo urukiko rukaba rwari guca urubanza rushingiye kubyo rwiboneye byagaragajwe na komite y’abunzi.

[11] Mukahigiro avuga ko yaburanye na Nyirandikubwimana guhera mu bunzi, uyu akaba ari umwana wa musaza we Bucyanayandi. Baburanaga isambu yasigiwe na se kuko ari we mwana babanye kugeza apfuye, kugeza n’ubu aracyari mu rugo kwa se, ntiyigeze ashaka umugabo. Agiye gupfa yamusigiye ibye byose. Mu gihe batarazungura Nyirandikubwimana yaraje agurisha isambu ya se, atabizi ndetse n’abandi bavukana batabizi. Nibwo yagiye kumurega mu bunzi, bageze mu rukiko, rwemeza ko ikirego kitakiriwe kuko batigeze bagaragaza isano y’abo bazungura, kandi bakaba batarabanje kugeza ikibazo mu muryango. Urukiko rwemeje ko imyanzuro y’abunzi b’akagari n’umurenge ivanyweho kuko yafashwe hirengagijwe amategeko ndemyagihugu, maze ibintu bigasubira uko byari bimeze. Ubwo Nyirandikubwimana yahise asubirishamo urubanza kubera impamvu z’akarengane kandi urukiko rwemeje ko ikirego gitangira bundi bushya, ibintu bigasubira uko byari bimeze, bakongera bagatangira, akaba abona yaragombaga kubahiriza ibyo urukiko rwategetse mu rubanza RC 00057/2018/TB/NYM. Maze bagatangirira mu muryango, banagaragaza amasano bafitanye n’abo bashaka kuzungura nk’uko urukiko rwabisobanuye.

UKO URUKIKO RUBIBONA

[12] Ingingo ya 28 y'itegeko Nº27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura ivuga ko impano itanzwe mu rwego rw'umuryango ishobora gutangwa hagati y'abashyingiranywe ubwabo cyangwa hagati y'abashyingiranywe n'undi muntu cyangwa igatangwa hagati y'ababyeyi n'abana babo kuri bimwe mu bigize umutungo wabo. Iyo ababyeyi baha umwana wabo impano, babikora hadashingiwe ku ivangura hagati y'abana b'abakobwa n'abahungu. Impano itanzwe mu rwego rw'umuryango ishobora gukorerwa inyandiko mpamo cyangwa inyandiko bwite cyangwa igashyikirizwa gusa nyirayo.

[13] Urukiko rurasanga ikibazo Nyirandikubwimana Agnes afitanye na Mukahigiro Vestine cyaratangiriye mu bunzi aho Nyirandikubwimana Agnes avuga ko Mukahigiro Vestine yamwambuye umunani wa se witwa Bucyanayandi naho Mukahigiro akaburana avuga ko imirima iburanwa yayisigiwe na se kuko babanye kugeza apfuye. Ibi bikaba byerekana ko ikibazo bari bafitanye na Mukahigiro Vestine atari ikibazo cy'izungura ahubwo kijyanye n'impano y'umunani kuko na Mukahigiro Vestine yireguraga avuga ko nta hantu h'umuryango wa Bucyanayandi yatwaye aho afite ni aho se yamusigiye witwa Ntawizerakundi.

[14] Urukiko rurasanga ikirego cya Mukahigiro Vestine cyaragombaga kwakirwa n'urukiko rw'ibanze rwa Nyamabuye kigasuzumwa kuko ibyo ababuranyi baburana nta zungura ririmo ahubwo abana ba Bucyanayandi bahagarariwe na Nyirandikubwimana Agnes bakeneye ko bahabwa umunani w'umubyeyi wabo naho Muhahigiro Vestine yifuza guhabwa aho yasigiwe na se ndetse iyo mirima akaba yari yaramaze kuyiyandikishaho bigaragara ko ntabwo wari umutungo w'umuryango kuko iyo uwo mutungo uba ari uw'umuryango yari kuyibaruza ku bazungura bose ba Ntawizerakundi. Ikindi umuryango wa Bucyanayandi wari waramaze kugurishamo imirima itatu yaguzwe n'uwitwa Ukurikiyezu Jean Bosco kuwa 27/1/2016. Rero iyo ikibazo kiba izungura umuryango wa Ntawizerakundi uba ugaragara muri uru rubanza nyamara siko bimeze ahubwo Mukahigiro Vestine ariburanira.

[15] Urukiko rurasanga kandi ikibazo cy'amasano ntabwo cyari gutuma ikirego kitakirwa ahubwo cyari gutuma umuburanyi atsindwa n'urubanza kuko yabuze ibimenyetso byerekana ko uwo bazungura bafitanye amasano ndetse byarashobokaga ko urukiko rubasaba ibyo byemezo bakabizana kuko muri uru rubanza, ibyo byangombwa byose barabitanze. Ikindi impamvu ituma ikirego kitakirwa harimo nko kuba adafite ububasha n'inyungu zo kurega, ubusaze bw'ikirego, kurenza igihe cyo kurega, urubanza rwabaye itegeko cyangwa kudatanga amagarama, harabayeho amasezerano yo kwikiranura cyangwa iyo hari imihango itarubahirijwe iteganywa n'itegeko nk'uko biteganywa n'ingingo ya 83 y'itegeko N0 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi.

[16] Ku bijyanye n'uko ikibazo cyagombaga gusuzumwa n'umuryango ntibyari gushoboka kuko ikibazo kiri muri uru rubanza ntabwo kireba umuryango wose wa Ntawizerakundi ahubwo kirareba bamwe mu bagize umuryango ku buryo abandi mu bagize umuryango nta nyungu bafite zatuma bazanwa muri iki kibazo kuko bahawe iminani yabo.

2. **Kumenya niba hari ibimenyetso byatanzwe n'ababuranyi bigaragaza nyir'umutungo uburanwa.**

[17] Nyirandikubwimana Agnes avuga ko nk’uko byagaragajwe mu mwanzuro w'abunzi b'umurenge ndetse bakaba baranabajije abatangabuhamya batandukanye harimo n'umukuru w'umuryango ukomokamo Bucyanayandi ariwe Niwenshuti Ladislas bose bemezako iyo mirima ari iya Bucyanayandi kuko yayisigiye umusaza ngo imuherekeze imutunge mu gihe azaba akiriho ariko abana ba Bucyanayandi bakazayisubizwa ari uko sekuru yapfuye. Imirima iburanwa yasizwe n'umubyeyi we kandi yasize avuze ko iyo mirima ari iye kuko ariwe wabanye nawe kugeza apfuye. Ntabwo Nyirandikubwimana yemerewe kuyigurisha.

[18] MUKAHIGIRIO Vestine avuga ko imirima iburanwa yasizwe n'umubyeyi we kandi yasize avuze ko iyo mirima ari iye kuko ariwe wabanye nawe kugeza apfuye. Ntabwo Nyirandikubwimana yemerewe kuyigurisha.

UKO URUKIKO RUBIBONA

[19] Urukiko rurasanga nk’uko bigaragazwa n’umwanzuro w’abunzi w’umurenge wa Mushishiro, inteko yemeje ko Mukahigiro Vestine agomba gusubiza abana ba Bucyanayandi bahagarariwe na Nyirandikubwimana umurima wasigaye utagurishijwe uri mu Gashongi ku irembo kwa Ntawizerakundi urimo udutsina. Iyindi mirima yaragurishijwe.

[20] Urukiko rurasanga iki cyemezo cyafashwe n’inteko y’abanzi b’umurenge wa Mushishiro cyashingiye ku mvugo z’abatangabuhamya barimo NGOBOKA Pasteur avuga ko Ntawizerakundi aha umunani Bucyanayandi yari ahari yamuhaye imirima ine uri ahitwa Mburabuturo, uri ahitwa Bwereri, uri ku irembo kwa Ntawizerakundi, aho yari atuye i Mburabuturo kwa Ntawizerakundi. Umutangabuhamya MUSABIREMA Alphonsine mu bunzi yavuze ko Ntawizerakundi aha umunani Bucyanayandi atabizi ariko abana ba Bucyanayandi bahagurisha arabizi. NGENDAHIMANA Boniface avuga ko Bucyanayandi ahabwa atabizi ariko icyo azi ni imirima yahingaga areba uri Mburabuturo, uri Bwereri, uri mu Gashongi ku irembo kwa Ntawizerakundi n’akandi karima kari kwa Nyandwi Martin. Umutangabuhamya KAZIMIRI Augustin mu bunzi avuga ko Bucyanayandi ahabwa atabizi ariko icyo azi ni aho yatuye n’imirima yahingaga uri Mburabuturo, uri Bwereri, undi uri ku irembo kwa Ntawizerakundi urimo udutsina. TUGIRIMANA Augustin avuga ko Bucyanayandi amuzi atuye Mburabuturo yahawe na se ariko awumuha ntabizi. Ndagijimana Jean avuga ko aho baburana yahatishije Mukahigiro. Uwitwa NIWENSHUTI Ladislas umukuru w’umuryango akaba umuvandiwe wa Mukahigiro Vestine avuga ko iyo mirima yari iya Bucyanayandi arimuka ajya gutura ku Mugina nyuma ayisigira se Ntawizerakundi ngo ijye imutunga nyuma yabonye abana ba Bucyanayandi bayigurisha UKURIKIYEZU Jean Bosco ariko bagura ntabwo yabasinyiye.

[21] Urukiko rurasanga imvugo z’abatangabuhamya zatanzwe mu bunzi zashingirwaho muri uru rubanza kubera ko abatangabuhamya bose bemeza ko Bucyanayandi yakoreye muri iyo mirima iburanwa uretse umutangabuhamya umwe uvuga ko yatishije Mukahigiro Vestine ariko nta bisobanuro bindi atanga bigaragaza ko yamwatishije imitungo ye. Ibi bikaba bishoboka ko MUHAHIGIRO Vestine yaba yaramwatiye iyo mirima ubwo Bucyanayandi yari yaragiye gutura ku Mugina agasigira se iyo mirima kugirango ibe imutunga cyane ko Mukahigiro yivugira ko yasigaranye na se mu rugo kuko atigeze ashaka. Ibi byo kwatisha iyo mirima bikaba bitamuha uburenganzira ku mutungo wa Bucyanayandi.

[22] Urukiko rurasanga icyemezo cyafashwe n’abunzi b’Umurenge wa Mushishiro cyagumaho kuko Mukahigiro Vestine atashoboye kugaragaza ibimenyetso bikivuguruza cyane ko buri muburanyi agomba kugaragaza ukuri kw’ibyo aregera nk’uko byumvikana mu ngingo ya 3 y’itegeko y’itegeko N° 15/2004 ryerekeye ibimenyetso mu manza n’itangwa ryabyo ivuga ko buri muburanyi agomba kugaragaza ukuri kw’ibyo aburana.

3. **Kumenya niba hari indishyi zatangwa muri uru rubanza.**

[23] Nyirandikubwimana Agnes arasaba ko urukiko rwategeka Mukahigiro Vestine kubaha indishyi kubera kubasiragiza mu manza hamwe n'igihembo cy’avocat bingana n'ibihumbi magana acyenda y'amafaranga y'u Rwanda (900 000 frw).

[24] MUKAHIGIRIO Vestine avuga ko indishyi zisabwa ntabwo azemera kuko nta rubanza yamusiragijemo ahubwo se ntiyakurikije icyemezo cy'urukiko. Ikindi ntabwo yabashoye mu manza, ahubwo niwe ugomba kumuha indishyi nk'uko zategetswe n'urukiko rw'ibanze.

[25] Ingingo ya 26 y’Amabwiriza N° 01/2014 agena ibihembo mbonera by’abavoka ivuga ko avoka w’urega wateguye dosiye n’inyandiko ashobora gusaba igihembo fatizo kiri hagati y’amafaranga 500.000 n’amafaranga 5.000.000, cyongerwaho, iyo hari imyenda yagarujwe nawe ubwe cyangwa n’intumwa ye, igihembo cyinyongera cyo kwishyuza, kibarwa hakurikijwe ijanisha riteganywa mu gace ka II k’ingingo ya 23. Avoka w’uregwa agena ibihembo bye akurikije agaciro k’ikiburanwa, ingorane ziri mu rubanza, hamwe n’ibyo agomba kubanza gukora byose, ndetse n’ingaruka z’icyemezo cyafashwe; ariko igihembo ntikijye munsi y’amafaranga 500.000 kandi ntikirenge amafaranga 3.000.000.

[26] Urukiko rurasanga Nyirandikubwimana Agnes yahabwa igihembo cy’avoka kingana n’ibihumbi magana atanu (500 000 frw) kubera ko urubanza rwaciwe n’urukiko rw’ibanze rwagaragayemo akarengane kandi yarushowemo na Mukahigiro Vestine wajuririye icyemezo cy’abunzi b’Umurenge wa Mushishiro nta bimenyetso afite bigaragaza aho yaherewe iyo mirima iburanwa.

III. ICYEMEZO CY’URUKIKO

[27] Rwemeje ko ikirego cyo gusubirishamo urubanza RC 00057/2018/TB/NYM ku mpamvu z'akarengane cyatanzwe na Nyirandikubwimana Agnes gifite ishingiro.

[28] Rwemeje ko imikirize y’urubanza RC 00057/2018/TB/NYM rwaciwe n’urukiko rw’Ibanze rwa Nyamabuye ihindutse kuri byose.

[29] Rutegetse ko umwanzuro wafashwe n’abunzi b’Umurenge wa Mushishiro kuwa 27/7/2017 ariwo ugomba kubahirizwa, Mukahigiro Vestine agasubiza abana ba Bucyanayandi bahagarariwe na Nyirandikubwimana umurima wasigaye utagurishijwe uri mu Gashongi ku irembo kwa Ntawizerakundi.

[30] Rutegetse Mukahigiro Vestine guha Nyirandikubwimana Agnes igihembo cy’avoka kingana n’amafranga ibihumbi magana atanu (500 000 frw).