UBUSHINJACYAHA v .GASORE

[Rwanda URUKIKO RW'IKIRENGA – RS/REV/PEN 0004/10/CS (Nyirinkwaya, P.J., Munyangeri. na Rugabirwa J.) Gashyantare 7, 2014]

Amategeko mpanabyaha – Amategeko yerekeye imiburanishirize y'imanza nshinjabyaha – Gusubirishamo urubanza ingingo nshya – Ibimenyetso byatanzwe n'umuburanyi mu iburanisha Urukiko ntirugire icyo rubikoraho cyangwa rubivugaho ntibifatwa nk'ikimenyetso gishya; ahubwo birebana n'urubanza mu mizi – Itegeko nº 13/2004 ryo kuwa 17/05/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, Ingingo ya 180.

Incamake y'ikibazo: Urukiko Rukuru Urugereke rwa Musanze rwahamije Gasore Kagiraneza Emmanuel na Nzabandeba Théophile icyaha cyo gusambanya ku ngufu cyakorewe Nyirabikari Agnes bakanamuhotora nuko rubahanisha igifungo cya burundu buri wese. Ntibishimiye imikirize y'urubanza maze barujuririra Urukiko rw'Ikirenga narwo rwemeza imikirize y' Urukiko rwarubanjirije. Abajuriye baje kongera kuregera Urukiko rw'Ikirenga basaba ko urubanza rwabo rwasubirishwamo ingingo nshya. Umucamanza w'ibanzirizasuzuma yafashe icyemezo kivuga ko batabyemerewe kuko impamvu bashingiragaho ikirego cyabo zitahuraga n'iziteganywa n'amategeko. Gasore Kagiraneza Emmanuel yajuririye icyo cyemezo agaragaza abatangabuhamya Urukiko rutahamagaye ngo rubabaze.

Ubusjinjacyaha bwavuze ko icyemezo cy'ibanzirizasuzuma cyagumaho kuko nta mpamvu Gasore Kagiraneza Emmanuel atanga yatuma rusubirishwamo ingingo nshya,

Incamake y'icyemezo: Ibimenyetso bitanzwe n'ushinjwa mu iburanisha Urukiko ntirubifateho icyemezo ntabwo bifatwa nk'ikimenyetso gishya cyatuma habaho gusubirishamo urubanza ingingo nshya. Ahubwo ibyo biba byerekeye imiburanishirize mu mizi. Ku bw'izi mpamvu Urukiko rwanze gukuraho icyemezo cyangaga ko urubanza rusubirishwamo ingingo nshya.

Ubujurire ku cyemezo cy'ibanzirizasuzuma burakiriwe
Ubujurire nta shingiro bufite.
Amagarama y'urubanza aherereye ku isanduku ya Leta

Amategeko yashingiweho:
Itegeko nº 13/2004 ryo kuwa 17/05/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 180.

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Urukiko Rukuru rwa Repubulika, Urugereko rwa Musanze, rwahamije Gasore Kagiraneza Emmanuel na Nzabandeba Théophile icyaha cyo gusambanya ku ngufu Nyirabikari Agnès no kumuhotora, rubahanisha igifungo cya burundu buri wese.

[2] Gasore na Nzabandeba bajuririye Urukiko rw'Ikirenga, ruca urubanza RPA 0098/07/CS kuwa 14/11/2008, rwemeza ko imikirize y'urubanza rwajuririwe idahindutse.

[3] Gasore na Nzabandeba basubirishijemo urwo rubanza ingingo nshya, umucamanza w'ibanzirizasuzuma, mu cyemezo n° RP 0145/09/Pré-ex/CS cyo kuwa 22/05/2009, yemeza ko batemerewe isubirishamo ry'urubanza ingingo nshya kuko impamvu batanga zidahura n'iziteganywa n'ingingo ya s180 y'Itegeko n° 13/2004 ryo kuwa 17/05/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ryakurikizwaga icyo gihe.

Gasore yamenyeshejwe icyo cyemezo, akijuririra avuga ko ikimenyetso gishya ashingiraho asubirishamo urubanza RPA 0098/07/CS ingingo nshya ari abatangabuhamya batanu yatanze bari kumushinjura, ariko ko Urukiko rw'Ikirenga rwirengagije kubahamagaza kugira ngo rubumve.

[4] Urubanza rwaburanishijwe mu ruhame kuwa 06/01/2014, Gasore Kagiraneza Emmanuel yunganiwe na Me Rutagengwa Mukiga, naho Ubushinjacyaha buhagarariwe na Mutayoba Alphonse.

II. IKIBAZO KIRI MU RUBANZA N'ISESENGURWA RYACYO:

Kumenya niba hari ikimenyetso gishya Gasore yatanze cyatuma urubanza rwe rwaciwe burundu rusubirishwamo ingingo nshya

[5] Gasore Kagiraneza Emmanuel n'umwunganira bavuga ko umucamanza w'ibanzirizasuzuma yemeje ko atemerewe gusubirishamo urubanza rwaciwe n'Urukiko rw'Ikirenga ingingo nshya ngo kuko nta mpamvu yatanze ihuje n'iziteganywa n'ingingo ya 180 y'Itegeko nº 13/2004 ryo kuwa 17/05/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ryakurikizwaga igihe yajuriraga, yirengagiza ko yasabye Urukiko rw'Ikirenga ko rwahamagaza Ntamubana, Bujimiri, Hirimiza, Derena na Rusigariye nk'abatangabuhamya bari kumushinjura kuko bari kugaragaza ko atagize uruhare mu cyaha akurikiranyweho kuko biriranywe bakora akazi, ariko ko Urukiko rwamuhamije icyaha rutabahamagaje, basaba ko rwabahamagaza kugira ngo rwumve imvugo zabo.

[6] Uhagarariye Ubushinjacyaha avuga ko icyemezo cy'ibanzirizasuzuma cyavuzwe haruguru kitahinduka kuko nta ngingo nshya Gasore Kagiraneza Emmanuel yatanze yatuma urubanza rwe rusubirishwamo ingingo nshya.

[7] Ku byerekeye impamvu zigomba gushingirwaho kugira ngo ikirego kigamije gusubirishamo urubanza ingingo nshya cyakirwe, ingingo ya 180 y'Itegeko nº 13/2004 ryo kuwa 17/05/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ryakurikizwaga igihe yajuriraga, iteganya ko ikirego gisubirishamo urubanza rw'inshinjabyaha rwaciwe burundu ingingo nshya cyakirwa iyo:

> "umuntu amaze gucibwa urubanza rw'uko yicanye, hanyuma hakaboneka ibimenyetso bihagije byemeza ko uwo bakeka ko yishwe atapfuye;

bamaze gucira umuntu urubanza ku cyaha yashinjwaga, hakaboneka urundi rubanza nk'urwo rwahannye undi muntu kandi rumuhanira icyo cyaha, izo manza zombi zivuguruzanya zikaba zigaragaje ko umwe mu bakatiwe yarenganye;

umwe mu batangabuhamya yahaniwe kuba yarabesheye uwahanwe kandi urubanza rumuhana rwaramaze gucibwa. Uwo mutangabuhamya wahaniwe ikinyoma ntashobora kongera gutangwaho umuhamya mu rubanza rushya;

bamaze guca urubanza, hakaboneka ibimenyetso bitagaragaye mbere byerekana ko uwakatiwe yatsinzwe azize akarengane".

[8] Ku birebana n'impamvu Gasore ashingiraho asubirishamo urubanza ingingo nshya yerekeranye n'uko Urukiko rw'Ikirenga rwirengagije guhamagaza abatangabuhamya bari kumushinjura, aribo Ntamubana, Bujimiri, Hirimiza, Derena na Rusigariye, Urukiko rurasanga atari ikimenyetso gishya cyatuma urubanza RPA 0098/07/CS rusubirishwamo ingingo nshya kuko idahuje n'iziteganywa n'ingingo ya 180 y'Itegeko nº 13/2004 ryavuzwe haruguru nk'uko n'umucamanza w'ibanzirizasuzuma yabyemeje, bigaragara ko ahubwo iyo mpamvu yerekeranye n'imiburanishirize y'urubanza mu mizi, bityo icyemezo cy'ibanzirizasuzuma n° RP 0145/09/Pré-ex/CS ry'urubanza n° RS/REV/PEN 0079/08/CS cyo kuwa 22/05/2009, kikaba kitagomba guhinduka.

III. ICYEMEZO CY'URUKIKO

[9] Rwemeye kwakira ubujurire bwa Gasore Kagiraneza Emmanuel ku cyemezo cy'ibanzirizasuzuma n° RP 0145/09/Pré-ex/CS cyo kuwa 22/05/2009, kuko bwatanzwe mu buryo n'inzira bikurikije amategeko;

[10] Rwemeje ko ubwo bujurire nta shingiro bufite;

[11] Rutegetse ko amagarama y'uru rubanza aherera ku Isanduku ya Leta.