UBUSHINJACYAHA v. RUZINDANA

[Rwanda URUKIKO RW'IKIRENGA – RPAA0297/11/CS (Mugenzi, P.J., Mutashya na Gatete, J.) 24 Werurwe 2016]

Amategeko agenga imiburanishirize y'imanza nshinjabyaha – Gushidikanya – Birengera ushinjwa – Itegeko Nº30/2013 ryo kuwa 24/5/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 165(2º).

Incamake y'ikibazo: Uregwa na bagenzi we batari muri uru rubanza bakurikiranywe ku cyaha cy'ubwicanyi bwakorewe Rucyahana. Kubirebana n'uregwa, Urukiko rushingiye ku magambo yivugiye ubwe igihe yabazwaga mu Bushinjacyaha, agaragaza ko yamukurikiranye atashye yasinze akamwica, ndetse na raporo ya Muganga ikagaragaza ko nyakwigendera yishwe anizwe, rwemeje ko ahamwa n'icyaha cy'ubwicanyi akurikiranyweho, ahanishwa igifungo cya burundu.

Yajuririye Urukiko rw'Ikirenga avuga ko umucamanza yamwemeje icyaha nta bimenyetso bifatika ashingiyeho, ntiyanaha agaciro iperereza yasabye ryashoboraga kumugira umwere. Uhagarariye Ubushinjacyaha avuga ko hakwibazwa impamvu byafashe igihe kinini Ubuyobozi buzi ko hari amakuru abatangabuhamya bashobora gutanga ntagere ku nzego zibishinzwe.

Incamake y'icyemezo: Nta bimenyetso bidashidikanywaho byatuma uregwa ahamwa n'icyaha ashinjwa, bityo agomba kugirwa umwere.

Ubujurire bufite ishingiro.
Uregwa agizwe umwere agomba guhita arekurwa.
Amagarama aherereye ku isanduku ya Leta.

Amategeko yashingiweho:
Itegeko Nº30/2013 ryo kuwa 24/5/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 165(2º).

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Uru rubanza rwatangiriye mu Rukiko Rukuru, Urugereko rwa Nyanza, Ubushinjacyaha bukurikiranyeho Ruzindana na Serunyange icyaha cy'ubwicanyi, naho Musabyimana ashinjwa icyaha cyo kudatabara umuntu uri mu kaga. Ku itariki ya 14/10/2011, urwo Rukiko rwemeje ko Ruzindana ahamwa n'icyaha cy'ubwicanyi akurikiranyweho, ahanishwa igifungo cya burundu, Musabyimana ahamwa n'icyaha cyo kudatabara umuntu uri mu kaga, ategekwa kwishyura 10.000Frw y'ihazabu, naho Serunyange agirwa umwere.

[2] Mu gufata icyo cyemezo, Urukiko rwasanze Ruzindana ahamwa n’icyaha cy’ubwicanyi rushingiye ku magambo yivugiye ubwe igihe yabazwaga mu Bushinjacyaha, ayo magambo akaba agaragaza ko yamukurikiranye atashye yasinze akamwica, ndetse na raporo ya Muganga ikagaragaza ko nyakwigendera yishwe anizwe.

[3] Ruzindana yajuririye Urukiko rw’Ikirenga avuga ko umucamanza yamwemeje icyaha nta bimenyetso bifatika ashingiyeho, ntiyanaha agaciro iperereza yasabye ryashoboraga kumugira umwere.

[4] Urubanza rwaburanishijwe mu ruhame kuwa 28/09/2015, Ruzindana yunganiwe na Me Uramije James, naho Ubushinjacyaha buhagarariwe na Bunyoye Grâce, Umushinjacyaha ku rwego rw’Igihugu, nyuma yo gupfundikira iburanisha, ababuranyi bamenyeshwa ko bazamenyeshwa icyemezo kuwa 30/10/2015, ariko igihe cyo kwiherera, rusanga ari ngombwa ko mbere yo guca urubanza mu mizi, rukwiye kwumva abatangabuhamya Ruzindana yifuje ko babazwa, bakurikira: Rutabana Gaspard, Nyiraminani Alphonsine, Muhayimpundu Claudine na Museruka Théoneste, kugirango bagire ibyo babazwa ku bijyanye n’urupfu rwa Rucyahana Felisiyani.

[5] Iburanisha ryasubukuwe kuwa 22/02/2016, Ruzindana yunganiwe na Me Uramije James, naho Ubushinjacyaha buhagarariwe na Dushimimana Claudine, Umushinjacyaha ku rwego rw’Igihugu.

II. ISESENGURA RY’IKIBAZO KIGIZE URUBANZA

Kumenya niba hari ibimenyetso bifatika byatuma Ruzindana Emmanuel ahamwa n’icyaha ashinjwa.

[6] Me Uramije asobanura ko Ruzindana yunganira yasangiye inzoga mu kabari na Rucyahana, barangije Ruzindana aramuherekeza amugeza kwa mwene nyina Serunyange, bahageze Rucyahana atangira kurwana n’uwo mukuru we arabakiza, nyuma Ruzindana ajya gutabaza umukuru w’umudugudu

[7] Ruzindana ashimangira kandi ko yagiye gutabaza umukuru w’umudugudu akamubwira ko ntacyo yabikoraho kuko intonganya za Rucyahana zisanzwe iyo yanyoye inzoga, ko kandi kuva yajya gutabaza atigeze ahindukira ngo asubire aho imirwano yabereye.

[8] Basobanura kandi ko hari ibimenyetso bishinjura byari byagejejwe ku rukiko rwamuburanishije ariko ntirwabiha agaciro, ko kandi hari hifujwe ko habazwa abatangabuhamya 17 bagaragajwe mu iperereza ryakozwe n’Inzego z’Ibanze nkuko bavugwa mu ibarwa yo kuwa 21/05/2010 yanditswe n’Umunyamabanga Nshingabikorwa w’Akagari ka Bunge.

[9] By’umwihariko Ruzindana avuga ko ari umuryango wa nyakwigendera Rucyahana Felisiyani wabimwohereje, Serunyange[1] bari bafunganye arekuwe, akaba asaba ko uru Rukiko rwakora iperereza ryimbitse ku cyaha ashinjwa, hakabazwa nibura Rutabana Gaspard, Nyiraminani Alphonsine, Muhayimpundu Claudine na Museruka Théoneste kuko aribo bagaragaza igihe yatandukaniye na nyakwigendera Rucyahana. Ruzindana avuga kandi

[1] Uyu ni mukuru we kwa Se wabo warangije igihano yari yahawe.

ko icyemezo cyafashwe gifite inenge kubera ko cyashingiye ku mvugo zamwitiriwe kandi atari ize.

[10] Uhagarariye Ubushinjacyaha avuga ko icyaha Ruzindana ashinjwa cyakozwe kuwa 08/02/2010, inyandiko yashyikirijwe Urukiko isaba ko habazwa abatangabuhamya yandikwa ku itariki ya 21/05/2010, hakaba hibazwa impamvu byafashe icyo gihe cyose Ubuyobozi buzi ayo makuru abatangabuhamya bashobora gutanga ntagere ku nzego zibishinzwe.

[11] Asobanura ko Rucyahana yagundaguranye na Serunyange, Ruzindana akitambika hagati akababakiza, nyamara uko kugundagurana kukaba kudahagije ngo kuviremo umuntu urupfu, keretse niba hari icyo Serunyange barwanaga yamukubise, kandi Ruzindana akaba ntacyo agaragaza.

[12] Ku byerekeye ubuhamya burimo inenge, asanga bwaranditswe uko bwavuzwe, akaba yumva ntawahimbira Ruzindana ibyo atavuze, ku bw'izo mpamvu bukaba bukwiye guhamana agaciro kose.[2] Asanga kandi imvugo z'abatangabuhamya hari aho zivuguruzanya kuko ngo umwe hari aho avuga ko Ruzindana amaze kwinginga Rucyahana akamunanira yitahiye, undi akavuga ko yagiye gutabaza umukuru w'umudugudu.

UKO URUKIKO RUBIBONA

[13] Urukiko rusanga nyuma y'isesengura ry'imvugo z'abatangabuhamya babajijwe[3] mu iburanisha ryo ku wa 22/02/2016, bose bahuriza ku mvugo imwe yuko Ruzindana yatahanye na Nyakwigendera, bageze kwa Serunyange, Rucyahana yanga gukomeza inzira ataha iwe, avuga ko yageze iwabo.

[14] Rusanga na none bahuriza ku mvugo imwe yuko Rucyahana yarwanye na Serunyange, Ruzindana akababakiza, Serunyange agasubira mu nzu akikingirana, Ruzindana agakomeza kwinginga nyakwigendera ngo akomeze atahe, ariko undi akanga akaguma ku irembo kwa mwene nyina[4].

[15] Ikindi kitakwirengagizwa, nuko bose bavuga ko nyuma y'iyo mirwano, Ruzindana yagiye guhuruza umukuru w'umudugudu, kandi nkuko Ruzindana abisobnura, nta muntu numwe wigeze avuga ko amaze guhuruza, yaba yaramubonye aho imirwano ya Rucyahana na Serunyange yabereye

[16] Urukiko rurasanga nta kwivuguruza kw'abatangabuhamya kugaragara nkuko uhagarariye Ubushinjacyaha abivuga, kuko Ruzindana amaze kunaniranwa na Rucyahana, nta gitangaje ko yamubwira ko we yitahiye, ariko bikaba byaragaragaye ko yagiye gutabaza umukuru w'umudugudu mbere yo gutaha, kandi koko umutangabuhamya Museruka Théoneste yemeje ko, igihe yari avuye mu rugendo i Kigali, Ruzindana yamusanze kuri "centre" aje gutabaza kubera imirwano yari asize inyuma

[17] Rurasanga kandi rutakwirengagiza inyandiko yatanzwe n'Inzego z'Ibanze kugirango ishingirweho habazwa abatangabuhamya, kabone n'ubwo yaba yaraje itinze, kubera ko izo

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[2] Usanga umucamanza yarahamije icyaha Ruzindana kubera ko Rucyahana yavuze ngo "mwana wa Ayirwanda (Ruzindana) uranshakaho iki?"

[3] Habajijwe Rutabana Gaspard, Nyiraminani Alphonsine, Muhayimpundu Claudine na Museruka Théoneste

[4] Kwa mwene nyina Serunyange

nzego ziri aho icyaha cyakorewe, abatangabuhamya babajijwe bakaba barahagaze ubwabo ku mirwano ya Rucyahana na Serunyange, nta kuntu imvugo yabo itafatwaho ukuri.

[18] Urukiko rurasanga rero, kubera ibimaze gusobanurwa, nta bimenyetso bidashidikanywaho byatuma Ruzindana ahamwa n'icyaha ashinjwa, akaba agomba kugirwa umwere hashingiwe ku biteganywa n'ingingo ya 165, igika cya 2 cy'Itegeko Nº30/2013 ryo ku wa 24/05/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, iteganya ko „iyo urubanza rwakurikiranywe mu buryo bwose, ntihagire ibimenyetso nyakuri biboneka byemeza nta shiti abacamanza ko ushinjwa yakoze icyaha koko, bagomba kwemeza ko atsinze“.

III. ICYEMEZO CY'URUKIKO

[19] Rwemeje ko ubujurire bwa Ruzindana Emmanuel bufite ishingiro;

[20] Rwemeje ko adahamwa n'icyaha ashinjwa;

[21] Rutegetse ko ahita arekurwa uru rubanza rukimara gusomwa;

[22] Rutegetse ko amagarama y'urubanza aherera ku Isanduku ya Leta.