MUKANDORI v KAYITESI

[Rwanda URUKIKO RW'IKIRENGA - RS/INJUST/RC 00014/2021/SC – (Cyanzayire, P.J., Nyirinkwaya na Kalimunda, J.) 13 Gicurasi 2022]

Amategeko agenga imanza mbonezamubano – Umutungo utimukanwa – Ubutaka – Amasezerano y'ubugure – Ubugure bw'umutungo utimukanwa kugira ngo bube bwuzuye bugomba gukorwa mu buryo bw'inyandiko mpamo.

Amategeko agenga ubutaka – Umutungo utimukanwa – Kubaka k'ubutaka bw'undi mwabyumvikanyeho – Gusubizwa agaciro ku nyubako yubatswe ku butaka bw'undi – Uwashyize inyubako ku butaka bw'undi hakurikijwe ibisabwa n'amategeko cyangwa amasezerano ntagomba guhomba ibyo yashyizeho – Nyir'ubutaka ugumanye ibyo bikorwa agomba kubimwishyura.

Incamake y'ikibazo: Kayitesi yasabye ikibanza nyirakuru MUKANDORI kugirango amwubakiremo inzu azasazire ahantu heza. Nyirakuru yaje kumuha ikibanza cyarimo inzu ishaje yari yarubatswe n'umuhungu we wahunze akaba ataragaruka maze KAYITESI arayisenya y'ubakamo indi igezweho ayituzamo nyirakuru nkuko yari yabimusezeraniye. Kayitesi yaje gusaba nyirakuru ko yamuha uburenganzira akibaruzaho iyo nzu arabyanga amusubiza ko inzu ari iy'umuryango ko napfa umuryango wose uzayizungura. Ibi ntibyaje kunyura Kayitesi bituma atanga ikirego mu Rukiko Rwisumbuye rwa Huye asaba ko yasubizwa agaciro k'iyo nzu yubatse mu kibanza N° UPI: 2/04/02/03/635 kangana na 44.590.000 Frw.

Urukiko Rwisumbuye rwa Huye rwemeje ko ikibanza inzu yubatsemo cyakatwa kikandikwa kuri Kayitesi ndetse runamugenera n'indishyi n'amafaranga y'ikurikiranarubanza n'igihembo cy'avoka.

Mukandori ntiyishimye iki cyemezo bituma ajuririra mu Urukiko Rukuru urugereko rwa Nyanza avuga ko Urukiko rwafashe umwanzuro ku kitararagewe kuko Kayitesi yari yaregeye Urukiko asaba gusubizwa amafaranga yubatse inzu ariko Urukiko rukemeza ko ikibanza iyo nzu yubatseho kimwandikwaho ndetse no kuba urwo Rukiko rwaremeje ko Kayitesi yahawe na Nyirakuru ikibanza nta bimenyetso rushingiyeho.

Urukiko rukuru rumaze kumva impande zombi rwasanze nta guca urubanza ku kitararegewe kwabayeho kuko ibyo Kayitesi yasabye byo kwandikwaho icyo kibanza, Mukandori yabyireguyeho. Ku mpamvu y'uko urukiko rw'ibanze rwemeje ko Kayitesi yahawe na nyirakuru ikibanza nta bimenyetso rushingiyeho, Urukiko rukuru rwasanze icyo cyemezo cyarashingiye ku mvugo z'ababuranyi bombi ndetse n'abatangabuhamya babo.

Mukandori yandikiye Perezida w'Urukiko rw'Ubujurire asaba ko urubanza N° RCA 00002/2021/HC/NYZ rwasubirishwamo ku mpamvu z'akarengane nawe amaze gusuzuma ubwo busabe yandikira Perezida w'Urukiko rw'Ikirenga asaba ko rwasubirwamo.

Mu iburanisha ry'uru rubanza hasuzumwe ibibazo bitatu aribyo kumenya niba inkiko zabanje zaraciye urubanza ku kirego kitaregewe, kumenya niba Mukandori yarahaye Kayitesi ikibanza, kumenya nyiri nzu yubatse mu kibanza kibaruwe kuri Mukandori ndetse n'ibyerekeye indishyi.

Mukandori avuga ko inkiko zibanza zemeje ko Kayitesi yandikwaho ikibanza cy'inzu yubatsemo kandi yararegeye gusubizwa amafaranga yubatse iyo nzu. Kayitesi we yisobanura avuga ko ibyo byagiweho impaka n'impande zombi bityo ibyo uwo baburana avuga bikaba bitahabwa agaciro.

Ku kibazo cy'uko Mukandori yaba yarahaye Kayitesi ikibanza, abahagarariye Mukandori bavuga atigeze aha Kayitesi icyo kibanza ko iyo biba hari kuba inama y'umuryango ndetse hagakorwa n'inyandiko igaragaza ingano y'ubutaka butanzwe. Bakomeza bavuga ko kandi Atari gutanga ikibanza cyubatsemo inzu y'umuhungu we ko ahubwo yari kumuha ahandi.

Kayitesi avuga ko mu iburanisha ryabanje Mukandori yiyemereye we ubwe ko ariwe wahaye Kayitesi icyo kibanza kandi ko ubwo butaka bwanditse kuri Mukandori bityo akaba ariwe nyirabwo ko ariyo mpamvu umuryango bitari ngombwa ko ubanza guterana.

Ku kijyanye no kumenya nyiri nzu yubatswe ku butaka bwa Mukandori, abamuhagarariye bavuga ko Kayitesi adakwiye kuvuga ko iyo nzu ariye kuko yayubakiye nyirakuru. Bakomeza basaba ko mu gihe urukiko rwasanga Mukandori akwiye gusubiza Kayitesi agaciro k'iyo nzu yabanza agatanga agaciro k'iyo yasenye yari isanzweho. Kayitesi avuga ko yubatse iyo nzu ayiyubakira ariko agamije ko nyirakuru ayisaziramo ko niba Mukandori ashaka kuyigarurira yamusubiza agaciro kayo. Ku kijyanye n'indishyi, impande zombi zasabye indishyi zitandukanye.

Incamake y'icyemezo: 1. Urukiko rusanga inkiko zibanje zitaraciye urubanza ku kitararegewe kuko nk'uko inyandiko itanga ikirego ibigaragaza Kayitesi yasabaga ko yasubizwa agaciro k' amafaranga k'iyo nzu, yageze mu iburanisha asaba urukiko ko inzu imwandikwaho bitashoboka agahabwa agaciro kayo hanyuma urundi ruhande rubyireguraho ariko ntirwagira icyo ruvuga kuri uko guhindura igisabwa n'urega, bityo rero ibi bikaba bigaragaza ko impande zombi zabyemeranijweho.

2. Ihererekanyamutungo ku ubutaka rigaragazwa n'icyemezo cy'iyandikisha ryabwo gitangwa n'Umwanditsi w'impapurompamo z'ubutaka, kandi kugira ngo uwo mwanditsi atange icyo cyemezo agomba gushingira gusa ku masezerano yo kwegurira undi uwo mutungo (ubutaka) yakozwe mu buryo bw'inyandiko mpamo, iyo bidakozwe muri ubwo buryo iryo ihererekanyamutungo ntagaciro rigira, bityo rero Mukandori ntiyigeze aha Kayitesi ikibanza kuko nta nyandiko mpamo yo gutanga uburenganzira k' ubutaka binyuze mu mpano yabayeho ku buryo yari guherwaho mu ikorwa ry'ihererekanya mutungo.

3. Uwashyize inyubako ku butaka bw'undi hakurikijwe ibisabwa n'amategeko cyangwa amasezerano ntagomba guhomba ibyo yashyizeho. Nyir'ubutaka ugumanye ibyo bikorwa agomba kubimwishyura, bityo rero Mukandori akaba agomba kumusubiza agaciro k'inzu Kayitesi yubatse mu butaka bwe.

Ikirego cyo gusubirishamo urubanza ku mpamvu z'akarengane gifite ishingiro kuri bimwe;

Amategeko yashingiweho:

Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo ingingo ya 3.

Amategeko yashingiweho atagikoreshwa:

Itegeko N° 21/2012 ryo ku wa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 4;
Itegeko N° 43/2013 ryo ku wa 16/06/2013 rigenga ubutaka mu Rwanda, ingingo ya 18, 21, 73;
Iteka rya Minisitiri N° 002/2008 ryo ku wa 01/4/2008 rigena uburyo iyandikishwa ry'ubutaka rikorwa, ingingo ya 34.

Imanza zifashishijwe:
RS/INJUST/RC 00010/2019/SC, Manizabayo na Twizerimana, rwaciwe n'Urukiko rw'Ikirenga ku wa 25/09/2020, ibika bya 22-27.
RS/INJUST/RC 00004/2020/SC, Nsanzimana na Nyirajyambere n'abandi, rwaciwe n'Urukiko rw'Ikirenga ku wa 09/04/2021, para. 26 na 27.
RS/INJUST/RC 00003/2020/SC, CIFTCI Inac na Nshimiyimana n'undi, rwaciwe n'Urukiko rw'Ikirenga ku wa 30/09/2021
RS/REV/INJUST/CIV 0012/15/CS, Kayitsinga n'undi na Nsanzineza, rwaciwe n'Urukiko rw'Ikirenga ku wa 18/01/2019, ibika 49 na 50.
RS/ INJUST/ RC 00011/2018/ SC, Nyirahabimana na Habimana n'abandi, rwaciwe ku wa 09/06/2021;
RS/INJUST/RCOM 00002/2020/SC, Road Solutions Pavement Products na MAILCO Ltd, rwaciwe ku wa 25/09/2020;
RS/INJUST/RC 00002/2018/SC, Uwimana na Kagitare, rwaciwe ku wa 21/02/2020;
RS/INJUST/RC 00022/2018/SC, Busoro na Mugunga et crts, rwaciwe ku wa 28/06/2019.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Huye, Kayitesi Elyne, asaba ko nyirakuru Mukandori Costasie ategekwa kumusubiza 44.590.000Frw y'agaciro k'inzu yubatse mu kibanza N° UPI: 2/04/02/03/635, kibaruye kuri Mukandori Costasie n'indishyi zinyuranye.

[2] Kayitesi Elyne yavugaga ko yasabye Mukandori Costasie ikibanza yakwiyubakiramo inzu, nyirakuru nawe akayibamo kugira ngo asazire ahantu heza, ko mu mwaka wa 2007 yamuhaye ikibanza kirimo inzu ishaje yabagamo y'umuhungu we witwa Uwiringiyemungu Michel wagiye ahunze mu 1994, akaba ataragaruka kuva icyo gihe, maze asenya inzu yarimo, yubaka indi nzu igezweho, ari nayo umukecuru abamo kugeza ubu. Yavugaga kandi ko yumvikanye na nyirakuru ko azamukorera ihererekanya ry'umutungo kugira ngo hatazabaho amakimbirane mu gihe yaba atakiriho, ariko ko nyuma yanze kurikora amubwira ko ubutaka n'inzu yubatsemo ari iby'umuryango, bityo ko mu gihe azaba atakiriho bizazungurwa n'abamukomokaho bose.

[3] Mukandori Costasie yireguye avuga ko Kayitesi Elyne atigeze yubaka inzu nshya, ahubwo ko yasanye inzu ishaje yahoze ari iy'umuhungu we kugira ngo nyirakuru azasazire ahantu heza, ko agiye no kuyitaha yabwiye abaturage ko yayimwubakiye kugira ngo azasazire ahantu heza, bityo ko inzu atari iya Kayitesi Elyne ahubwo ko ari iye, ku buryo apfuye yajya mu maboko y'umuryango.

[4] Urukiko Rwisumbuye rwa Huye rwaciye urubanza N° RC 00043/2020/TGI/HYE ku wa 08/12/2020, rwemeza ko inzu ari iya Kayitesi Elyne, rutegeka ko ikibanza yubatsemo kiri mu butaka bubaruye kuri Mukandori Costasie gikurwa kuri ubwo butaka (Subdivision) kigahabwa nimero yacyo yihariye, kikandikwa kuri Kayitesi Elyne. Rwategetse kandi Mukandori Costasie kwishyura Kayitesi Elyne 1.000.000 Frw y'ikurikiranarubanza na 1.500.000 Frw y'igihembo cya Avoka.

[5] Urwo rukiko rwafashe icyo cyemezo rushingiye ku isesengura ry'imvugo ya Mukandori Costasie, irya Kayitesi Elyne n'iz'abatangabuhamya batandukanye babajijwe ku mpande zombi igihe cy'iburanisha.

[6] Rwasobanuye kandi ko rudaciye urubanza ku kitareregewe kuko Kayitesi Elyne yahinduye ikirego mu iburanisha, asaba ku bw'ibanze ko inzu imwandikwaho, akaba yahabwa agaciro kayo ari uko binaniranye, Mukandori Costasie ntiyagira icyo abivugaho, ahubwo abyireguraho, ibi bikaba bifatwa nk'aho impande zombi zabyemeranyijeho.

[7] Mukandori Costasie yajuririye Urukiko Rukuru, Urugereko rwa Nyanza ashingiye ku mpamvu eshatu: kuba Urukiko Rwisumbuye rwa Huye rwaraciye urubanza ku kitararegewe kuko Kayitesi Elyne yari yareze asaba gusubizwa amafaranga yatanze yubaka inzu, ariko mu guca urubanza rwemeza ko ikibanza inzu yubatsemo kimwandikwaho; kuba urwo rukiko rwaremeje ko Kayitesi Elyne yahawe na nyirakuru ikibanza cyo kubakamo inzu ye ku giti cye nta bimenyetso rushingiyeho; kuba ntacyo rwavuze ku nzu ya Uwiringiyemungu Michel yari yubatse muri icyo kibanza kandi ababuranyi bose baremeranyije ko yari ihari.

[8] Abana batandatu ba Mukandori Costasie[1] bagobotse ku bushake muri urwo rubanza basaba Urukiko Rukuru, Urugereko rwa Nyanza kwemeza ko inzu iburanwa atari iya Kayitesi Elyne kuko aribo bayisaniye umubyeyi wabo mu mwaka w'1994.

[9] Urukiko Rukuru, Urugereko rwa Nyanza rwaciye urubanza N° RCA 00002/2021/HC/NYZ ku wa 30/07/2021. Ku bijyanye n'ukugoboka kw'abana ba Mukandori Costasie, rwemeje ko kutakiriwe kuko nta nyungu itaziguye kandi yabo bwite babashije kugaragaza. Ku birebana n'ubujurire bwa Mukandori Costasie, rwemeje ko nta shingiro bufite, rutegeka Mukandori Costasie guha Kayitesi Elyne 500.000 Frw y'igihembo cya Avoka yiyongera ku yo yari yaciwe ku rwego rwa mbere, abasabye kugoboka mu rubanza uko ari batandatu nabo bakamuha 1.000.000 Frw y'igihembo cya Avoka.

[10] Ku mpamvu y'ubujurire y'uko Urukiko Rwisumbuye rwa Huye rwaciye urubanza ku kitararegewe, Urukiko Rukuru, Urugereko rwa Nyanza rwasanze nta guca urubanza ku kitararegeze kwabayeho kuko ibyo Kayitesi Elyne yasabye igihe cy'iburanisha ko inzu imwandikwaho impande zombi zabyireguyeho.

[11] Ku mpamvu y'ubujurire y'uko rwemeje ko Kayitesi Elyne yahawe na nyirakuru ikibanza cyo kubakamo inzu ye ku giti cye nta bimenyetso rushingiyeho, Urukiko Rukuru, Urugereko rwa Nyanza rwasanze icyo cyemezo cyarafashwe nyuma y'isesengura ry'imvugo ya Mukandori Costasie, irya Kayitesi Elyne n'iz'abatangabuhamya batandukanye babajijwe ku mpande zombi.

[1] Hakuzamungu Philomène, Ufiteyezu Jean Chrysostome, Mukeshimana Jacqueline, Uwayezu Jean Bosco, Mukarugwiza Josiane na Umugwaneza Solange.

[12] Ku mpamvu y'ubujurire yo kuba ntacyo rwavuze ku nzu ya Uwiringiyemungu Michel yari yubatse kuri icyo kibanza, Urukiko Rukuru rwasanze iby'iyo nzu yashenywe bitaryozwa Kayitesi Elyne kuko kuyisenya byemewe na nyirakuru wahamuhaye ikibanza.

[13] Ku wa 20/08/2021, Me Ndagijimana Emmanuel, mu izina rya Mukandori Costasie, yandikiye Perezida w'Urukiko rw'Ubujurire asaba ko urubanza N° RCA 00002/2021/HC/NYZ rusubirwamo ku mpamvu z'akarengane. Perezida w'Urukiko rw'Ubujurire nyuma yo gusuzuma ubwo busabe yandikiye Perezida w'Urukiko rw'Ikirenga asaba ko urwo rubanza rwasubirwamo.

[14] Perezida w'Urukiko rw'Ikirenga yemeje ko urwo rubanza rwongera kuburanishwa, ategeka Ubwanditsi bw'Urukiko rw'Ikirenga kuruha nomero maze rwandikwa mu gitabo cy'ibirego kuri N° RS/INJUST/RC 00014/2021/SC.

[15] Urubanza rwaburanishijwe mu ruhame ku wa 15/03/2022, Mukandori Costasie ahagarariwe na Me Ndagijimana Emmanuel hamwe na Me Abasa Fazil, naho Kayitesi Elyne yunganiwe na Me Ntaganda Kabano Christian.

[16] Ababuranyi babanje kujya impaka ku nzitizi yabyukijwe n'uhagarariye Kayitesi Elyne, asaba ko ikirego cy'akarengane cyatanzwe na Mukandori Costasie kitakwakirwa kuri uru rwego kubera ko avuga ko umutungo washenywe uburanwa atari uwe, ahubwo ari uw'umuhungu we Uwiringiyemungu Michel, uyu akaba nta bubasha yamuhaye bwo kuwuburana.

[17] Urukiko rwemeje mu ntebe ko iyi nzitizi itakiriwe kuko, nk'uko rwabifasheho umurongo wibukijwe mu manza zinyuranye[2], imanza ziza mu karengane ziba zaraciwe burundu zifite abaziburanye, ari nabo bagaruka mu rubanza rw'akarengane, inzitizi ishingiye ku iburabubasha bw'uwabaye umuburanyi mu rubanza rusubirishwamo ikaba yakirwa gusa iyo ariyo akarengane gashingiyeho. Ku birebana n'uru rubanza, ikirego cy'akarengane kikaba kidashingiye kuri iyo mpamvu. Kuba kandi Kayitesi Elyne ariwe watanze ikirego ku rwego rwa mbere asaba ko Mukandori Costasie yagira ibyo ategekwa, akaba atahindukira ngo avuge ko nta bubasha afite bwo gusubirishamo urubanza yabayemo umuburanyi.

[18] Nyuma yo gufata icyo cyemezo, iburanisha ryakomereje mu mizi y'urubanza, hasuzumwa ibibazo bikurikira:

A. Kumenya niba inkiko zibanza zaraciye urubanza ku kitararegewe;

B. Kumenya niba Mukandori Costasie yarahaye Kayitesi Elyne ikibanza;

C. Kumenya nyir'inzu yubatswe mu kibanza kibaruwe kuri Mukandori Costasie n'ingaruka zabyo;

D. Ibyerekeye indishyi zisabwa kuri uru rwego.

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[2] Urubanza N° RS/ INJUST/ RC 00011/2018/ SC, haburana Nyirahabimana Umwali Roselyne c/ Habimana Jean Léo Pasteur na bagenzi be, rwaciwe ku wa 09/06/2021;
Urubanza N°RS/INJUST/RCOM 00002/2020/SC, haburana Road Solutions Pavement Products c/ MAILCO Ltd, rwaciwe ku wa 25/09/2020; urubanza N° RS/INJUST/RC 00002/2018/SC, haburana Uwimana Marine c/ Kagitare Dancille, rwaciwe ku wa 21/02/2020;
Urubanza N°RS/INJUST/RC 00022/2018/SC, haburana Busoro Gervais c/ Busoro Mugunga Désiré et crts, rwaciwe ku wa 28/06/2019.

II. ISESENGURWA RY'IBIBAZO BIGIZE URUBANZA

A. Kumenya niba inkiko zibanza zaraciye urubanza ku kitararegewe

[19] Me Ndagijimana Emmanuel na Me Abasa Fazili bahagarariye Mukandori Costasie bavuga ko Urukiko Rukuru, Urugereko rwa Nyanza rwirengagije ko Urukiko Rwisumbuye rwa Huye rwaciye urubanza ku kitararegewe kuko rwemeje ko Kayitesi Elyne yandikwaho ikibanza inzu yubatsemo kandi yarareze asaba gusubizwa 44.590.000 Frw y'agaciro k'inzu yubatswe mu kibanza kibaruye kuri Mukandori Costasie.

[20] Me Ntaganda Kabano Christian wunganira Kayitesi Elyne avuga ko ikibazo cyo kwandikwaho inzu Kayitesi Elyne yiyubakiye cyaburanishijwe, kigibwaho impaka n'impande zombi mu rubanza N° RC 00043/2020/TGI/HYE nk'uko bigaragara mu nyandikomvugo y'iburanisha ryo ku wa 21/10/2020, ndetse no muri kopi y'urubanza mu bika bya 8, 9 na 10.

UKO URUKIKO RUBIBONA:

[21] Ingingo ya 4 y'Itegeko N° 21/2012 ryo ku wa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ryakoreshwaga igihe urubanza rwaburanishwaga ku rwego rwa mbere yateganyaga, mu gace kayo ka mbere ko nta muburanyi ushobora guhindura ikirego ababuranyi bose batabyemeye. Imyandikire y'iyo ngingo yumvikanisha ko ikirego gishobora guhindurwa ku rwego rwa mbere iyo ababuranyi babyumvikanyeho.

[22] Ku birebana n'uru rubanza, Urukiko rurasanga, nk'uko byasobanuwe n'Urukiko Rwisumbuye rwa Huye mu cyemezo cyarwo, nubwo inyandiko itanga ikirego igaragaza ko Kayitesi Elyne yareze asaba gusubizwa 44.590.000 Frw y'agaciro k'inzu yubatswe mu kibanza kibaruye kuri Mukandori Costasie, yageze mu iburanisha asaba ko urukiko, ku bw'ibanze, rwategeka ko inzu imwandikwaho, bitakwemerwa agahabwa agaciro kayo, urundi ruhande rubyireguraho nk'uko bigaragara mu nyandiko mvugo y'iburanisha ryo ku wa 21/10/2020, ntirwagira icyo ruvuga kuri uko guhindura igisabwa n'urega. Ibi rero bifatwa nk'aho impande zombi zabyemeranyijweho, bikaba byumvikanisha ko inkiko zibanza zitaciye urubanza ku kitararegewe.

B. Kumenya niba mukandori costasie yarahaye Kayitesi Elyne ikibanza

[23] Me Ndagijimana Emmanuel na Me Abasa Fazili bavuga ko Mukandori Costasie bahagarariye atari guha Kayitesi Elyne ikibanza atabanje kubyumvikanaho n'umuryango, ndetse hatakozwe inyandiko igaragaza ubutaka butanzwe ubwo aribwo n'ingano yabwo.

[24] Bavuga kandi ko Mukandori Costasie atari guha Kayitesi Elyne ikibanza umwana we Uwiringiyemungu Michel yubatsemo ngo yemere ko asenya inzu ifite nyirayo, ahubwo ko yari kumuha ikibanza kitubatsemo kandi kidafite undi wagihawe.

[25] Me Ntaganda Kabano Christian na Kayitesi Elyne bavuga ko mu iburanisha ryo ku wa 21/10/2020 ku rwego rwa mbere Mukandori Costasie yivugiye ko ari we ubwe wihereye Kayitesi Elyne ikibanza. Ku birebana n'imvugo y'abahagarariye Mukandori Costasie ko atari gutanga

ikibanza cyubatsemo inzu y’umuhungu we, bavuga ko ubwo butaka bwanditse kuri Mukandori Costasie nk’uko icyangombwa cy’ubutaka kibigaragaza, bivuze rero ko yatanze mu bye. Ku birebana na none n’imvugo yabo ko Mukandori Costasie atari guha Kayitesi Elyne ikibanza atabanje kubyumvikanaho n’umuryango, bavuga ko nta mpamvu umuryango wagombaga kubanza guterana kuko ubutaka ariwe bwanditsweho.

[26] Ku birebana n’impamvu Kayitesi Elyne yubatse atabanje guhinduza ngo ubutaka bumwandikweho, bavuga ko yagendeye ku cyizere yari afitiye nyirakuru, cyane ko ubutaka bwari bumwanditseho, akaba atari kuhamuha azi ko byateza ikibazo.

UKO URUKIKO RUBIBONA:

[27] Ingingo ya 21 y’ Itegeko Nº 43/2013 ryo ku wa 16/06/2013 rigenga ubutaka mu Rwanda ryakoreshwaga ubwo Kayitesi Elyne yatangiraga kubaka ku butaka bubaruwe kuri Mukandori Costasie yateganyaga ko [..], *uburenganzira ku butaka bushobora guhererekanywa biciye mu izungura, impano, umurage, umunani, ikodeshwa, igurishwa, iyatisha, ingurane, inshingano yo gutanga inzira ku butaka bw’undi bukomoka ku miterere y’ahantu, gutangwaho ingwate [...] hakurikijwe uburyo bugenwa n’amategeko n’amabwiriza”.* Iyo ngingo yumvikanisha ko inzira zose zo guhererekanya uburenganzira ku butaka, harimo n’impano, bugomba gukorwa hakurikijwe uburyo bugenwa n’amategeko n’amabwiriza.

[28] Ku birebana n’ ihererekanya ry’ubutaka, ingingo ya 18 y’iryo tegeko, mu gika cyayo cya mbere, yateganyaga ko kwemeza ko ubutaka bwatanzwe cyangwa bukodeshejwe bigaragazwa n’icyemezo cy’iyandikisha ry’ubutaka gitangwa n’Umubitsi w’Impampuro mpamo z’ubutaka.

[29] Ingingo ya 34 y’Iteka rya Minisitiri Nº 002/2008 ryo ku wa 01/4/2008 rigena uburyo iyandikishwa ry’ubutaka rikorwa nayo yateganyaga, mu gika cyayo cya mbere, ko ihererekanya rishingiye ku masezerano yo kwegurira undi ibintu ridashobora gukorwa iyo amasezerano rishingiyeho atakozwe ku buryo bw'inyandiko y’umwimerere[3]. Iyo ngingo inateganya ifishi igomba gukoreshwa.

[30] Iri teka ryari rishingiye ku Itegeko Ngenga N° 08/2005 ryo ku wa 14/07/2005 rigena imikoreshereze n’imicungire y’ubutaka mu Rwanda, ariko Itegeko Nº 43/2013 ryo ku wa 16/06/2013 ryavuzwe haruguru ryateganyaga, mu ngingo yaryo ya 73, ko mu gihe atarahindurwa, amategeko, amateka n’amabwiriza yashyiraga mu bikorwa iryo tegeko ngenga ryo muri 2005 akomeza kubahirizwa mu ngingo zayo zose zitanyuranije n’iryo tegeko ryo muri 2013.

[31] Ingingo zavuzwe zumvikanisha ko kugira ngo byemezwe ko ubutaka buhererekanyijwe, hagomba kubaho icyemezo cy’iyandikisha ryabwo gitangwa n’Umwanditsi w’impapuro mpamo z’ubutaka, kandi kugira ngo uwo mwanditsi atange icyo cyemezo agomba gushingira gusa ku masezerano yo kwegurira undi uwo mutungo (ubutaka) yakozwe mu buryo bw’inyandiko mpamo. Ibi byumvikanisha ko amasezerano yakorwa mu bundi buryo butari ubwo nta gaciro yaba afite ku birebana n’ihererekanya ry’ubutaka. Uyu ni nawo murongo watanzwe n’uru rukiko mu rubanza

[3] Mu kinyarwanda banditse ‘’ Inyandiko y’umwimerere’’, ariko hakurikijwe ibyanditse mu gifaransa no mu cyongereza bigaragara ko ari ‘’ Inyandiko mpamo ‘’.

Manizabayo Kennedy yaburanaga na Twizerimana Théoneste[4], aho rwasobanuye ko ku birebana n'ubutaka, nk'umutungo uri mu murage rusange w'imbaga y'Abanyarwanda bose, Umushingamategeko yashatse ko umuguzi n'ugurisha batajya biherera bonyine ngo bakore amasezerano y'ubugure, ategeka ko kugira ngo agire agaciro hubahirizwa imihango yihariye. Impano ni imwe mu nzira zo guhererekanya uburenganzira ku butaka kimwe n'ubugure, bityo amasezerano y'impano nayo akaba arebwa n'ibisobanuro byatanzwe muri urwo rubanza ku bireba amasezerano y'ubugure.

[32] Muri urwo rubanza, Urukiko rwasobanuye kandi ko Umushingamategeko yakuye amasezerano y'ubugure bw'ubutaka mu cyiciro cy'amasezerano y'ubugure asanzwe, aho abantu biyumvikanira ku kigurishwa no ku giciro nta yindi mihango yihariye ibaye (contrats consensuels), ayashyira mu cyiciro cy'amasezerano yubahiriza imihango yihariye kugira ngo agire agaciro (contrats solennels) igihe cy'iyandikisha ry'umutungo, ari naryo rihesha uwaguze uburenganzira ku mutungo we.

[33] Ibisobanuro byatanzwe muri urwo rubanza byagarutsweho n'uru rukiko mu rubanza Nsanzimana Wilson yaburanaga na Nyirajyambere Gacunga Espérance n'abandi[5], aho rwemeje ko ku bijyanye n'ubugure bw'umutungo utimukanwa, kwemeranya kw'abagiranye amasezerano ku kintu no ku kiguzi ubwabyo bidahagije, ko ahubwo hari n'ibindi bigomba kubahirizwa nko kuba mu ikorwa ry'amasezerano no kuyashyiraho umukono bigomba gukorerwa imbere y'umukozi ubifitiye ububasha, bitaba ibyo amasezerano y'ubugure akaba nta gaciro afite.

[34] Byagarutsweho na none mu rubanza CIFTCI Inanc yaburanye na Nshimiyimana Yvon na Sebutinde Edouard[6], aho Urukiko rwasobanuye ko kuba hagati yabo harabayeho ubwumvikane ku giciro no ku mutungo ugurishwa, bidahagije kugira ngo hemezwe ko ubugure burebana n'umutungo utimukanwa (ubutaka) bwuzuye, ko kugira ngo ubwo bugure bube bwuzuye, amasezerano yabwo yagombaga kuba yarakozwe mu buryo bw'inyandiko mpamo, bityo kuba ibyo bitarakozwe, ayo masezerano akaba nta gaciro akwiye guhabwa.

[35] Ku birebana n'uru rubanza, Urukiko Rukuru, Urugereko rwa Nyanza rwemeje ko Mukandori Costasie yahaye Kayitesi Elyne ubutaka bwo kubakamo, maze rugumishaho ibyari byategetswe n'Urukiko Rwisumbuye rwa Huye ko ikibanza inzu yubatseho gikurwa ku butaka bubaruye kuri Mukandori Costasie. Nyamara Kayitesi Elyne ubwe yivugira ko ibyo yumvikanyeho na Mukandori Costasie bitigeze bikorerwa inyandiko kuko yagendeye ku cyizere yari amufitiye nka nyirakuru wamureze.

[36] Hashingiye ku mategeko no ku bisobanuro byatanzwe, Urukiko rurasanga Mukandori Costasie atarahaye Kayitesi Elyne ikibanza kiburanwa kuko nta nyandiko mpamo yo gutanga uburenganzira ku butaka binyuze mu mpano yabayeho, ku buryo yari guherwaho hakorwa ihererekanya mutungo, bityo inkiko zibanza zikaba zitaragombaga gutegeka ko ikibanza inzu yubatseho gikurwa ku butaka bubaruye kuri Mukandori Costasie kugira ngo cyandikwe kuri Kayitesi Elyne.

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[4] Urubanza N° RS/INJUST/RC 00010/2019/SC rwaciwe ku wa 25/09/2020, ibika bya 22-27.
[5] Urubanza N° RS/INJUST/RC 00004/2020/SC rwaciwe ku itariki ya 09/04/2021, para. 26 na 27.
[6] Urubanza N° RS/INJUST/RC 00003/2020/SC rwaciwe ku wa 30/09/2021.

C. Kumenya nyir’inzu yubatse mu kibanza kibaruwe kuri mukandori costasie n’ingaruka zabyo

[37] Me Ndagijimana Emmanuel na Me Abasa Fazili bahagarariye Mukandori Costasie bavuga ko Kayitesi Elyne adakwiye kuvuga ko inzu yubatse mu kibanza kibaruwe kuri Mukandori Costasie ari iye kuko yayubakiye nyirakuru nk’uko bigaragazwa n’ibimenyetso bikurikira:

- Kuba hari abagabo bemeza ko inzu imaze kuzura, yatashywe ku mugaragaro, Kayitesi Elyne avuga ko yishimiye igikorwa cyo gushyira nyirakuru mu nzu nziza, ndetse ashimirwa ko atuje nyirakuru ahantu heza;

- Kuba hari n’inyandiko zigaragaza ko inzu yubakiwe Mukandori Costasie, nk’ibaruwa yo ku wa 27/09/2017, Umuhuzabikorwa w’Umurenge wa Huye yandikiye Umuyobozi w’Akarere ka Huye asabira ubuvugizi Mukandori Costasie kugira ngo ahabwe uburenganzira bwo gusana inzu ye, ndetse n’ibaruwa yo ku wa 01/11/2017, Umuyobozi w’Akarere ka Huye yanditse yemerera Mukandori Costasie gusana inzu ye abifashijwemo n’umuterankunga.

[38] Bavuga ko mu gihe Urukiko rwasanga Kayitesi Elyne agomba guhabwa agaciro k’ibyo yashyize kuri iyo nzu yabanza gutanga ingurane y’iyo yashenye, kugirango nyirayo Uwiringiyemungu Michel cyangwa umuzungura we azayihabwe. Bavuga ko raporo ebyili z’igenagaciro bashyize muri dosiye zigaragaza ko agaciro k’inzu Kayitesi Elyne yubatse ari 39.893.000 Frw, naho agaciro k’iyo yashenye kakaba 15.315.530 Frw, ko rero Kayitesi Elyne yahabwa ikinyuranyo cy’ayo mafaranga. Basobanura ko igenagaciro ry’inzu yasenywe ryakozwe hagendeye ku byari biyubatse n’amafoto yayo.

[39] Ku birebana n’aho Mukandori Costasie akura ububasha bwo kwishyuza agaciro k’inzu yasenywe niba yari iy’umuhungu we, bavuga ko uwo muhungu yayubatse ku butaka yari yarahaweho umunani ariko atarahinduza ngo hamwandikweho, kandi ko Mukandori Costasie ariwe uyimucungira (gestion d’affaire).

[40] Me Ntaganda Kabano Christian na Kayitesi Elyne bavuga ko imvugo ya Mukandori Costasie mu iburanisha ku rwego rwa mbere, igaragaza neza ko Kayitesi Elyne yubatse inzu yiyubakira ariko anagamije ko nyirakuru ayibamo kugira ngo asazire ahantu heza.

[41] Bavuga kandi ko nta masezerano y’impano Kayitesi Elyne yagiranye na Mukandori Costasie n’abandi bagize umuryango, ndetse ko nta n’uwo bafatanyije kubaka, ko niba Mukandori Costasie ashaka kuyigarurira ikazazungurwa n’abamukomokaho bose mu gihe azaba atakiriho, akwiye kumusubiza agaciro kayo gahwanye na 44.590.000 Frw nk’uko raporo y’igenagaciro bashyize muri dosiye ibigaragaza.

[42] Ku birebana n’inyandiko y’Umuyobozi w’Akarere ka Huye yemerera Mukandori Costasie gusana inzu ye, bavuga ko byumvikana kuko ari we wasabye uruhushya rwo kubaka, ndetse ko nta wundi washoboraga gusaba icyo cyemezo kuko ubutaka ari we bwari bwanditseho.

[43] Ku birebana n’inzu yasenywe, bavuga ko nta kosa Kayitesi Elyne yakoze ryatuma yishyura agaciro kayo kuko Mukandori Costasie ari we wamuhaye uburenganzira bwo kuyisenya nk’uko inyandiko mvugo y’iburanisha mu Rukiko Rwisumbuye rwa Huye ibigaragaza.

[44] Bavuga kandi ko Urukiko rusanze Kayitesi Elyne agomba kwishyura agaciro k'iyo nzu, rutashingira ku igenagaciro ryakozwe hashize imyaka itanu ishenywe kuko icyo bashingiyeho bayikora kitumvikana, ahubwo ko rwashingira ku gaciro kavuzwe n'umufundi witwa Niyonsaba Ignace wavuze mu Rukiko Rwisumbuye rwa Huye ko yari ifite agaciro ka 3.500.000 Frw.

[45] Bavuga ko kubireba inzu yubatswe na Kayitesi Elyne, igenagaciro ryakoreshejwe na Mukandori Costasie bataryemera kuko barishyize muri dosiye ku munsi w'Inama ntegurarubanza, bakaba batarigeze bavuguruza iyo batanze ku rwego rwa mbere.

UKO URUKIKO RUBIBONA:

D. Ku bijyanye no kumenya nyir'inzu

[46] Ingingo ya 3 y'Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana, naho ingingo ya 9 y'iryo tegeko igateganya ko ibimenyetso (…..) bishobora gutangwa hakoreshejwe inyandiko, ubuhamya, uburyo bwo gucukumbura, ukwiyemerera k'umuburanyi cyangwa herekanywe ibindi bintu bifatika.

[47] Ababuranyi ku mpande zombi bemeranywa ko Kayitesi Elyne ari we wubatse inzu iri mu isambu ifite UPI: 2/04/02/03/635 ibaruye kuri Mukandori Costasie, ndetse ko mbere yo kuyubaka yabanje gusenya inzu yarimo yari iy'umuhungu wa Mukandori Costasie witwa Uwiringiyemungu Michel. Bemeranywa kandi ko byose Kayitesi Elyne yabikoze babyumvikanyeho, icyo batumvikanaho akaba ari ukumenya niba yarubatse yiyubakira, cyangwa niba yarubatse yubakira nyirakuru Mukandori Costasie.

[48] Mu gusuzuma iki kibazo ni ngombwa gusesengura imvugo z'ababuranyi. Mu byo Mukandori Costasie yasobanuye mu iburanisha ryo ku wa 21/10/2020 mu Rukiko Rwisumbuye rwa Huye, harimo ko:

- Kayitesi Elyne yaje kumusaba aho yakwiyubakira, amwereka umunani wa nyina ngo abe ariho yubaka, arabyanga, amubwira ko ashaka kumutuza ahantu heza hatazajya hamurushya kugenda;

- Kayitesi Elyne yabanje gushaka kuvugurura inzu yari ihari ariko agirwa inama yo kuyisenya kugira ngo ahubake indi nziza;

- Icyatumye inzu atayandika kuri Kayitesi Elyne n'uko uyu yari agiye kuyitangaho ingwate muri banki.

[49] Kayitesi Elyne nawe mu byo yasobanuye, harimo ko yasabye nyirakuru aho yakwiyubakira, amwereka mu kibanza cy'umuhungu we wahunze, ari naho nyirakuru yabaga, ko yamuhindutse atangiye kumusaba ko bakora ihererekanya mutungo.

[50] Urukiko rurasanga Mukandori Costasie na Kayitesi Elyne bahuriza ku kuba Kayitesi Elyne yarasabye nyirakuru aho yakwiyubakira. Ibi byumvikanisha ko igitekerezo cya Kayitesi Elyne cyari icyo kubaka inzu ye bwite, nyirakuru akayibamo kugira ngo azasazire ahantu heza, akaba rero atari agamije kwubakira Mukandori Costasie.

[51] Urukiko rurasanga nanone iyo ruhuje imvugo z'ababuranyi n'ibyabaye n'uburyo ibintu byagenze, Kayitesi Elyne atari gusenya inzu Mukandori Costasie yabagamo akubakamo indi nzu nyirakuru atabimuhereye uburenganzira hakurikijwe icyifuzo yari yamugejejeho ko yamuha aho kwiyubakira.

[52] Ku birebana n'uko hari abagabo bemeza ko inzu imaze kuzura, yatashywe ku mugaragaro, Kayitesi Elyne akavuga ko yishimiye igikorwa cyo gutuza nyirakuru ahantu heza, Urukiko rurasanga bidatandukanye n'ibyo Kayitesi Elyne yaburanye avuga guhera ku rwego rwa mbere ko yashakaga ko nyirakuru yasazira ahantu heza kandi ntibisobanuye ko igitekerezo cye cyari uguha nyirakuru impano y'inzu ku buryo igihe azaba atakiriho yazungurwa n'abamukomokaho bose.

[53] Ku birebana n'inyandiko Umunyamabanga Nshingwabikorwa yandikiye Mukandori Costasie amwemerera gusana inzu ye, Urukiko rurasanga ntacyo yafasha ku kibazo kiburanwaho kuko nta wundi washoboraga gusaba urwo ruhushya usibye Mukandori Costasie kuko ubutaka inzu yari kubakwaho ari we bwari bwanditseho.

[54] Hashingiye rero ku itegeko ryavuzwe no ku bisobanuro byatanzwe, Urukiko rurasanga ibimenyetso byatanzwe bigaragaza ko inzu iburanwa ari iya Kayitesi Elyne kuko yayubatse yiyubakira kandi abyumvikanyeho na Mukandori Costasie.

E. Ku bijyanye n'ingaruka zo kuba Kayitesi Elyne yarashyize inyubako ku butaka butari ubwe

[55] Ingingo ya 35 y'Itegeko No 43/2013 ryo ku wa 16/06/2013 rigenga ubutaka mu Rwanda iteganya, mu gika cyayo cya mbere ko inyubako zose, ibihingwa n'ibindi bikorwa biri ku butaka byashyizweho na nyir'ubutaka akoresheje umutungo we cyangwa se ubundi buryo bifatwa nk'ibye, mu gika cyayo cya kabiri igateganya ko umuntu ashobora gutunga inyubako, ibihingwa n'ibindi bikorwa ku butaka bw'undi muntu mu gihe bikurikije iri tegeko, andi mategeko cyangwa amasezerano na nyir'ubutaka, naho mu gika cyayo cya gatatu igateganya ko mu gihe inyubako cyangwa se ibihingwa byashyizwe n'undi muntu ku butaka butari ubwe hadakurikijwe ibisabwa n'amategeko cyangwa amasezerano, nyir'ubutaka afite uburenganzira bwo gusaba uwabishyizeho kubikuraho bitabujije no gusaba impozamarira cyangwa indishyi mu gihe hari ibikorwa bye byangijwe.

[56] Iyi ngingo igaragaza ko umuntu ashobora gushyira inyubako ku butaka bw'undi hakurikijwe ibisabwa n'amategeko cyangwa amasezerano, yaba abikoze hatubahirijwe amategeko cyangwa amasezerano, nyir'ubutaka akaba afite uburenganzira bwo kumusaba kubikuraho, ndetse akamusaba impozamarira cyangwa indishyi.

[57] Iyi ngingo irebewe hamwe n'ihame ryo kutikungahaza nta mpamvu, n'irya "equity/équité", yashingiweho mu zindi manza zaciwe n'uru rukiko[7], yumvikanisha nanone ko uwashyize inyubako ku butaka bw'undi hakurikijwe ibisabwa n'amategeko cyangwa amasezerano atagomba guhomba ibyo yashyizeho. Icyo gihe nyir'ubutaka ugumanye ibyo bikorwa agomba kubimwishyura.

[7] Urubanza Nº RS/REV/INJUST/CIV 0012/15/CS rwaciwe ku wa 18/01/2019, haburana Kayitsinga Alexis, Kanyamibwa Immaculée na Nsanzineza Célestin (ibika 49 na 50).

[58] Ku birebana n'uru rubanza, nk'uko byagaragajwe haruguru, Kayitesi Elyne yubatse inzu ye ku butaka bubaruye kuri Mukandori Costasie ashingiye ku bwumvikane bagiranye. Urukiko rurasanga rero, hashingiwe ku mahame y'amategeko yavuzwe mu gika kibanziriza iki Mukandori Costasie adakwiye kugumana inzu Kayitesi Elyne yubatse ku butaka bwe babyumvikanyeho nta ngurane amuhaye ihwanye n'agaciro k'inzu yubatse.

[59] Ku birebana n'amafaranga Kayitesi Elyne yakwishyurwa, Urukiko rurasanga ibyo ababuranira Mukandori Costasie bavuga ko mu gihe rwasanga Kayitesi Elyne agomba guhabwa agaciro k'inzu yubatse, yabanza gutanga ingurane y'iyo yasenye, nta gaciro byahabwa kuko Mukandori Costasie yemeye ko isenywa kugira ngo hubakwe indi, kandi ubwo yasenywaga nta kibazo yabigizeho.

[60] Ku birebana n'agaciro k'inzu yubatswe na Kayitesi Elyne, muri dosiye harimo raporo ebyiri z'igenagaciro: iya mbere ni iyakozwe n'Umugenagaciro Nzabamwita Jean Paul abisabwe na Kayitesi Elyne, yashyizwe muri dosiye ku wa 16/07/2020 urubanza rukiburanishwa ku rwego rwa mbere, igaragaza ko ifite agaciro ka 44.590.000 Frw, havanywemo agaciro k`ubusaze; iya kabiri ni iyakozwe n' Umugenagaciro Minani Marc abisabwe na Mukandori Costasie yashyizwe muri dosiye ku wa 28/01/2022 urubanza rwarageze muri uru rukiko, igaragaza ko ifite agaciro ka 39.893.000Frw, havanywemo agaciro k`ubusaze. Ikinyuranyo hagati y'izo raporo zombi kingana na 4.697.000 Frw.

[61] Urukiko rurasanga mu kugena agaciro k'inzu ya Kayitesi Elyne, hashingirwa kuri raporo yakozwe n'Umugenagaciro Nzabamwita Jean Paul kuko ariyo yaburanyweho mu nkiko zibanza, Mukandori Costasie n'abamuburanira bakaba batarigeze bayivuguruza muri izo nkiko, bagaragaza ko batayemera cyangwa ko bafite icyo bayinenga.

[62] Hashingiye rero ku mategeko n'ibisobanuro byatanzwe mu bika bibanza, Urukiko rurasanga Mukandori Costasie agomba guha Kayitesi Elyne 44.590.000 Frw ahwanye n'agaciro k'inyubako yashyize ku butaka bwe babyumvikanyeho.

F. Kumenya ishingiro ry'indishyi zisabwa kuri uru rwego

[63] Me Ndagijimana Emmanuel na Me Abasa Fazili bahagarariye Mukandori Costasie basaba ko Kayitesi Elyne yategekwa gutanga indishyi zikurikira:

- 500.000Frw y'igihembo cy'Avoka na 300.000Frw y'ikuriranarubanza ku rwego rw'Urukiko Rwisumbuye;
- 500.000Frw y'igihembo cya Avoka na 300.000Frw y'ikurikiranarubanza ku rwego rw'Urukiko Rukuru;
- 2.000.000 Frw y'igihembo cy'aba Avoka babiri kuri uru rwego;
- 5.000.000Frw y'indishyi z'akababaro kubera kumusiragiza mu rubanza akandi ari umukecuru.

[64] Me Ntaganda Kabano Christian uhagarariye Kayitesi Elyne avuga ko izo ndishyi ntazo Mukandori Costasie akwiye. Asaba ko ahubwo ari we wategekwa guha Kayitesi Elyne 1.000.000 Frw y'ikurikiranarubanza n'igihembo cya Avoka.

UKO URUKIKO RUBIBONA:

[65] Ingingo ya 111 y'Itegeko nº 22/2018 ryo ku wa 29/04/2018, ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikira ku kirego cy'iremezo kigamije kwishyuza ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishirizwa rimwe n'ikirego cy'iremezo[...].

[66] Urukiko rurasanga buri muburanyi afite ibyo atsindiye ku buryo nta waryozwa indishyi zo guha undi. Ibyo kandi akaba ari nako bimeze ku birebana n'amafaranga y'ikurikiranarubanza n'igihembo cya Avoka.

III. ICYEMEZO CY'URUKIKO:

[67] Rwemeje ko ikirego cyo gusubirishamo ku mpamvu z'akarengane urubanza Nº RCA 00002/2021/HC/NYZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Nyanza ku wa 30/07/2021 gifite ishingiro kuri bimwe;

[68] Rwemeje ko ikibanza kiburanwa ari icya Mukandori Costasie, inzu yubatseho ikaba iya Kayitesi Elyne;

[69] Rwemeje ko Mukandori Costasie agumana inzu yubatswe mu kibanza cye na Kayitesi Elyne, ariko akayimuhera ingurane;

[70] Rutegetse Mukandori Costasie guha Kayitesi Elyne 44.590.000 Frw ahwanye n'agaciro k'inyubako igumye ku butaka bwe.