RCC 10914

AMAJAMBO MAKURU MAKURU

Gupfa akarimbi - gushika kw'itongo - isamburwa ry'urubanza (Ingingo ya 37 y'itegeko N°1/07 rigenga Sentare Ntahinyuzwa) - kubuza amasura kuvuga - kugagaza imbere ya Sentare - kutumviriza umuburanyi n'amasura yiwe.

URUBANZA

RCC 10914

SENTARE NTAHINYUZWA ISHASHE MU GISATA CA GASAMBURAMANZA YACIYE URUBANZA RUKURIKIRA :INTAHE Y'ICESE YO KU WA 28.07.2006.

UWITWARA :M. William: Aserukirwa n'Umushingwamanza Tharcisse N.

UWITWARIRWA :K. Fulgence : Aserukirwa na NT. Athanase.

Twihweje ikete M. William yandikiye Umukuru wa Sentare Ntahinyuzwa ku wa 15.09.2003 asaba isambuka ry'urubanza RCA 4098 rwaciwe na Sentare Nkuru y'Igihugu ya Bururi ku wa 21.07.2003 rwavuga ruti :

Sentare ica imanza imbonankubone ;

ISHINZE KO :

- Yakiriye iyunguruzwa ry'urubanza nk'uko ryagizwe na M. William, ariko isanze imburano ziwe zidashemeye namba, kuko yahakanye kuburana ;
- Hakomejwe urubanza RC 1097/97 rwa Sentare y'Intango ya Matana, kandi niyo nyene izorukwirikiza
- Amagarama y'urubanza yose uko ari 12.800FBu, atangwa na M.
- William, ayatange mu ndagano y'iminsi 8, atayatanze afatirwe ikiyaciye kigurishwe atangwe.

Twihweje ko M. William yamenyeshejwe urwo rubanza ku wa 05.08.2003;

Twihweje ko K. Fulgence yamenyeshejwe isambuzwa ry'urubanza RCA 4098 ku wa 24.11.2003 ;

Twihweje ko K. Fulgence yashikanye ivyireguro vyiwe muri sentare ku wa 13.02.2004 ;

Twihweje iciyumviro c'umucamanza wa Sentare Ntahinyuzwa co ku wa 30.04.2004 n'ic'umushikirizamanza Mukuru Co ku wa 21.03.2005 ;

Twihweje ko Umukuru wa Sentare yahavuye afata ingingo ku wa 10.05.2005 yo guhamagaza uru rubanza mu ntahe y'icese yo ku wa 08.07.2005 ;

Twihweje ihamagarwa ry'urubanza mu ntahe y'icese yo ku wa 08.07.2005 aho ababuranyi barengutse bose ariko urubanza rugasubizwa ku wa 25.11.2005 kugira hatumweko idosiye baburaniyeko muri Sentare Nkuru y'Igihugu ;

Twihweje ko kuri iyo sango, ababuranyi barengutse bose bakumvirizwa ariko n'ubundi urubanza rugasubizwa ku wa 06.03.2006 kugira uwaserukiye uwitwariwe azozane urupapuro rumuha uburenganzira bwo kuburana urubanza ;

Twihweje ko kw'isango ryo ku wa 06.03.2006 Sentare itashoboye gusasa bitayivuyeko urubanza rugaca rushirwa ku wa 23.06.2006 ;

Twihweje ko kw'ihamagarwa ry'urubanza ku wa 23.06.2006, ababuranyi bose bitavye bagashikiriza imburano zose, Sentare ikumviriza iciyumviro c'Umushikirizamanza Mukuru, yaciye ishira urubanza mu mwiherero kugira ishinge urukurikira ;

Kubera ko M. William yituye Sentare Ntahinyuzwa mu kiringo gitegekanijwe n'amategeko arico gituma yokwakirwa ;

Kubera ko M. William yaneguye Sentare Nkuru y'Igihugu ya Bururi ko yakomeje urubanza rwa Sentare y'Intango ya Matana itamwumvirije kandi itumvirije n'amasura yiwe kw'itongo ;

Ko mu ntahe y'icese yo ku wa 03.12. 2002 Sentare yashinze ko izoshika kw'itongo ku wa 21.01.2003 ;

Ko mugabo imbere y'iyo tariki, yarwaye cane ntashobore gushwabura amasura yiwe gushika n'aho yagiye

kwivuza, maze umuganga akamuha na repos medical ku wa 19.01.2003 ;

Ko yaciye arungika intumwa isivya abacamanza ariko bakarinda kuza bakumviriza uwo baburana n'abantu bamwe mubaje gukungera ;

Ko rero Sentare yarenze amategeko mu kwihuta gushika kw'itongo ikumviriza amasura y'umuburanyi wiwe gusa kandi bizwi neza ko yari akitswe n'amagara ;

Kubera ko M. William abandanya avuga ko abagabo bumviririjwe kw'itongo, B., KA., NI. na NA atacobuza ko bahengama n'aho ataco baziga kuri iryo tongo ;

Kubera ko ngo atubahirijwe na gatoyi mu burenganzira bwiwe bwo kuburana ;

Kubera ko M. yongeye akanegura Sentare Nkuru y'Igihugu ya Bururi ko itatanze imvo zerakana igituma hakomejwe urubanza rwa Sentare y'Intango ;

Ko kubwiwe, urubanza rutagira imvo rukwiye gusambuka ;

Kubera ko uwitwarirwa yishuye kuri ivyo birego mu rwandiko yashikirije Sentare ku wa 13.02.2004 ; aho avuga ko ata tegeko na rimwe Sentare Nkuru y'Igihugu yarenze mu guca urubanza ;

Ko Sentare yaburanishije urubanza mu ntahe y'icese mu nyuma igashika kw'itongo ku wa 21.01.2003, hanyuma igasanga uwo baburana yinyegeje ikagendura aho bapfa, ikanabaza abantu bamwe bamwe ;

Ko Sentare yasubije urubanza mu ntahe y'icese yo ku wa 24.03.2003 kugira ababuranyi n'amasura yabo batomore imburano zabo ariko uwunguruje akanka ngo Sentare idasubiye kw'itongo, ngo akaba yaranabujije amasura yiwe kugira ico ashikirije Sentare ;

Ko M. yagagaje imbere y'intahe ategeka Sentare gusubira kw'itongo mu ntumbero yo kwanka ko urubanza ruhera nk'uko yabigira muri Sentare y'Intango aho yinyegeje abacamanza kabiri kose ;

Ko repos médical yatanzwe ku wa 19.01.2003 ari ku munsi wa mungu itari kurara ishikiriye Sentare kandi itari yuguruye ;

Ko ivy'ukurwara atarivyo ngo kuko Sentare yashashe kw'itongo M. nawe ariko yihereza urukanywa mu kirabo kwa BA. ;

Ko rero atobandanya asamaza za Sentare kandi bigaragara ko atagomba ko urubanza ruhera arico gituma we abona ko ata kintu na kimwe cotuma urubanza rusambuka ;

Kubera ko ababuranyi bapfa akarimbi kagabura amatongo yabo asanzwe ahana urubibe ;

Kubera ko ku kirego c'uko Sentare Nkuru y'Igihugu ya Bururi yaciye urubanza itamwumvirije, Sentare isanga ababuranyi baratumweko mu ntahe z'icese gushika n'aho Sentare yipfuje kuburanishiriza urubanza kw'itongo ;

Kubera ko aho kw'itongo M. atabonetse ariko Sentare ikaba yaragerageje kugenda imenye aho umwe umwe ashingira ko ariho bagaburira ;

Kubera ko Sentare yahejeje igaha isango ababuranyi yo kurengukana amasura yabo kugira batomore neza imburano ariko M. akarahira kugira ico ashikirije, akanabuza amasura yiwe gukura ururimi mu kanwa ngo mpaka Sentare ibanje gusubira kw'itongo ; ibi navyo akaba atari itegeko ;

Kubera ko M. yagagaje imbere ya Sentare akanka gushikiriza imburano ziwe kandi ariwe yunguruje, akaba atari kuyitegeka kuja kuburanishiriza kw'itongo aho kuburana ;

Kubera ko ari Sentare yo nyene, imaze kumviriza ababuranyi n'amasura yabo, yari kubona ko bikenewe canke ko bidakenewe gusubira guhinyuriza ivyashikirijwe kw'itongo ;

Kubera ko ata kuntu Sentare yari kumviriza amasura kandi nyeneyo yanse kuburana kandi yanse kuyashikiriza kugira yumvirizwe bikaba bitangaje ahubwo kubona M. ariwe yanse kuburana akabuza n'amasura yiwe kugira ico ashikirije agaruka akavuga ko atumvirijwe kandi ko n'amasura yiwe atasurishijwe ;

Kubera ko kandi M. atovuga ko abantu bumviririjwe kw'itongo bitorewe na Sentare bashobora guhengana kandi yararonse akaryo ko kubahinyuza ariko akanka ;

Kubera ko mu gihe Sentare yari yarinze ishika kw'itongo atacari kuyibuza kubaza uwo wese ihasanze, aterwa n'urubanza, ico azi kw'itongo M. na K. bapfa ;

Kubera ko n'aho M. atari yumviririjwe aho kw'itongo igihambaye ari uko Sentare yari kwibonera aho bapfa igaheza ikabaha akaryo ko kunoganza no guhinyuza ivyo yabonye ;

Kubera ko mu gihe uwunguruje agagaje akanka kuburana vyerekanye ahubwo ko ata mburano zishemeye afise ashikiriza ;

Ko rero ata kuntu Sentare Nkuru y'Igihugu ya Bururi yari kugira ico ivuze ku mburano zanditse kandi na nyene kuzitanga yanse kuburana ;

Ko bitari kubuza iyo Sentare gukomeza urubanza rwa Sentare y'Intango mu gihe yari yabonye ko rugororotse ;

Kubera ko iyi Sentare isanga ata mvo yashikirijwe yotuma urubanza RCA 4098 rusambuka ;

KUBERA IZO MVO ZOSE

Sentare Ntahinyuzwa, Ica imanza imbonankubone ;

Yihweje ibwirizwa n°1/010 ryo ku wa 18.03.2005 ryerekeye ibwirizwa nshingiro rya Republika y'Uburundi ;

Yihweje ibwirizwa n°1/07 ryo ku wa 25.02. 2005 ryerekeye amategeko agenga Sentare Ntahinyuzwa ;

Yihweje ibwirizwa n°1/08 ryo ku wa 17.03.2005 ryerekeye iringanizwa ry'ama Sentare n'ububasha bwazo ;

Yihweje Ibwirizwa n°1/010 ryo ku wa 13.05.2004 ryerekeye amategeko agenga iburanishwa ry'imanza z'amatati ;

Yumvirije iciyumviro c'umushikirizamanza mukuru ;

Ibanje gukura uru rubanza mu mwiherero w'abacamanza nk'uko amategeko abivuga ;

ISHINZE KO :

- Yakiriye isambuzwa ry'urubanza nk'uko ryagizwe na M. William ariko isanze imburano ziwe zidashemeye.
- Irahakanye gusambura urubanza RCA 4098 rwaciwe na Sentare Nkuru y'Igihugu ya Bururi ku wa 21.07.2003.
- Iyi ngingo izokwandikwe mu bitabu vy'iyo sentare iruhande y'urubanza rudasambuwe.
- Amagarama y'urubanza uko angana 13.000Fr, atangwa na M. William.

Uko niko ruciwe kandi rusomwe i Bujumbura mu ntahe y'icese yo ku wa 28.07.2006.
Hashashe : Umukuru w'intahe, abacamanza bafashijwe na n'umushikirizamanza Mukuru n'umwanditsi.

KWIHWEZA URUBANZA

Abantu babiri, M.William aserukiwe n'umushingwamanza Tharcisse na K.Fulgence aserukiwe na NT.Athanase, bariko baraburana akarimbi kagabura amatongo yabo. Haba imbere ya Sentare y'intango ya Matana haba imbere ya Sentare Nkuru y'igihugu ya Bururi, M.william yagumye arushwa. Ntiyanyuzwe, yaciye yitura Sentare Ntahinyuzwa kugira arabe ko yosambura urwo rubanza rwaciwe na Sentare Nkuru y'igihugu ya Bururi. Sentare Ntahinyuzwa, igisata ca Gasamburamanza, yaratohoje urubanza irashika kw'itongo mugabo William n'amasura yiwe ntibaboneka. Mu ntahe y'icese William ntiyaburanye avuga ko Sentare yobanza igasubira kw'itongo, Sentare yaciye ica urubanza isanga nta mvo yoyituma isambura urubanza.

Uwitwaye yamenyeshejwe urubanza ku wa 05.08.2003 hanyuma yitura Sentare Ntahinyuzwa ku wa 15.09.2004 bikaba biboneka ko yari akiri mu gihe gitegekanywa n'amategeko nk'uko biri mu ngingo ya 87 y'itegeko N°1/07 ryo ku wa 25.02.2005 rigenga Sentare Ntahinyuzwa.

Mu mvo zo gusambuza urubanza, M.William yavuga ko Sentare Nkuru ya Bururi yakomeje urubanza itamwumvirije kandi itumvirije n'amasura yiwe kw'itongo. Avuga ko yarwaye ntaronke umwanya wo gushwabanura amasura, ko yaciye arungika intumwa isivya abacamanza ariko bakarinda kuza bakumviriza uwo baburana n'abantu bamwe mu baje gukungera. Ko Sentare ya Bururi itatanze imvo zerekana igituma hakomeje urubanza rwa Sentare y'intango. Akaba rero asaba ko urubanza rwosambuka.

Uwitwariwe yaravuze ko Sentare yashitse kw'itongo igasanga uwo baburana yinyegeje, ko yasubije urubanza mu ntahe y'icese hanyuma uwo baburana akanka ngo Sentare idasubiye kw'itongo ngo akaba yaranabujije amasura yiwe kugira ico ashikirije Sentare.

Sentare ntiyasambuye urubanza kuko yasanze M.William yarasivye umunsi bashika kw'itongo yongera aranka

kuburana aca arabuza n'amasura yiwe kugira ico ashikirije Sentare. Ko yavuga ko umunsi Sentare ishika kw'itongo yari arwaye naho atashoboye kuvyerekana, nticari kubuza ko aburana hanyuma Sentare ibonye bikenewe igasubira igashika kw'itongo. Abantu Sentare yabajije ishitse kw'itongo ntibari kubuza uwitwaye kuburana kuko Sentare irashobora kubaza uwo wese ishatse atuma urubanza rutera imbere.

Aha rero biraboneka ata nkeka ko Sentare itanse kumwumviriza ngo yongere yanke kumviriza amasura ahubwo ariwe yanse kuburana (défaut de plaider) kandi yari yaje, ivyo rero bikaba bitari kubuza Sentare ko ica urubanza kuko iyo umuburanyi atanze imburano bikenewe ko azinongangiza, muri iki gihe bikaba vyari bikenewe n'uko amasura yumvirizwa hanyuma ntaheze ngo abikore.

Ku kibazo cerekeye ko Sentare Nkuru y'igihugu ya Bururi ata mvo yatanze zerekana igituma ikomeje urwa Sentare y'intango, Sentare Ntahinyuzwa ntiyavyishuye neza mugabo biraboneka neza ko iyo Sentare ata kuntu yari guhindura urubanza kandi uwunguruje ataburanye kandi vyongeye ata n'imvo yoba yari yanditse yaboneka yari gutuma urubanza ruhinduka.

Mu mvo za Sentare Ntahinyuzwa hariho ico uwanditse urubanza atubahirije kuko ingingo ya 127 y'itegeko N°1/010 ryo ku wa 13.05.2004 rigenga iburanishwa ry'imanza z'amatati ivuga ko mu mvo z'urubanza ababurana bandika ko ari uwitwaye canke uwitwariwe batabanje kubavuga amazina[1].
Mugabo turabona ko wanditse urubanza akaba aha yagiye kubiri n'amategeko, yagiye arandika ngo M.william aho kwandiaka ati uwitwaye, yandika K. aho kwandika uwitwariwe.

Muri rusangi, urubanza rwacitse neza kuko ata mvo tubona yatanzwe n'uwasavye ko urubanza rusambuka yari gutuma Sentare isambura urubanza.

1 « (….Dans la motivation, les parties sont simplement désignées par leur qualité de demanderesse, défenderesse, intervenante ou garante. Aucune référence ne doit être faite à l'avocat plaidant…) ».