URUBANZA RC 00657/2017/TGI/NYGE

URUKIKO RWISUMBUYE RWA NYARUGENGE, RURI KU CYICARO CYARWO, RUHABURANISHIRIZA IMANZA Z`IMBONEZAMUBANO, RUKIJIJE URUBANZA RC 00657/2017/TGI/NYGE KU RWEGO RWA MBERE MU BURYO BUKURIKIRA:

ABABURANA:

UREGA: NSENGIYUMVA Emile mwene Mukurira na Musanabera, atuye mu Mudugudu w`Isangano, Akagali ka Kabuga I, Umurenge wa Rusororo, Akarere ka Gasabo, Umujyi wa Kigali. Yunganirwa na Me MBERABAGABO RUVUMBURA

UREGWA: MUKANGIRIYE Liberatha mwene Bwirinka na Mukarusine, atuye mu Mudugudu wa Nyarutovu, Akagali ka Nonko, Umurenge wa Nyarugunga, Akarere ka Kicukiro, Umujyi wa Kigali. Ahagarariwe na Me NYIRANEZA M. Grâce

IKIBURANWA: Gusaba urukiko gutegeka ko NSENGIYUMVA Emile akorerwa *mutation* agahabwa inzira ifite 6.20 m n'indishyi zinyuranye

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I. IMITERERE Y`URUBANZA

[1] NSENGIYUMVA Emile yaguze na MUKANGIRIYE ikibanza kiri kuri UPI 1/03/10/02/1989 mu Mudugudu wa Nyarutovu Akagali ka Nonko Umurenge wa Nyarugunga Akarere Kicukiro, mu Mujyi wa Kigali ku mafaranga 5.000.000 maze bakorana amasezerano kuwa 11/5/2016, NSENGIYUMVA asigaramo amafaranga 1.300.000 azishyurwa hamaze kuba ihererekanwa ry`umutungo yemererwa kuzahabwa inzira ya 6,20 m nyuma yo gukuraho akazu kari mu nzira. NSENGIYUMVA Avuga ko asaba guhabwa uwo mutungo yaguze nawe akishyura amafaranga yari asigaye.

[2] MUKANGIRIYE Liberatha avuga ko atanga guha umutungo NSENGIYUMVA baguze, ko ahubwo harimo ikibazo k`inzira batumvikanaho, kuko we yifuza kumuha inzira ya 3 m, hanyuma ikibazo kigakemuka uwaguze umutungo

akawandikwaho akanatanga amafaranga asigaye, yabyanga ubugure bugaseswa akamusubiza amafaranga ye.

Muri uru rubanza hakwiye gusuzumwa ikibazo k`inzira ikwiye guhabwa NSENGIYUMVA Emile. Hakwiye kandi gusuzumwa niba NSENGIYUMVA yakwandikwaho umutungo yaguze hanasuzumwe ibyerekeye indishyi zisabwa.

II. ISESENGURA RY`IBIBAZO BIGIZE URUBANZA

- ***Ku byerekeye inzira NSENGIYUMVA Emile asaba***

[3] NSENGIYUMVA Emile avuga ko yaguze ikibanza na MUKANGIRIYE Liberatha ku mafaranga 5.000.000 Frw maze MUKANGIRIYE anamwemerera kumuha inzira ingana na 6,20 m, bemeranya ko nibirangira bazahererekanya umutungohagatangwa amagaranga 1.300.000 Frw yari asigaye. Avuga ko mu mazeserano bagiranye bagaragajemo uko iyo nzira izaba ingana, kandi ko agura yatanze amafaranga menshi kugirango hajyemo nyine n`iyo nzira, akaba asaba ko yayihabwa.

[4] Me MBERABAGABO avuga ko amasezerano hagati ya NSENGIYUMBA na MUKANGIRIYE agaragaza ingano y`inzira yemerewe NSENGIYUMVA Emile, kandi ko mu kugura nta kibazo na kimwe MUKANGIRIYE yigeze agaragaza cyatuma iyo nzira idatangwa, ko rero ayo masezerano akwiye kubahirizwa.

[5] Me NYIRANEZA uhagarariye MUKANGIRIYE avuga ko uwo ahagarariye yemera ko ubugure bwabayeho koko, ariko ko ikibazo k`inzira cyakomeje kudakemuka NSENGIYUMVA akavuga ko yaguze inzira nyamara itaraguizwe ahubwo yarayemerewe. Avuga ko iyo nzira yemerewe MUKANGIRIYE yaje gusanga inmgano yari yemeye yahungabanya umuryango we kuko aho inzira yagombaga kugera hashyinguyemo umugabo umuntu kandi akaba

atavanwamo. Me NYIRANEZA avuga ko uwo ahagarariye yemera gutanga inzira ariko ingana na metero 3 gusa.

[6] Urukiko rusanga hashingiwe ku ngingo ya 3 y`itegeko N° 15/2004 ryo kuwa 12/6/2004 ryerekeye ibimenyetso mu manza n`itangwa ryabyo, ivuga ko buri muburanyi agomba kugaragaza ukuri kw`ibyo aburana. MUKANGIRIYE Liberatha ntahakana amasezerano yo kuwa 11/5/2016 yagiranye na NSENGIYUMVA Emile amugurisha ikibanza. Muri ayo masezerano MUKANGIRIYE yemeye ko uretse ikibanza azanamuha inzira ingana na 6,20 m nyuma yo kuzasenya akazu kari mu nzira, Urukiko rukaba rutazi aho MUKANGIRIYE avana metero 3 ashaka kuba arizo aha NSENGIYUMVA gusa.

[7] Urukiko kandi rusanga kuri ayo masezerano nta hantu na hamwe hagaragajwe iby`umurambo uri aho hantu na cyane ko MUKANGIRIYE yemeye kuvanaho akazu kariho kugirango inzira iboneke. Uretse kandi no kuvuga aho hantu NSENGIYUMVA ashaka hashyinguwemo umuntu nta kimenyetso na kimwe agaragariza Urukiko cyemeza ko aho hantu harimo umurambo, ndetse niyo waba urimo ibyo ntibyaba intandaro yo kudaha NSENGIYUMVA inzira yamemereye ingana na 6,20m kuko ari nyiraho wahamwihereye, bityo rero inzira iri mu masezerano niyo ikwiye kuhabwa NSENGIYUMVA Emile.

- ***Kumenya niba NSENGIYUMVA Emile yakwandikwaho umutungo yaguze.***

[8] Me RUVUMBURA wunganira NSENGIYUMVA asaba ko NSENGIYUMVA yakwandikwaho umutungo yaguze wanditswe kuri UP NO 1/03/10/02/1989 nyuma yo guhabwa inzira iri mu masezerano, hanyuma nawe akishyura amafaranga 1.300.000 Frw yari asigaye.

[9] Me NYIRANEZA uhagarariye MUKANGIRIYE avuga ko amasezerano akwiye guseswa mu gihe NSENGIYUMVA atemera kugenerwa inzira ahabwa, maze agasubizwa amafaranga ye.

[10] Ingingo ya 64 y`itegeko N°45/2011 ryo kuwa 25/11/2011 rigena amasezerano, ivuga ko amasezerano akozwe ku buryo bukurikije amategeko aba itegeko ku bayagiranye. Ashobora guseswa ari uko babyumvikanyeho cyangwa ku mpamvu zemewe n'amategeko. Agomba kubahirizwa nta buriganya

[11] Urukiko rusanga NSENGIYUMVA Emile na MUKANGIRIYE Liberatha baragiranye amasezerano hagurishwa umutungo uri kuri UPI 1/03/10/02/1989 mu Mudugudu wa Nyarutovu Akagali ka Nonko Umurenge wa Nyarugunga Akarere Kicukiro, mu Mujyi wa Kigali wanditse kuri MUKANGIRIYE Liberatha, uyu mutungo ugizwe n`ikibanza ndetse n`inzira nkuko bigaragara mu masezerano yo kuwa 11/5/2016 ukaba ukwiye kwandikwa kuri NSENGIYUMVA Emile, maze nawe yamara kuwandikwaho akishyura amafaranga 1.300.000 Frw yasigaje, akayaha MUKANGIRIYE Liberatha.

- ***Ku byerekeye indishyi zisabwa***

[12] NSENGIYUMVA Emile asaba ko yahabwa indishyi y`akababaro y`amafaranga 1.000.000 Frw kuko yaguze ubutaka ariko ntabuhabwe hakaba hashize igihe nta kintu abukoreraho. Anasaba amafaranga 500.000 y`igihembo cya Avoka ndetse n`amafaranga 300.000 Frw y`ikurikiranarubanza.

[13] Urukiko rusanga MUKANGIRIYE adahakana ko yateje igihombo NSENGIYUMBA Emile yagurishije ariko ntamuhe umutungo we, ibi rero akaba akwiye kubimuhera indishyi y`akababaro, mu bushishozi bw`Urukiko

NSENGIYUMVA Emile agahabwa amafaranga 500.000 Frw kubera uko guteshwa umwanya adahawe umutungo ngo awukoreremo icyo yari yawuteganirije, akanagenerwa igihembo cya Avoka cy`amafaranga 500.000 Frw, amafaranga 100.000 Frw y`ikurikiranarubanza akabigenerwa hashingiwe ku ngingo ya 258 `igitabo cya III cy`Urwunge rw`amategeko mbonezamubano, ivuga ko uwakoze ikosa bimutegeka kuriha ibyarikomotseho.

III. ICYEMEZO CY`URUKIKO

[14] RWEMEJE kwakira ikirego cya NSENGIYUMVA Emile rugisuzumye rusanga gifite ishingiro;

[15] RUKIJIJE ko NSENGIYUMVA Emile atsinze ko MUKANGIRIYE Liberatha atsinzwe;

[16] RUTEGETSE MUKANGIRIYE Liberatha guha NSENGIYUMVA Emile ikibanza baguze hiyongereyeho inzira ingana na 6,20 m;

[17] RUTEGETSE ko NSENGIYUMVA Emile yandikwaho umutungo yaguze, wanditswe kuri UPI 1/03/10/02/1989 hiyongereyeho n`inzira ya 6,20 m, byose biri mu Mudugudu wa Nyarutovu Akagali ka Nonko Umurenge wa Nyarugunga Akarere Kicukiro, mu Mujyi wa Kigali nawe akishyura amafaranga 1.300.000 Frw yari asigaje;

[18] RUTEGETSE MUKANGIRIYE Liberatha guha NSENGIYUMVA Emile amafaranga 500.000 Frw y`indishyi y`akababaro, amafaranga 500.000 Frw y`igihembo cya Avoka n`amafaranga 100.000 Frw y`ikurikiranarubanza.

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NI UKO RUKIJIJWE KANDI RUSOMEWE MU RUHAME, NONE KUWA 29/3/2018

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BURAYOBERA UMUZAYIRE Bibiane	**UWAMWEZI Rosine**
UMUCAMANZA	**UMWANDITSI**