



REPUBLIC OF KENYA



**KENYA LAW**  
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**Murungi v Mwangaza & another (Civil Suit E033 of 2021)  
[2026] KEHC 507 (KLR) (27 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 507 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
CIVIL SUIT E033 OF 2021  
SM GITHINJI, J  
JANUARY 27, 2026**

**BETWEEN**

**KIRAITU MURUNGI ..... PLAINTIFF**

**AND**

**KAWIRA MWANGAZA ..... 1<sup>ST</sup> DEFENDANT**

**MWANGAZA ADVERTISERS LIMITED ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. For determination is the Defendants' Preliminary Objection dated 23/6/2025 raising 4 grounds that: -
  1. The Chief Magistrate Court at Meru is properly seized with jurisdiction to determine this suit in the 1<sup>st</sup> instance pursuant to the provisions of Section 7 of the Magistrates' Court Act.
  2. This suit offends Section 11 of the *Civil Procedure Act* which underscores that a suit shall be instituted in the lowest court that has jurisdiction to hear and determine the matter.
  3. This Court should sit as an appellate Court against a decision/award made by the subordinate court and not as the Court of the 1<sup>st</sup> instance where there is an efficacious statutory procedure under the Magistrates Court.
  4. This suit offends the doctrine of exhaustion of remedies and is an abuse of the Court process.
2. The Preliminary Objection was canvassed by way of written submissions, which were duly filed by counsel.
3. The Plaintiff, through the firm of Munga Kibanga & Co. Advocates, filed submissions dated 25/9/2025, arguing that the preliminary objection fails the test set out in the locus classicus case of Mukisa Biscuit Manufacturing Co. Ltd v West End Distributors Ltd (1069) EA 696. Counsel contended that the High Court enjoys unlimited original jurisdiction in civil matters unless specifically



curtailed, and cited *Samuel Kamau Macharia & Another v Kenya Commercial Bank Ltd & 2 Others* (2012) eKLR. Counsel contended that the Plaintiff's claim is for general, aggravated and exemplary damages for defamation, which will reasonably exceed the pecuniary jurisdiction of the magistrate's court of Ksh. 20,000,000.

4. The Defendants through the firm of Okubasu Munene and Kazungu LLP Advocates filed submissions dated 15/9/2025. Counsel submitted that the allegation that the award will exceed Ksh. 20,000,000 is speculative as damages can only be quantified after the matter has been heard by the subordinate court, and cited *Shaheed Ali Khan & 3 Others v Yasmin Kouser Mughal* [2020] KEHC 858 (KLR) and *Republic v Chief Magistrate's Court Nairobi Exparte Jeff Koinange & 11 Others* [2017] KEHC 5888 (KLR).

### **Determination**

5. The sole issue for determination is whether the Preliminary Objection has been properly raised.
6. In his plaint dated 2/12/2021, the Plaintiff seeks inter alia, a permanent injunction restraining the Defendants from broadcasting any defamatory statements against him, a public apology and general, aggravated and/or exemplary damages for defamation.
7. Those are reliefs within the jurisdictional ambit of the Chief Magistrate's Court as well as the High Court depending on the conduct of the expected award. Whether the damages, if any, will exceed the pecuniary jurisdiction of the Chief Magistrate's Court is a matter that can only be determined upon full hearing thereof, and not at this interlocutory stage.
8. Section 7 of the Magistrates Court Act provides that; "(1) A magistrate's court shall have and exercise such jurisdiction and powers in proceedings of a civil nature in which the value of the subject matter does not exceed —
  - (a) twenty million shillings, where the court is presided over by a chief magistrate;
  - (b) fifteen million shillings, where the court is presided over by a senior principal magistrate;
  - (c) ten million shillings, where the court is presided over by a principal magistrate;
  - (d) seven million shillings, where the court is presided over by a senior resident magistrate; or
  - (e) five million shillings, where the court is presided over by a resident magistrate. (2) The Chief Justice may from time to time, by notice in the Gazette, revise the pecuniary limits of jurisdiction set out in subsection (1), taking into account inflation and change in prevailing economic conditions. (3) A magistrate's court shall have jurisdiction in proceedings of a civil nature concerning any of the following matters under African customary law—
    - (a) land held under customary tenure; (b) marriage, divorce, maintenance or dowry;
    - (c) seduction or pregnancy of an unmarried woman or girl;
    - (d) enticement of, or adultery with a married person;
    - (e) matters affecting status, and in particular the status of widows and children including guardianship, custody, adoption and legitimacy; and
    - (f) intestate succession and administration of intestate estates, so far as they are not governed by any written law."



9. Section 11 of the *Civil Procedure Act* provides that, “Every suit shall be instituted in the court of the lowest grade competent to try it, except that where there are more subordinate courts than one with jurisdiction in the same county competent to try it, a suit may, if the party instituting the suit or his advocate certifies that he believes that a point of law is involved or that any other good and sufficient reason exists, be instituted in any one of such subordinate courts.”
10. It is noticeable that actions founded on torts like detonation, there is typically no fixed or quantifiable sum at pleadings stage, because general damages are assessed later by the court. This creates uncertainty about whether the claim lies within a magistrate’s pecuniary limits when initially filed.
11. Where the pecuniary value cannot be ascertained at the outset (as with general damages) and the plaintiff is of reasonable view that the claim in damages may exceed the pecuniary jurisdictions of the Magistrate’s court, it’s sensible that such suit should be filed in the High Court.
12. In *Karuludi – Vs – West FM Media Limited (West TV) and 3 others* [2025] KEHC 5806 (KLR), the Plaintiff rightly filed the matter in the High Court on the basis that he expected awards exceeding Ksh. 20,000,000 which is beyond the pecuniary jurisdiction of the subordinate court.
13. Given the foregoing considerations, I found the preliminary objection in want of merit and is dismissed with costs to the plaintiff.

**DATED AND DELIVERED AT MERU THIS 27<sup>TH</sup> DAY OF JANUARY, 2026.**

**S.M. GITHINJI**

**JUDGE**

Appearances:

