



Jubilee Allian General Insurance Kenya Limited v Butiya (Civil Case 613 of 2024) [2026] KEHC 1578 (KLR) (Civ) (16 February 2026) (Judgment)

Neutral citation: [2026] KEHC 1578 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CIVIL
CIVIL CASE 613 OF 2024**

LP KASSAN, J

FEBRUARY 16, 2026

BETWEEN

JUBILEE ALLIAN GENERAL INSURANCE KENYA LIMITED APPELLANT

AND

BENSON MUHAVI BUTIYA RESPONDENT

JUDGMENT

1. This is an appeal that is only hinged on one thing that can break the camel's back; Jurisdiction. I do not need to get into the facts or the merit of the appeal because as they say, Jurisdiction is everything. The question therefore is, do Small Claims Courts have jurisdiction on declaratory suits? It is high time that this issue is marked as settled to avoid great inconveniences to litigants and wastage of Courts time and resources. The point is; Small Claims Courts have no jurisdiction on declaratory suits.
2. Jurisdiction of Small Claims Courts emanates from section 12 of the SMCC which list of the items it can handle does not include declaratory suits. No other statute can confer jurisdiction to a forum which is governed by another statute hence the SMCC is bereft of jurisdiction. If members of the parliament intended that it has jurisdiction, it could have put it in the act. The danger of expanding jurisdiction of small claims Court is highly prejudicial to the law itself. One cannot invoke the fragile and most compassionate articles of *the constitution* to cloth a court with jurisdiction that is not provided for and if we were to go by this trajectory, then we will end up having other specialized courts like Kadhi's Court handling criminal matters and so on and so forth. No amount of common law or legal verbose that appeals to the most vulnerable articles of *the Constitution* can cure this.
3. The conclusion of the above is that the lower court did not have jurisdiction and consequently, the appeal is allowed. Each party shall bear own costs.

DATED DELIVERED VIRTUALLY AND SIGNED THIS 16TH DAY OF FEBRUARY, 2026



HON L P KASSAN

JUDGE

In the presence of

Nganga for the Appellant

Munuki for the Respondent

Carol Court Assistant

