

**IN THE COURT OF II ADDITIONAL SENIOR CIVIL JUDGE
AND J.M.F.C. HUBBALLI**

Present:- Smt.Deepa G Manerkar, B.Com. LL.B, (Spl.)
II Addl. Senior Civil Judge & J.M.F.C.,
Hubballi.

Dated this the 12th day of February 2026

MVC No.404/2023

Smt. Renavva M. Harijan

...Petitioner/s

-Versus -

The Managing Director, NWKRTC and another

.....Respondent/s

:: IA.NO.XIII ::

The Managing Director, NWKRTC and another

Applicant /Respt.

-V/s -

Smt. Renavva M. Harijan

Opponent/Ptr.

ORDERS ON I.A.NO.XIII FILED UNDER ORDER XVI
RULE 1(2) AND 6 R/W SEC.151 OF CPC.

The present IA No.XIII is filed by the respondent under Order XVI Rule 1(2) and 6 R/w Sec.151 of CPC to summon the witness to adduce the evidence.

2. In the memo of facts annexed to the present I.A. it is stated by counsel for respondents that, the driver of the bus bearing No. KA-42/F319 has deposed before this Court as R.W.1 and submitted the video taken on the spot as on the alleged date of accident. The R.W.1 has been acquitted by Hon'ble Senior Civil Judge and JMFC at Kalaghatagi in CC No.78/2024. The respondent Corporation has denied the very happening of the alleged accident as narrated in the claim petition. The petitioners have with ulterior motive, not lead evidence of any of the eye witness which is essential to prove the negligence as contemplated under law. The Spot panchanama, MV Report and evidence on record are contrary to the petitioner's claim. Hence in order to prove the defence of non-involvement of Respondent bus the witness is material witnesses. The evidence of the said witnesses is very much essential and necessary for adjudication of dispute on hand. He is the sole eyewitness about the

manner of the alleged accident. If the application is allowed and the matter is decided on merits no loss or hardship will be caused to the opponents, whereas if the application is not allowed, applicant will be put to untold loss or hardship. Hence, prayed to allow the application.

3. The counsel for petitioner has filed common objections contending that the respondents has filed I.A. recall the respondent evidence already filled and this court has allowed and sufficient time was given and no represent the case and now they came to reopen the respondent evidence and only intention to respondent to harass and hurt the petitioner and said witness is not necessary in MVC case. It is summery proceeding case. C.C. Case witness already giving evidence in CC case. The respondents have filed this IA for dragging of the matter and harass the petitioner in this case. The application is not maintainable and the police already filed charge sheeted deceased had no driving licence and insurance policy of name Bhimappa S/o Mahadevappa Harijan and vehicle bearing KA-25/EH-1833 at the time of accident.

4. The respondents set up to presumption mind with imaginary concept for escape from liability or to give compensation to the petitioner. Unnecessarily postponing the case on one or the other reasons and same hit by res-judicata. The present application is filed only with an intention to harass the petitioner and somehow blackmail the petitioner to give up from to claim share in claiming legal valid compensation. Hence, prayed to dismiss the said IA.

5. On the basis of rival contentions the points that would arise for my consideration is:

1. Whether the present application deserves to be allowed?
2. What order ?

6. My findings to the aforesaid points is as under:

Point No.1 : In the Negative.

Point No.2 : As per final order
for the following :

REASONS

7. **Point No.1:-** Under the present IA the respondents have sought for relief to summon the witness by name Sri. Yallappa S/o Basappa Harijan, R/o: Malakanakoppa, Kalghatagi is necessary to be examined as he is eye witness to the incident and he is necessary to be examined to ascertain manner of accident.

8. The main objection raised by the petitioner the present application is the above witness is in criminal case and present petition has to be tried summarily hence, the application cannot be allowed.

9. However, It is relevant to make mention that, as per the respondent. The investigating officer has already investigated the case and filed charge sheet. The respondents claims that R.W.1 their side witness has already lead evidence about the accident and has also submitted video taken on the spot of accident. Under

such circumstances, how evidence of present witness is relevant for adjudication of present case has to be stated by the respondents. Merely because driver of KSRTC Bus has been acquitted in CC No.78/2024 is no ground issue summons to the witness cited in the application. In this regard I would like to rely upon judgment of **Hon'ble High Court of Karnataka Dharwad Bench in WP No.109754/2016 dt:02-12-2021** in which it is observed that witness in criminal proceedings would not be relevant for the purpose of adjudication of claim petition filed under MV Act. In view of the same and also on going through the grounds urged in the application, the respondents have not made out any grounds to summon the witness mentioned in the I.A. to give evidence. Moreover, the present case is triable as summary case. Under such a circumstances unless it is not necessary to summon the witness. Hence, the present application deserves to be rejected. Accordingly point No.1 is answered in the **Negative**.

10. **Point No.2:-** In view of my findings on point No.1, this court proceeds to pass the following:

ORDER

I.A.No.XIII filed by the counsel for the
respondent U/o.XVI Rule 1(2) and 6 R/w Section
151 of CPC is hereby rejected.

(Direct dictated stenographer on computer, typed by her, corrected and verified by me, and then pronounced in the open court on this the 12th day of February 2026.)

Sd/-
(Smt. Deepa G Manerkar)
II Addl. Senor Civil Judge and JMFC
Hubballi.