

**18.09.2025**

*For Orders on I.A. No.XII*

**ORDER ON I.A.XII**

*The counsel for petitioner filed an application under Order XXVI Rule 9 R/w Sec.151 of C.P.C., seeking an order to appoint the Court Commissioner to record the evidence of the below mentioned Doctors.*

*1. Dr. Anand Pandurangi  
Psychiatrist,  
R/o.Saptapur, Dharwad.*

*2. Dr. A V Kalamdani  
Kshema Orthopaedic Hospitals Pvt  
Ltd.,  
Gokul Road, Hubli-580030.*

*2. On the other hand, the counsel for Respondent No.2 filed objections to the said application.*

*3. Heard both side.*

*4. The following points that arise for my consideration is :*

*1) Whether the petitioner made out sufficient grounds to allow the application?*

*2) What order?*

*5. My answers to the above points is as follows:*

*Point No.1: In the Affirmative*

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

### **REASONS**

*6. **Point No.1:-** In the annexed affidavit the petitioner averred that, the petitioner is suffered sever mental and physical disability and is mentally and physically unstable and he has taken treatment from various doctors and they have already examined them. Now witness No.1 Dr. Anand Pandurangi Psychiatrist has also treated the petitioner pertains to his mental condition and witness No.2 Dr. A V Kalamdani has treated the patient pertaining to his physical health, therefore their evidence is very much necessary. Further averred that this*

*Court has allowed their application for summoning the above doctors and after contact they expressed their difficulty in coming to Court in view of their busy schedule and requested for recording of evidence through commission. Hence, this application and prayed to allow the application.*

*7. The objections of the respondent No.2 is that the petitioner has already filed necessary medical records along with the claim petition. The proposed witnesses namely Dr. Pandurangi and Dr. A.V. Kalamdani, have no relevance for deciding the issues involved in the present case. The application is filed only with an intention to protract the proceedings and to delay the disposal of the case, which is pending for petitioner's further evidence since long. The petitioner has previously filed an application for summoning the witness but again has come back with the present application, this itself shows the intention to protract the proceedings.*

*The burden lies upon the petitioner to prove her case by producing proper and admissible evidence. The respondent cannot be made to suffer on account of the petitioner's laches. Hence, prayed to dismiss the application.*

*The Petitioner has filed this petition for claiming compensation against the respondent due to injuries caused to him in the road traffic accident. It is further averred that the petitioner had filed a petition bearing MVC No.727/2022, and as per his contention, the petitioner is suffered sever mental and physical disability and is mentally and physically unstable and he has taken treatment from various doctors and they have already examined them. Now witness No.1 Dr. Anand Pandurangi Psychiatrist has also treated the petitioner pertains to his mental condition and witness No.2 Dr. A V Kalamdani has treated the patient pertaining to his physical health,*

*therefore their evidence is very much necessary.*

*8. On perusal of the same it is noticed to the court that the above petition is filed by the petitioner due to the injuries caused to him in the road traffic accident. When the case has been set down for further evidence the present application filed by the petitioner seeking appointment of the court commissioner to record the evidence of two doctors. As per their contention in view of their busy schedule they are unable to appear before the court, hence they suggested to record the evidence through court commissioner, admittedly witness summons to the said witness was issued earlier, but they did not present before the court, therefore in order to prove the case of the petitioner evidence of the said witness is necessary. Whether said evidence can be relied or not can be considered at the time of judgment, hence this court is of the*

*opinion that appointment of commissioner is ordered no prejudice caused to the otherside. more over the respondent himself has having an ample opportunity to cross examine the said witness. Hence I answer the **point No.1 in the Affirmative.***

*9. **Point No.2:-** For the above said reasons, I proceed to pass the following :*

**ORDER**

*I.A.XII filed by the learned counsel for petitioner Under order XXVI Rule IX R/W Sec.151of CPC is hereby allowed.*

*The commissioner fee is fixed of Rs.3000/ each tentatively.*

*For suggesting the name of court commissioner and depositing of commissioner fee.*

*Call on:30-09-2025*

*sd/-*

*I Addl. Senior Civil Judge & JMFC.,  
Hubballi.*