

IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL
JUDGE & J.M.F.C., HUBBALLI

Present:

SMT. SARVAMANGALA K.M.,
B.A. LL.B.,
I Additional Senior Civil Judge and JMFC.,
Hubballi.

MVC No.647/2024

Dated this the 09th day of July, 2026

Petitioner : Gurusiddappa S/o Parappa
Ayatti..

.Vs.

Respondent : Ravikumar S/o Andanappa
Pattanashetti and another.

PARTIES TO I.A. No.VII

Applicant/s : Gurusiddappa S/o Parappa
Ayatti..

.Vs.

Opponent/s : Ravikumar S/o Andanappa
Pattanashetti and another.

- i. Provision under which : Under Order XVI Rule 1 & 2
application is filed R/w Sec.151 of CPC.
- ii. Relief sought for : Seeking issuance of
summons to the witness
cited therein i.e., Sandeep G.
Chabbi R/o.A004, Akshay
Classic Apts, Opp. Chetan
College, Vidyanagar,
Hubballi-580030 to produce
the estimate copy of the
petitioner vehicle bearing
No.KA-63/M-4873 and

survey report and give evidence in the interest of justice and equity.

- iii. The date on which : 04.05.2026 application is filed*
- iv. Number of the : VII application*
- v. The date on which : 12.05.2026 (by R.2) objections are filed by different opponents*
- vi. The date on which : 09.07.2026 orders were passed on the said application*

ORDERS ON I.A No.VII

The counsel for the petitioner has filed I.A. No.VII under Order XVI Rule 1 and 2 R/w Sec.151 of CPC, seeking issuance of summons to the witness cited therein i.e., Sandeep G. Chabbi R/o.A004, Akshay Classic Apts, Opp. Chetan College, Vidyanagar, Hubballi-580030 to produce the estimate copy of the petitioner vehicle bearing No.KA-63/M-4873 and survey report and give evidence in the interest of justice and equity.

2. The respondent No.2 has filed objections to this I.A.

3. Heard arguments.

4. The points for consideration are:

- 1. Whether the reliefs sought by the petitioner in the application, can be granted ?*

2. What order ?

5. The above point No.1 is answered in the Affirmative and point No.2 as per final order, for the following:

REASONS

6. **Point No.1:** In the annexed memo of facts the counsel for the petitioner averred that, on 10.10.2023 at about 13:00 hours the accident is arise petitioner car bearing No.KA-63/M-4873 producing the estimate copy of vehicle and survey report. Survey of vehicle along with estimation conducted by the above said person. In view of this, his evidence and production of the referred documents is very much necessary to arrive at proper conclusion in the matter. Hence, they prayed for allow the application.

7. The objections of the respondent No.2 is that the application filed by the petitioner is not maintainable in law. Whereas in the evidence during the cross examination the petitioner stated that no survey of the damages has been done by the surveyor. No where in the petitioner as stated that damages caused of the vehicle has been surveyed by name Sandeep G. Chabbi. The petitioner has filed this application to fill of the lacuna in the case this application filed for summoning by witness is after thought one to improve this case which is not

permissible in law. So also no where the petitioner has stated in his examination in chief that the vehicle is surveyed by the surveyor. No where in the application the petitioner stated the date of the survey done and so also the petitioner has mentioned in the other details of the survey. The application is filed by the petitioner is abused of process of law and to fillup the lacuna and improve the case so the application filed by the petitioner is not maintainable law and liable to be dismissed. So also the facts stated in memorandum of law it is not maintainable law as the said application is not accompanied by the affidavit of the petitioner. Hence, prayed to dismiss the application with costs.

8. *The present petition is one for recovery of damages sustained by the petitioner's vehicle in the motor vehicle accident. The survey report and estimate of repair are relevant documents for determining the nature and extent of damage and the quantum of compensation, if any, payable. Merely because the petitioner has been cross-examined, the application cannot be rejected if the evidence sought to be produced is necessary for effective adjudication of the dispute. The objection of respondent No.2 that the petitioner is attempting to fill up lacunae can be considered at the stage of appreciation of evidence. The respondent will have full liberty to cross-examine*

*the proposed witness and dispute the genuineness and evidentiary value of the survey report and estimate. Therefore, in the interest of a complete and effective adjudication of the matter, the application deserves to be allowed. Hence, I answer the **point No.1 in the Affirmative.***

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

ORDER

The I.A. No.VII filed by the petitioner under Order XVI Rule 1 and 2 R/w Sec.151 of CPC is hereby allowed, with liberty reserved to the respondent to cross-examine the witness and raise all objections regarding the admissibility, genuineness, and evidentiary value of the survey report and estimate at the appropriate stage.

Issue witness summons to the above said witness if P.F. and witness batta is deposited.

Call on 30.07.2026.

*(Dictated to the Stenographer directly on computer, script corrected and then pronounced by me in the Open Court on this the **09th day of July, 2026**)*

sd/-

*(Smt. Sarvamangala K.M.)
I Addl. Senior Civil Judge and JMFC.,
Hubballi.*