

ORDERS ON I.A.

L/c for the 2nd respondent filed I.A. U/o 16 Rule 1 and 2 R/w sec. 151 of CPC seeking to issue summons to witness as mentioned in the application.

2. In the memorandum of fact learned counsel for the respondent No.2 submitted that the company is unable identify the offending vehicle and the deceased but the consent police have filed charge sheet against the insured vehicle. To conclude the involvement of offending vehicle in the alleged accident examination of witnesses is necessary. Hence, prays to allow the application.

3. On the other hand learned counsel for the petitioner filed objection and contended that the petitioner taken summons to produce C.C. TV footage of the incident and has played the same in the open court in front of the 2nd respondent's counsel. There

after the 2nd respondent call upon the investigating officer and cross examined thoroughly. In spite of the same now again the 2nd respondent filed this application to summon the Sub Inspector is to drag on the proceedings. Hence, prays to dismiss the application.

4. Heard both side.
Perused records.

5. Order sheet reveals that the second respondent's counsel filed vakalath on 13.07.2022. In spite of sufficient opportunity given he has not filed his objection on main petition. Thereafter on 14.12.2022 the objection by respondent No.2 taken as not filed. Thereafter when case is posted for petitioners further evidence on 01.07.2024 the respondent No.2 filed his objection statement on main petition. Order sheet further reveals that the respondent No.2 after taken sufficient opportunity to lead evidence on its side

filed IA seeking summons to R.M.O of J.S.S Hospital and Pralaksha Hospital for the production of documents who were examined as RW-1 and 2. The respondent No.2 instead of commence its evidence by examine its official, keep on filing applications to summon the witnesses. More over the petitioners have examined the investigating officer as PW-2 and L/c for the respondent No.2 cross examined PW-2 in detailed with respect to the identification of offending vehicle and the deceased. Thus, the reason stated in the memorandum of facts that the examination of Police Sub Inspector for the production of Witnesses statement, details of identification of accused and details of identification of deceased is required to the company to identify the offending vehicle and deceased cannot be accepted. Furthermore, the respondent No. 2 has filed similar application before the tribunal and the same has been dismissed on 19.10.2024. Now the

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respondent No. 2 come up with the same application on the same ground to summon the witness for the production of same documents as mentioned in the earlier application. Thus, the argument canvased by the petitioner's counsel that the application filed by the 2nd respondent to drag on the proceedings holds water. Thus, from the aforesaid reason the respondent No.2 has not made out ground to allow the application. Hence I proceed to pass the following:

ORDER

I.A. filed U/o 16 rule 1 and 2 R/w sec. 151 of CPC filed by the respondent No.2 is hereby by dismissed on cost of Rs. 1000/-.

For arguments Call on 18.02.2025.

Sd/-

Judge,

Court of Addl. S.C., &
Mysuru