

S. No. 69
Before Notice Matters

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) No. 280/2022

M/s Hazratbal Filling Station and anr.

.....Petitioner(s)

Through: Mr. Mohsin Qadiri, Sr. Adv.
With Mr. Shabir Ahmad, Adv.

V/s

UT of J&K

..... Respondent(s)

Through:

CORAM:

Hon'ble Mr. Justice Sanjay Dhar, Judge.

ORDER

25.07.2022

1. The petitioners have challenged order dated 11.05.2022 passed by Judicial Magistrate 1st Class, Srinagar whereby revision petition filed by the respondent against the order dated 24.03.2022 passed by the learned Chief Judicial Magistrate, Srinagar has been allowed and the application of the petitioner seeking release of fuel dispensing machine has been dismissed.
2. Learned Senior Counsel appearing for the petitioner has submitted that it was not within the jurisdiction of the learned Revisional Court to interfere with the order of the learned Chief Judicial Magistrate inasmuch as the said order is interlocutory in nature. He has further submitted that the only reason because of which learned Revisional Court has interfered with the order of the Chief Judicial Magistrate, Srinagar is that the sealed fuel dispensing machine is a piece of evidence as such the same is required to be preserved. On this aspect learned Senior Counsel has submitted that the petitioners are prepared to install a new fuel dispensing machine at the site and the prosecuting agency i.e, Legal

Metrology Department is at liberty to take custody of the sealed fuel dispensing unit for its production before the court so that the object of preservation of the evidence is achieved.

3. The suggestion made by learned Senior Counsel appearing for the petitioner appears to be reasonable as by accepting the same, the object of preservation of evidence, can be achieved.
4. Having heard learned Senior Counsel appearing for the petitioner and having perused the material on record a case for grant of interim indulgence is made out.
5. Issue notice to the respondent subject to furnishing of registered covers by the petitioner within a weeks' time.
6. In the meantime, subject to objections and till next date of hearing, it is provided that the custody of the sealed fuel dispensing machine shall be taken over by the respondent with a condition that the same shall be produced before the learned Magistrate as and when directed by the said Court. The petitioners are permitted to install a new fuel dispensing machine at the relevant site and the respondents shall not interfere in the petitioner's running of the new fuel dispensing unit on account of pendency of the complaint that has been lodged before the trial Magistrate.
7. List on 30.08.2022.

(Sanjay Dhar)
Judge

SRINAGAR
25.07.2022
"Aasif"