

S. No.96
Suppl. List

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) No.261/2025

AAMINA AND ORS.

.....Petitioner(s)

Through: Mr.Syed Irfan Rizvi, Advocate.

V/s

AAMIR AHMAD MIR AND ORS.

... ..Respondent(s)

Through : None

CORAM:

HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER

21.05.2025

1. The petitioners have filed present petition under Section 528 of BNSS challenging order dated 15.05.2025, passed by learned 3rd Additional Sessions Judge, Srinagar (hereafter referred to as “the revisional Court) and order dated 26.04.2025 passed by learned Chief Judicial Magistrate Srinagar (hereafter referred to as “the trial Magistrate).
2. Vide order dated 26.04.2025, learned trial Magistrate has, issued notice on an application filed by the petitioner seeking a direction upon the respondents not to proceed with the sale alienation of the property to any third person. Whereas vide order dated 15.05.2025 passed by learned revisional Court the revision

petition against aforesaid order of trial Magistrate has been dismissed.

3. Heard and considered.

4. It appears that the petitioners have filed petition under Section 12 of Protection of Women from Domestic Violence Act before the trial Magistrate and in that petition an order came to be passed by the said Court on 11.02.2025, whereby the respondents were restrained from evicting the petitioners from the house where the respondents are residing. The respondents were further restrained from harassing the petitioners and creating any domestic violence against them. Besides this, the respondent No.1 has been directed to pay monthly maintenance of Rs.8000/- in favour of petitioner No.1 and Rs.5000 each in favour of petitioners No.2 and 3.

5. It appears that the petitioners filed an application before the trial Magistrate seeking execution of aforesaid order. They also filed another application seeking directions upon the respondents not to proceed with sale alienation of their property to any third person. In the said application the learned trial Magistrate vide impugned order dated 26.04.2025 issued notice to the respondents and posted the matter on 22.05.2025.

6. The aforesaid order of issuance of notice by learned trial Magistrate came to be challenged by the petitioners by way of

revision petition before 3rd Additional Sessions Judge, Srinagar who vide the impugned order dismissed the said application by holding that revision petition is not maintainable.

7. An order issuing notice on an application does not decide the rights of the parties, therefore, such an order is interlocutory in nature. Such orders are passed by a Court to manage the proceedings without finally determining the rights of the parties. An interlocutory order is used to address procedural matters and it does not decide the rights of the parties conclusively. Therefore, such an order is not amenable to revisional jurisdiction of the superior court. In fact sub section (2) of Section 438 of BNSS creates a statutory bar for exercising revisional powers in relation to any interlocutory order. Thus the revisional court has rightly refused to entertain the revision petition filed by the petitioners.

8. The order impugned passed by learned revisional court, therefore, does not call for any interference by this Court in exercise of powers under Section 528 of BNSS. The petition lacks merit and is **dismissed** accordingly.

(SANJAY DHAR)
JUDGE

SRINAGAR
21.05.2025
Sarveeda Nissar