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*A. Nos.1246 & 1248 of 2018
in C.S. No.83 of 2011*

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N.SESHASAYEE, J.

1. The first defendant in the ongoing proceedings for passing a final decree in a partition suit between four brothers, appears in person to defend his interest. He has been at his impeccable best when the court was hearing him, but has become a different person when he felt that the Court might not be with him. The switch over was instantaneous. But, it has to be said to his credit that he cautioned the Court beforehand that he was ready with certain utterances which only few other Judges of this Court are familiar with. And, on what followed his caution will be told later.

2. The back drop for today's proceedings is stated briefly:

- For suggesting modes for metes and bounds partition of the only item of immovable property among four brothers, this Court had appointed an Advocate-Commissioner, who vide her report dated 24.10.2018 has informed the Court that the property is indivisible. Necessarily, the property has to be sold.



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- On 06.08.2021 (some 16 months ago from now), when this Court was contemplating to order sale of the property, the first defendant offered to buy it for Rs.5.00 crores. He also had made a statement that he was expecting some substantial amounts in a land acquisition proceedings (which is also pending in some litigation before another court) for him to mobilise funds. After couple of postings, this case again came before me on 24.09.2021, and on that day the first defendant withdrew his offer. This Court promptly directed the Commissioner to go ahead with the auction of the property. On a subsequent date, this Court also fixed the upset price at Rs.4.50 crores.
- After few months, on 27.10.2022, this case came before another learned Single Judge of this Court. The sale of the property had not taken place, and this state of affairs continues till date. What is contextually relevant is what the learned Judge has recorded in paragraph 3 of the order. It is recorded:

"Mr.Ashok Surana/first defendant appearing in person opposed the order passed by this court on 25.01.2022 and he stated that he made allegations against thirteen



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previous judges who handled this case and he is making accusations against all the judges who handled /handling his cases and also the entire judiciary for committing genocide. Therefore, Mr.Ashok Surana is directed to file written submission about whatever the allegations he make against the judiciary by next hearing."

(Note: This Court read it only after the counsel for the other parties drew the attention of this Court to it. But it was one stage too late)

3. Today, when the matter came up before me, barring the first defendant, the counsel for other parties indicated their urgency for the sale of the property as their respective clients are in desperate need of money. On principle the first defendant is not against it, but he required two months time for him to find a buyer. Knowing that he had earlier withdrawn his offer to buy as has been recorded in the order dated 24.09.202, this Court was in the process of conveying to him that it might not wait that longer, but before the sentence could be completed, the first defendant issued his caution: " I might have to repeat the utterances which I have made before certain other courts". And wasting no time, he told the Court that it is committing genocide (appears to be



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his catch phrase), and proceeded to hurl few abusive statements, each of which can easily merit an action for criminal contempt. He even taunted the court to issue him with a notice for contempt of court. It became instantly apparent that it is a bait, which if the Court takes, might well drift the proceedings in a different direction. But the first defendant did create justifiable circumstances voluntarily, and perhaps consciously for initiating an action for criminal contempt of court. But the point is should the Court initiate it?

4. An action for contempt of court, irrespective of the genre of contempt, is fundamentally justified in an anxiety to preserve the public confidence in the institution of Courts. Public confidence is a supposition on which the foundation of administration of justice through Courts as an institution is established. It however, needs to be realised that it is not an aspect of entitlement but an aspect of empowerment of court, which no statute can grant, nor any Constitution can vest, but is required to be earned by Courts through the quality of its performance and the efficacy of the results they produce. Public confidence is the reward which the people of this country award the Court for the services it renders. If the Courts as an institution has built its



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repute through the quality of its service to the people, and enjoys abundant public confidence in its reserve to sustain its existential relevance, then a stray utterance of a litigant can hardly shake it up. Set in the context, it can be said that the authority to initiate an action for criminal contempt of court grants the Court the power of a giant, but should the Court act like a giant, over reacting to stray events that can be well ignored?

5. The 21st century demands on judiciary requires of it to approach its responsibility with a fine blend of professionalism and sensitivity. Professionalism anywhere requires ignoring the ignorable for conserving time and energy for purposeful actions. If an action for criminal contempt is so viewed, in the instant case, it may well sidetrack the issue, hijack today's proceedings, and unnecessarily drain the time and energy of this Court. Let the ignorable be ignored.

6. But to let the first defendant to go ahead with his performance in Scene II of his Act for the day posed a threat to the conducive ambiance required for the conduct of the proceedings. This Court therefore, merely directed the CISF



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personnel available near this Court-hall to remove the first defendant. This will imply that the first defendant will lose an opportunity to be heard fully today. But he cannot lose his right. That belongs to him, and this Court cannot penalise him for his behaviour, and will have to do only that which the law approves. Hence this Court passes the following order:

- (a) The Commissioner shall waste no time to sell the property through public auction:
- (b) All the parties, including the first defendant, are permitted to find any suitable purchasers jointly or severally and give their offer in a sealed cover to the Commissioner.
- (c) The property will be sold to the one who has made the highest offer.

7. It is underscored that the first defendant is in peril of losing his right of hearing if he does not conduct himself in a manner which is conducive for the court to hold its proceedings.

8. Post the matter on 10.03.2023.

08.02.2023



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Dated : 08.02.2023