1797-014 SOUTHAMPTON COUNTY CHANCERY PAPERS ELLIS vs. DAY et al 5/1797

other SURNames: FRANCIS HARGROVE, DUPREE. GUALEY

To the worshipful court of Southampton sitting in Chancery

Humbly complaining

Shew unto your worships your orator Samuel Ellis of this County that he being in want of a piece of land to settle himself on and being informed that the Legatees of Thomas Day deced were desirous of disposing of a part of the land whereon the said Thomas Day lately lived applied himself to the executors of the said Thomas to know if the same were for sale who informed your orator that the said Tho^s departed this life the 30th of May 1771 having first made his last will and testament in writing wherein he devised the use of all his lands of which he was then possessed containing five hundred and forty acres more or less with the appurtenances unto his lovg wife Elizabeth during her life or widowhood but at her death or day of marriage his desire was that it should be sold at public sale and the money arising thereupon be equally divided between his five following Children namely Elizabeth Briggs Francis, Thomas Day, Ann Francis (the wife of Sterlg Francis) Sarah Dupree and Mary Day and further decried that if either of the before named children should die without heir lawfully begotten that the part thereby given to them be equally divided between the survivors and after making several other devises appointed his wife Elizabeth and his ~~frd~~ friend George Gurly his executors That the selling of part of the said land they conceived would be very beneficial to the children and the executrix to whom the same was given during life or widowhood had no objection to it being sold at that time whereupon your orator came to the following agreement with the said Thomas Day Elizabeth Briggs Francis Sterlg Francis and Mary his wife Ann Hargrove and the said Elizabeth the executrix for about two hundred and fifty ~~acres of the~~ acres called Broom's of the aforesaid tract

for the sum of eighty six pounds ten shillings The fee simple of the same to be conveyed to your orator and his heirs when ever he should require the same Your orator further sheweth that he hath paid to the parties above mentiond the said sum of eighty six pounds ten shillings and hath applied to the execution of the said Thomas Day deed for a title But so it is may it please your worships that they refuse to make the convey ance to your orator under pretence that while the said Elizabeth Day remains unmarried and alive they have no such power notwithstanding she is consenting thereto and moreover that Sarah Dupree hath departed this life leaving Lewis Dupree her son an infant of tender years to whom a part of the consideration money is due In tender consideration whereof and for that your orator is remediless in the premises by the strict rules of the common law and only relievable in this worshipful court where matters of this nature are properly cognizable To the End therefore that the said defendants may fully true and perfect answer make to all and singular the allegations of this bill as fully and particularly as if the same were herein again repeated and interrogated and that your worships will decree and order that the Executrix Elizabeth Day and George Gurley do make a deed conveying the fee simple estate of the said land so as aforesaid purchased by your orator to him and his heirs or that your worships will make such further decree in the premises as shall be agreeable to equity and good conscience May it please your worships the premises considered to grant to your orator the Common wealths writ of Subpoena &c

The joint and several answer of Thomas Day Elizabeth Francis Sterling Francis and Mary his wife and Ann Hargrove alias of Elizabeth Day & George Gurley executors of Thomas Day decd to the bill of complaint exhibited against them by Samuel Ellis complainant

The defendants for answer confess the truth of the allegations in the said bill of complaint and have no objection to make against a decree passing to make title to the said Samuel Ellis for the fee simple of the lands in the bill mentioned

Geo: Gurley

Ellis
&
Day
} Bill &c

Dec. 1784
Cont.
Final
May 1795
Decree Senal

The Answer of Lewis Dupree an infant for an heir of Sarah Dupree deed by Sterling Francis — his guardian to the bill of complaint exhibited against him & others by Samuel Ellis complainant

This defendant by his guardian saith that he is a stranger to the transactions in the bill set forth and therefore unable to assert his title in the premises by reason of his infancy but humbly conceives that what right he hath will be saved to him by your worships

Sterling T Francis