1815-130 SOUTHAMPTON COUNTY CHANCERY PAPERS CONGO and Wife et al VS JOHNSON and Wife

1/1815

other SURNAMES: Whitney, Lankford

of the said John Whitney and pray your compl[ainan]ts
lastly pray that your honours would make such other
and further decree in the premises as may be agreeable
with justice Law and equity and they &c &c

The Answer of Elijah Johnson and Mary his wife
formerly Mary Whitney relict and one of Elisha
Whitney and to a Bill of Complaint exhibited against
them in the County Court of Southampton by David
Briggs and Elizabeth his wife late Elizabeth Whitney
one of the Children and Legatees of Elisha Whitney and
and Nancy Whitney, Elizabeth Whitney and Charlotte
Whitney infant Children of the said Elisha Whitney
and by Isaac Lankford their next friend

These respondents now and at all times hereafter
saving and reserving to themselves all and every
benefit of exception to any errors or imperfections
in said bill contained for answer thereto or to so
much thereof as they are advised is material and
necessary for them to make answer unto answer
say. That they cannot gainsay the allegations
in the complainants bill contained, but they are

willing to submit to such dower as is prayed for
and they pray to be hence dismissed &c &c

Longo and wife and others Pltffs
vs
Johnson and wife — — Defts } In Chancery

This cause being docketed by consent of parties
came on this day to be heard on the bill answer exhibits
and arguments of counsel. upon consideration
whereof the Court doth order adjudge and decree
that
Mary Price with the County Surveyor do lay off and
assign by proper metes and bounds one third part of
the tract of land of which Elisha Whitney died seized
and possessed having regard to quality as well as
quantity to the defendants Elijah Johnson and
Mary his wife as and for the dower of the said
Mary in the same. That the same commissioners
or any three after giving reasonable public notice
of the same make sale of that part of the said tract
of land situate on the west side of the said Elisha Whitneys
to his son John on a credit of 12 months
except the part which as to such
subject to the dower of the said Mary and that
they divide the proceeds of the sale into four equal
parts and take bonds with approved security for
the same and assign them over to the complainants
David Longo and his wife Elizabeth in right of his
said wife and to the guardians or guardians
of Nancy Elizabeth and Clarkette Whitney
and that they also make sale of the slaves
divised in the will of the said Elisha Whitney after
giving reasonable notice of the same & credit
of months and divide the proceeds of
the same in the following manner, to wit,
~~into four equal parts~~ That they take
a bond with approved security therefore to the
defendants Elijah Johnson in right of his said
wife Mary for the amount of one fifth of one
fifth to which they are entitled by the death of the
said John Whitney died and that they divide
the balance in the same manner as directed
and ordered in the case of the said land and

further that they make a report to this Court in order to effect a decree —

Congo Wife

Letters —

"

Johnson wife

To the worshipful Court of Southampton in Chancery sitting

Humbly complaining Shew unto your worships your complainants David Longe and Lucretia late Elizabeth Whitney one of the children and legatees of Elisha Whitney dec.d and Nancy Whitney Elizabeth Whitney and Charlotte Whitney infant children of the said Elisha Whitney dec.d by Jesse Lankford their next friend appointed by the court to prosecute for them in this behalf.

That the said Elisha Whitney the father of your complainants departed this life some time in the year eighteen hundred and having first made and published his last will & testament which was admitted to record in the County Court of this county an attested copy of which is hereunto annexed and prayed to be taken as a part of this bill. That Mary Whitney the widow of the said Elisha qualified as executrix to the said last will & testament and hath since intermarried with a certain Elijah Johnson who as well as the said Mary is prayed to be made a defendant to this bill of complaint

That the said Elisha Whitney in his said will devised amongst other things a certain tract of land lying in this county to a son of his called John Whitney and the remainder thereof to your complainant

Elizabeth making the Poley Branch the dividing
line and deriving to your Complainant Elizabeth
that part lying between the said Poley Branch
and Black water river. That the land so as aforesaid
devised to the said John Whitney was held and possessed
by and the said Elisha Whitney at the time of his death
was seized thereof in his demesne as of fee. That the
said John sometime in the year eighteen hundred
and departed this life an infant without
issue whereby your complainants became
equally entitled to that part of the said tract
of land which was devised to the said John
That since the death of the said Elisha Whitney
the said Mary the widow hath held possession
of the entire tract of land of which said Elisha
died seized until her intermarriage with the defendant
Elijah Johnson and the possession from that time
hath been continued in the defendants, although
they cannot pretend to claim more than one
third thereof for and during the life of the
said defendant Mary as and for her dower
in the same. That the said Elisha in his will bequeathed
to his widow the said Mary all his negroes during
her life or widowhood and he directs that the
same with their increase whenever his said

widow should marry should be equally divided
between your complainants and the said John who
died an infant as hereinbefore stated. That in conse-
quence of the death of the said John the defendants
are entitled to one fifth part of the said slaves, to which
the said John would have been entitled if he had
lived and your complainants to the remaining
four fifths - That the tract of land which was
devised to the said John is divided into four
parts among and between your complainants
subject to the dower of the defendants would not
sell for one hundred dollars a share, and
therefore to effect a division a sale of that part
is necessary under the act of assembly in such
cases made and provided. That a division
of the slaves in kind cannot be made among
the distributees and that a sale of them also
will be necessary to their equal partition among
the legatees of the said Elisha Whitney and the
distributees of the said John Whitney and
your complainants further state they have every reason
to believe that the debts due from the estate of the
said Elisha have been fully paid and satisfied
and that therefore there cannot be any legal
objection to the delivery of the slaves thereto entitled

In tender consideration whereof and in as much as your complainants are remidiless in the premises except in a Court of Equity where matters of this kind are properly and alone cognizable they pray that the defendants may be compelled to answer all and singular the allegations herein contained as fully and unincumbered as if the same were herein again repeated and they further pray that more particularly interrogated, and they further pray that your worships would decree ~~it~~ that the dower to which the defendant Mary is entitled in the part of land of which the said Elisha Whitney died seized be assigned her by proper meets and bounds—that the part of the said tract of land during in the life of the said Elisha Whitney that your Worships would decree on credit as soon as can be calculated to prevent the interest of the parties subject to the dower right aforesaid, and that the proceeds of the sale be equally divided between your complainants—that the share coming to the said Elisha with the increase in the price of the said land be also sold on a credit of months and four fifths of the whole amount be equally divided between your complainants as will be four fifths of the remaining fifth which descended to them by the death of the said John, and that the remaining fifth part of the said fifth part of the whole to which the said John would have been entitled in case he had lived be paid over or assigned to the defendants in right of the defendant Mary one of the distributees

Report of the
Estate of Elisha
Whitney dec'd

January 1815 rep.d rec.d
of [illegible]

Extd. of Record

Agreeable to an Order of the County Court of Hampton to us directed bearing date January Court 1813 We have gone on the Lands of Elisha Whitney and John Whitney Son of Thomboll Lee dec.d & attend with the County Surveyor as by the Order we were required, and have View and laid off and Assigned to Elizabeth Johnson in right of his Wife Mary, their Proportionable Part of the S.d Lands whereon Elisha Whitney Dy.d Seiz.d Possess.d as her dower and have taken Bond Payable to the defendant Elijah Johnson in right of his wife mary for one fifth of one fifth Part of the Lands whereon John Whitney Junr. died Seiz.d Possess.d and also have made Sale of the ballance of the S.d Lands Subject to the dower right of the S.d Elisha Whitney dec.d, and have taken Bonds Payable to each Legatee for each one Proportionable Part in the S.d Lands and have Executed a Deed to the Purchaser in Order to a final decree, and we have also made Sale of all the negroes belonging to Estate of the S.d Dec.d (to wit) Pompey Amounting to 390 dollars and also to the amount of 270 dollars making in the Whole 660 dollars, What the negroes Sold for, also have also Taken Bonds in their case Payable to the Legatees, Viz to nancy Whitney one bond of 65 dollars 97 cents in behalf of herself being her Proportionable part of the S.d negroes, also one bond to Elijah Johnson in right of his wife Elizabeth, for 87.93 cents being his Proportionable part of the S.d Negroes, also one bond to Elijah Johnson in right of his wife mary the Sum of 14.15 cents being his Proportionable Part of the S.d negroes, and also to Elijah Johnson in right of his Wife 10.37 being his Part of a negro Woman Sold for one Bond from Samuel Rowe

by the Intermarriage with Nancy Whitney to Elizabeth Whitney being her other Proportionable Part of the Sd Negroes, Amounting to 65.99 Cents — also one Bond from Nancy Whitney and Jeremiah Whitney to the Amount of 65—99— being Elizabeth Whitneys Proportionable Part of the Sd Negroes Also one Bond from Joshua Whitney and his Securities to the amount of 87—93. being Charlotte Whitneys other Proportionable Part of the Sd Negroes, the Whole Amounting to 66-0 dollars Which Amounted is Equally distributed, In Order to a final Decree ——— William Atkinson

— Jotheciah Corbett

his
Amos + Counsel
mark

Congo Smith
vs } Bill &
Johnson Smith } answer

Jany 1813

In the name of God amen I Elisha Whitney in the parish of Nottoway and county of Southampton being sick and weak of body but of perfect and sound mind & memory thanks be given to almighty god who gave it me. I do make and ordain this my last will and testament in manner and form as followeth to wit, I give and bequeath my soul to almighty god that gave it me hoping the merit of my Saviour Jesus Christ for a Joyfull resurrection and my body to the ground from whence it came to be decently buried by my Executors hereafter mentioned and for my worldly estate which it hath pleased god to bestow upon me I dispose of as followeth—

Item I give and bequeath to my Son John Whitney my land and plantation to the poley branch and one gun one colt by the name of Starling to him and his heirs forever

Item I give and bequeath to my Daughter Elizabeth Whitney the remainder of my land from the poley branch to black water river & if my daughter Elizabeth Whitney should die without heir I give the same to my Son John Whitney —

Item I lend to my loving wife Mary Whitney all my personal Estate not always given and all my negroes during her natural life or widowhood but in case she is ever married again in that case I give all the aforesaid Estate together with the increase of my negros if any in the time my will and desire is for my two negroes and the increase to be equally divided amongst my five children John Whitney, Elizabeth Whitney, Nancy Whitney, Elizabeth Whitney, Carlotte Whitney and my

personal estate I leave to be Equally divided between my daughters Elizabeth Whitney. Nancy Whitney and Lehartotte Whitney - after my wife mary Whitneys marriage or decease to them and theirs heirs forever -

I do hereby appoint my loving wife Mary Whitney. William Urquhart and John Bowers to be my whole Executors of this my last will and testament revoking and disanulling all other wills or wills by me heretofore made or delivered as witness my hand and seal this 1st. day of November 1806

Signed Sealed & delivered
in the presence of us
Abia Beal
Joshua Whitney
Elijah his X Johnson mark

Elisha Whitney Seal

At a court held for the county of Southampton the 20th. day of July 1807 This will was proved by the oath of Joshua Whitney and Elijah Johnson two of the witness thereto and continued for the executors and at a court held for the said county the 19th. day of October 1807 on the motion Mary Whitney one of the Exors therein named who made oath according to law probat is granted her on giving bond & security whereupon &c.

Sam Kello dd

A Copy Teste
James Rochelle DCSC