

1832-020 SOUTHAMPTON COUNTY
CHANCERY PAPERS

WHITEHEAD et al VS. WHITEHEAD
5/1832

N.B. Several sheets pasted together & folded.
Handle with care.

other surnames: Darden

Harriet Whithead Cal

M. { Bill.

Edw in Whithead.

1831 Nov. decen as filed &c
+

To the worshipful Court of Southampton county in chancery
sitting Humbly complaining shew unto your worship, your Orators
and oratrixes Harriott Whitehead, Lefthy Darden & Martha his wife
formerly Martha Whitehead, Joseph B. Whitehead John Whitehead &
William Augustus Whitehead, an infant suing by the said Joseph
B. Whitehead his next friend, that some time in the year 1815,
John Whitehead late of the said County departed this life testate
and by his will divid his real & personal estate to his wife
Catharine Whitehead during her life or widowhood & after her
death or marriage to his eleven children in fee simple: your
Orators and oratrixes Harriott, Martha, Joseph B. & John are
the children of the said testator, and your orator William
Augustus Whitehead is the son & only heir of William A.
Whitehead, who was also a son of the said testator & who has
departed this life intestate since the death of the said testator.
The said testator at the time of his death left five other
children, that is to say, Margaret, Richard, Minerva, Marion
& Mourning Ann Whitehead, all of whom have lately departed this
life, intestate & without issue, leaving their said brothers, and
sisters nephews, together with one other Brother named Edwin
Whitehead their only proper heirs at law - The said Catharine
Whitehead, the widow, received under the will of her said
Husband a valuable tract of land, situate in the County of
said, containing by estimation between seven & eight hundred
acres. she also obtained possession, by virtue of the said will, of
the following slaves, viz Hubbard, Wallace, Jane, Sarah, Lucy,
& Child Miles, Tom, Dinah, Gilbert, Curtis, George, Abby,
Aggy, Maria, Harriett, Patty, Jane, James, Betsey, Emma,
Myrie, Abigail, Amanda - The said Catharine Whitehead
afterwards purchased of your orator Joseph B. Whitehead, proper-
ties of the said tract of land, the same then being one
eleventh part thereof - she also afterwards acquired title by
purchase of a tract of ^{land}, situate in the said County of South
ampton containing four hundred & sixty four acres - and your
Orators & oratrixes further state that the said Catharine Whitehead
has since departed this life intestate, leaving the said Edwin
Whitehead by an Orator & oratrixes entitled under the said will

and as heir at law of the said Catherine, in fee simple to the said lands, slaves - and letters of advowson on the plate of the said Catherine have in due form of law been granted to the said Edwin Whitehead - and on the foregoing facts & circumstances your orators & oratrix are advised that the said tract of land of which the said Catherine Whitehead died entitled in fee simple together with the said slaves, upon her death, passed & descended to your orators & oratrix, & the said Edwin Whitehead, & heret share alike - they are further advised that the tract of land aforesaid & of which the said Catherine Whitehead died possessed under the said will is liable to division so as to give to your orators & oratrix, Harriett, Martha, John & William Augustus, & the said Edwin Whitehead, each, one eleventh part thereof, & the residue thereof, equally, among the said Edwin Whitehead & your orators & oratrix - In Tender consideration whereof & for as much as your orators & oratrix are without remedy in the premises otherwise than by the aid of a court of equity:

To the end therefore that the said Edwin Whitehead, who is prayed to be made defendant hereto, may upon his corporal oath full & perfect answer make to all singulars the said obligation & that, as perfectly & fully as if the same were here again repeated & interrogated - Your orators & oratrix pray that your worship will decree a division of the said land & slaves according to the principles herein before mentioned, & that you will make such other or further order or decree in the premises as to the court may seem right & proper - May it please the court to grant &c.

The answer of Edwin Whitehead to the bill of complaint exhibited against him in this court by Harriett Whitehead and others complainants - This respondent saving to himself every other complaint - This respondent saving to himself every benefit & advantage of exception to the many errors in the said bill contained, for answer thereto he admits the statements & allegations in the said bill set forth to be true & correct, & he is willing that such decree may be rendered in the premises as required by the complainants - & Having answered &c. he denies all framed &c. &c. to be dismissed with his costs &c.

Whitehead v. Whitehead -

This cause came on this day to be heard on the bill & answer by consent of the parties & was argued by counsel on consideration whereof, the court doth adjudge order & decree that Rubin Middleton, Richard Porter, Peter Edwards & James Jackson, or any three of them do divide the slaves in the bill mentioned of which Catherine Whitehead died possessed into six equal parts & assign to the compts Harriett Whitehead, Leptly Darn, Joseph B. Whitehead, & John Whitehead ~~each~~ one of the said parts; to the guardian of the compts Wm Augustus Whitehead one of the said parts, and to the defendant Edwin Whitehead the remaining part. and the court doth further adjudge order & decree that the said comers or such of them as may act, assisted by a competent surveyor, do divide the tract of land in the bill mentioned whereof John Whitehead died seized & possessed, so as to give to the defendant Edwin Whitehead & the compts Harriett, Martha, John & William Augustus Whitehead, each, one ~~eleventh~~ ^{sixth} part thereof, & the balance of the same, equally, among the said ~~defendants~~ ^{complaints} together with the tract of land to which Catherine Whitehead died entitled in fee simple, the said comers or such of them as may act, are directed to divide so as to give to the defendant, and the compts Harriett, Martha, Joseph B. John, & William Augustus Whitehead, each, one sixth part thereof: in making which division or divisions the

the said corners or such of them as may act, for the purpose
of ^{avoiding} ~~attaining~~ information which frequently is ~~the consequence~~ of
making many partitions of one & the same tract of land, to
estimate the value of the said two tracts of land jointly or
separately or to them may seem right, and to give to one
or more of the said parties his or their share out of either
one or both, having regard, however, to the value of each
distinct share or interest as above ascertained by this decree,
I make report &c

Commissioners Report of the
Division of the Land
and Slaves of
John & Catharine Whitely, Secs.

1832 May Ret.^d of final decrees
4^c

393
117
80
1177

(1177)

Agreeably to An Order of the Worshipful Court of Southampton County to us directed, dated "November Court 1831" And hereto Annexed We the undersigned Commissioners as expressed in said Order: in Obedience to the requisitions thereof. Have divided The slaves of which Catharine Whitehead died Possessed. as follows. viz:-
Lot N^o 1- Hubbard. Aggy and Children-Patty. Jane and James. Valued at Six hundred and forty Dollars. drawn by Joseph B. Whitehead - pays to lot N^o 6 drawn by John Whitehead, fifteen dollars.

Lot N^o 2. Wallace. Sarah and Child Anny. drawn by Septia Garden. and Valued at Six hundred and twenty five Dollars.

Lot N^o 3 Jane. Tom, and Maria, drawn by William H. Whitehead and valued at Six hundred and fifty dollars - pays to lot N^o 6 drawn by John Whitehead twenty five dollars.

Lot N^o 4- Betsy. Dinah. Curtis and George. drawn by Harrison Whitehead. and Valued at Six hundred and twenty five dollars.

Lot N^o 5- Lucy and Child Miles. Amanda and Harrison. drawn by Edwin Whitehead. and Valued at Six hundred and twenty five Dollars.

Lot N^o 6- Abigail. Gilbert and Emeline drawn by John Whitehead. Valued at Five hundred and eighty five Dollars - Receives from lot N^o 1 drawn by Joseph B. Whitehead fifteen dollars. - from lot N^o 3 drawn by William H. Whitehead twenty five dollars.

We have also divided The lands of John and Catharine Whitehead dec., as directed by the aforesaid Order; in the following manner. to wit, Allotted to Joseph B. Whitehead One hundred and twenty acres of the tract of land that said Catharine Whitehead Purchased of Fitzhugh and Peterson (which contained One hundred and forty acres more or less) The said One hundred and twenty acres of land. Bounded by the lands of Francis Ridley. Humphry Grew. and the tract or lot of land drawn by William H. Whitehead - The balance of the tract of land Purchased by said Catharine Whitehead we have added to the tract or parcel of land that said John Whitehead Purchased of Fitzhugh - which contains Three hundred and eighteen Acres. more or less, makes Three hundred and thirty eight Acres. Estimated to be equal in value to one fifth of all the lands of said John and Catharine Whitehead dec. Exclusive of the tract allotted to Joseph B. Whitehead. - The said three hundred and Thirty Eight Acres drawn by William H. Whitehead

And Bounded as follows. (to wit) Beginning at two Small pines and small red Oak. a corner for said Joseph B. Whitehead in Francis Ridley's line. Thence along said Joseph B. Whitehead's line of marked trees $N 85\frac{1}{2}^{\circ} W 76$ Poles to a Small white ^{Oak} and red Oak a corner in Humphry Drewry's line, Thence along his line to William B. Goodwyn's line, Thence along his line to said Francis Ridley's line. Thence along his line to the Beginning —

The tract or parcel of land whereon the said John and Catharine Whitehead resided. Containing Seven hundred and fifty One Acres. we have divided into four shares as follows— Lot N^o 1. Containing One hundred and forty Acres. including the machine and other houses. drawn by Edwin Whitehead. And Bounded as follows (to wit) Beginning at an Ash standing in a Small branch in John Newton's line a corner for lots N^o 1 & 3. Thence along lot N^o 3 $N 4^{\circ} E 179$ Poles to a Sycamore. Thence $N 16^{\circ} E 9$ Poles to a corner of lots N^o 2 & 3. near the house Thence along lot N^o 2 — $N 16^{\circ} E 6$ Poles to the corner of the yard Thence $N 19\frac{1}{2}^{\circ} E 8$ Poles to the Gate. Thence $N 6\frac{1}{2}^{\circ} E 38$ Poles to the mouth of the lane. Thence $N 54^{\circ} W 25\frac{1}{2}$ Poles to a black gum Turner's corner. Thence along said Turner's line $S 73\frac{1}{2}^{\circ} W 46$ Poles. to two dead pines. Thence $S 71\frac{1}{2}^{\circ} W 14$ Poles to a hickory. Thence $S 75\frac{1}{2}^{\circ} W 29\frac{1}{2}$ Poles to a pine. Thence $S 65\frac{1}{2}^{\circ} W 20$ Poles to a pine. Thence $S 58^{\circ} W 55$ Poles to a pine. Thence $S 56^{\circ} W 11\frac{1}{2}$ Poles to a small pine standing in the aforesaid Small branch. Thence down the various courses of the run of said Small branch to the Beginning —

Lot N^o 2 Containing One hundred and ten acres. including the Dwelling house and other houses. drawn by Harriott Whitehead And Bounded as follows (to wit) Beginning at a Sweet Gum standing on the run of branch in Edmund Underwoods line a corner for lots N^o 2 & 4. Thence along lot N^o 4 — $S 24^{\circ} W 196$ Poles to a corner of lots N^o 3 & 4 in the lane. Thence along lot N^o 3 — $S 24^{\circ} W 54$ Poles to a Post. Thence $S 88^{\circ} W 28$ Poles to a corner in lot N^o 1 near the house. Thence along lot N^o 1 — $N 16^{\circ} E 6$ Poles to the corner of the yard. Thence $N 19\frac{1}{2}^{\circ} E 8$ Poles to the Gate. Thence $N 6\frac{1}{2}^{\circ} E 38$ Poles to the mouth of the lane. Thence $N 54^{\circ} W 25\frac{1}{2}$ Poles to a black Gum. Turner's corner. Thence along Turner's line $N 1^{\circ} W 51$ Poles to a pine. Thence $N 2^{\circ} W 41$ Poles to a pine Thence $N 3^{\circ} W 20$ Poles to the aforesaid branch. Thence down the various courses of the run of said branch to the beginning —

Lot N^o 3 containing two hundred and eleven acres. including the Kitchen and other houses drawn by John Whitehead and Bounded as follows — Beginning at an ash standing in a small branch in John Newton's line a corner for lots N^o 1 & 3. Thence down said branch 36 Poles. Thence along a line of marked trees $S 82\frac{1}{2}^{\circ} E 28$ Poles to the run of Blunt's Swamp. Thence up the run of said swamp to a Cypress a corner for lots N^o 3 & 4. Thence along lot N^o 4 — $N 66^{\circ} W 152$ Poles. Thence along the lane $N 87\frac{3}{4}^{\circ} W 32$ Poles to a corner in lot N^o 2 — Thence ^{along lot 2} $S 24^{\circ} W 54$ Poles to a post. Thence $S 88^{\circ} W 28$ Poles to a corner in lot N^o 1. — Near the house. Thence along lot N^o 1 — $S 16^{\circ} W 9$ Poles to a Sycamore. Thence $S 4^{\circ} W 179$ Poles to the Beginning —

Lot N^o 4. containing two hundred and ninety Acres drawn by Martha Garden And Bounded as follows — Beginning at a Sweet Gum standing on the run of branch in Edmund Underwoods line a corner for lots N^o 2 & 4. Thence along lot N^o 2 — $S 24^{\circ} W 196$ Poles to a corner of lots N^o 3 & 4 in the lane. Thence along lot N^o 3 — $S 87\frac{3}{4}^{\circ} E 32$ Poles to a corner at the end of the lane. Thence $S 66^{\circ} E 152$ Poles to a Cypress standing in Blunt's swamp a corner for lots N^o 3 & 4. — Thence up the run of said swamp to a small branch. Thence up the run of said branch to a black gum a corner for Hewitt Harris in James Powell's line Thence along said James Powell's line $N 1^{\circ} E 52$ Poles to a Pine. Thence North 33 Poles to a water oak, Thence $N 4^{\circ} W 12$ Poles to a large Poplar standing near a small branch Thence down said branch to said Blunt's swamp Thence down said swamp to the mouth of the Rose's Swamp Thence up the run of said Rose's Swamp to the aforesaid branch. Thence up the run of said branch to the Beginning —

All of which we respectfully Submit to the Court.

Given Under our hands this 28th day of March 1832.

Richard Pater.
Peter Colward
James Jackson

Whitehead & Co

to } Co. Secre

Whitehead

For Commissioners

Southampton November Court 1831

Harriott Whitehead, Septha Darden & Martha his wife formerly Martha
Whitehead, Joseph B Whitehead, John Whitehead & William Augustus
Whitehead an infant suing by Joseph B Whitehead his next friend
against

Edwin Whitehead

Defendant.

Influencer

This cause came on this day to be heard on the bill, & answer
Consent of the parties & was argued by Counsel: on consideration
whereof, the Court doth adjudge, order and decree that Edwin
Middleton, Richard Potter, Peter Edwards & James Jackson or any
three of them do divide the slaves in the bill mentioned of which
Catharine Whitehead died possessed into six equal parts & assign
to the Complainants Harriott Whitehead, Septha Darden, Joseph B
Whitehead, & John Whitehead each one of the said parts: to the
Guardian of the Complainant William Augustus Whitehead one
of the said parts, and to the defendant Edwin Whitehead the
remaining part. And the Court doth further adjudge, order & decree
that the said Commissioners or such of them as may act, assisted by a
competent Surveyor, do divide the tract of land in the bill mentioned
whereof John Whitehead died seized and possessed so as to give to
the defendant Edwin Whitehead & the Complainants Harriott, Martha,
John & William Augustus Whitehead each one eleventh part thereof
and the balance of the same together with the tract of land to
which Catharine Whitehead died entitled in fee simple, the said
Commissioners or such of them as may act are directed to divide
so as to give to the defendant and the Complainants Harriott, Martha,
Joseph B, ^{John} & William Augustus Whitehead, each, one sixth part
thereof: in making which division or divisions, the said Com^{missioners}
or such of them as may act, for the purpose of avoiding injustice which
frequently is the consequence of making many partitions of one and the
same tract of land, to estimate the value of the said two tracts of
land jointly or separately as to them may seem right, and to give to
one or more of the said parties his or their share out of either one
or both, having regard, however, to the value of each distinct share
or interest as above ascertained by this decree. and make report to
Court in order to a final decree.

Attest

James Rochelle

List of Slaves belonging to the Estate of -
Catharine Whitehead did -

Hubbard Waller Jane Sarah Lucy White-
Miles Tom. Dinah. Gettys Carter George
Army. Aggy. Maria. Harrison Paddy Jane
James Betsey Emma. Mary - Abigail -
Amanda -