

1839-006

SOUTHAMPTON COUNTY
CHANCERY PAPERS

COBB et al vs. COBB et al

1/1839

Plat

1849.

Macon Cobb Sal.

21. 3 Miles.

Letter to C. B.

~~~~~  
Hodges

~~~~~  
1838 Dec. Decree is filed H.

1839 Jan. Rep^t ret. H. H. H. H.

To the worshipping the justices of the County
Court of Southampton, in chancery
sitting:

Respectfully complaining, shew
unto your worships your complainants
Marion Cobb, widow and relict of Nicholas
Cobb dec^d, John M. Cobb and Nicholas
E. Cobb, infants, suing by the said Marion
Cobb their next friend, that the said Ni-
cholas Cobb departed this life sometime
in the year 1837, leaving a last will and
testament, which in the month of
February in the same year, was admitted
to probate by the County Court of said
~~County~~ County, and of which an attested
copy is herewith filed and prayed to
be taken as a part of this bill. Your
complainants further shew that the
said testator, by his said will, devised
the land of which he died seised to his
four sons, Luther, Alfred, and your com-
plainants John M. and Nicholas E., to
be equally divided among them; and
in a subsequent clause devised the same
to the said Luther and Alfred until
your complainants John M. and Nicholas
E. should arrive to the age of 21, for the
purpose of supporting them until that
period; which trust the said Luther and
Alfred have refused and still refuse to
undertake, by reason whereof the said
land, as your complainants are ad-
vised, is ought to be divided among the
residual persons to whom it was at first
devised. Your complainants further
shew that the said Marion Cobb is a widow
and relict of the said Testator, and
has legally renounced the provisions made
for her in the said will, and claiming

The interest in the said land to which she would have been entitled if the testator had died intestate. They further shew that as the land is of little value, and would be still less value to the parties interested if divided each in several parcels, and as each share does not amount to any thing like 300 dollars in value per share, they pray that ^{after having the down interest of the said land apportioned to her share} the court will decree that the same may be sold, as the said Lettice and Alfred have refused to comply with your complainant's requests to that end. In tender consideration &c; to the end that the said Lettice Cobb and Alfred Cobb may be made parties hereto, and may be required upon their several several oaths to make true and lawful answers to the allegations herein contained, and that your worship will decree one equal third part of the said land, in heretofore both to the quality and quantity thereof, ~~and~~ ^{and} to be allotted to the said your complainant. Marion Cobb in her dower as aforesaid, and that the remaining two thirds, together with the reversion, depending on the life estate of your complainant Marion Cobb, may be sold, and the proceeds thereof divided among the parties equally entitled thereto, as well as such other and further relief as may be rightful and proper - may it please &c.

W. D. Hodges, Jr.

The joint and separate answers of Lettice Cobb and Alfred Cobb to the bill of complaint exhibited against them and others by Marion Cobb and others -

These defendants saving &c; for an answer, that they believe the facts set forth in the said bill are substantially true. They are unwilling to accept the devise referred to in the will on the terms proposed by the testator in his said will, and are therefore willing that the land shall be sold and divided as desired by the complainants. And having answered &c; they pray to be hence dismissed with their costs in this behalf sustained.

Marion Cobb, John M. Cobb and Nicholas E. Cobb, the last two being infants, suing by the said Marion Cobb their mother and next friend.

24. In Chancery.

Lettice Cobb and Alfred Cobb

This cause came on this day to be heard, by counsel for parties, on the bill, answer, and exhibit filed, and was argued by counsel; On consideration whereof the Court doth adjudge, order and decree that Thomas Harcourt and Alfred Cobb, who are hereby appointed ^{assisted by a competent surveyor if needful} commissioners for the purpose, do proceed to set apart and allot, by meter and bounds, to the complainant Marion Cobb one third part of the land of which Nicholas Cobb died seized and possessed, regarding her had in the division to the quality and quantity thereof, as and for her dower in the said land, and that they set up at public sale on the premises, after giving at least ten

day, noted of the day and place of sale,
and on a credit of six months (except so
much as maybe necessary to defray the
expenses of this suit, which they will re-
quire to be paid in cash) the other two
thirds of the said land including the re-
version after the expiration of the widow's
dower interest, requiring from the pur-
chaser a purchaser, four bonds with
good security for the ~~purchase~~ equal
portions of the purchase money, and assign
one of the said bonds to the defendant Letha
Cobb, one to the defendant Alfred Cobb, and
the other two to the guardians of the infant
complainants, John M. Cobb, and Nicholas
E. Cobb, one to each, or, if there be no guardians,
return the last two bonds to the Court to
be disposed of ^{by} them; and that they make
report ~~to the~~

Robb's
or
Robb's } copy done

For forms.

Southampton County August Court 1838

Mason Cobb widow, and John M & Nicholas C. Cobb infants of Nicholas Cobb }
decd suing by Mason Cobb their Mother and next friend. } complainants
against }
Jethro Cobb and Alfred Cobb } Defendants } In Chancery

By consent of the parties and with the assent of the Court this cause came on this day to be heard on the bill answer and the Will of Nicholas Cobb decd filed as an exhibit and was argued by counsel, on consideration whereof and of all the circumstances of the case the Court are of opinion, that a sale of the land mentioned in the will of the testator will promote the interests of the infant complainants and the parties materially interested also consenting to a sale on the terms hereafter to be named. It is by the Court decreed and ordered that James D. Maßenburg, Simon Musfey and Stephen Mandough or any 2 of them to be aided by a competent Surveyor, if found needful proceed to allot and set apart unto the complainant, Mason Cobb widow and relic of Nicholas Cobb decd one full and equal Third part, in value of the tract or parcel of land in the bill mentioned whereof the testator Nicholas Cobb decd seized and possessed, supposed to contain acres, situate in the County of Southampton adjoining the lands of and others, as and for her dower: And the defendants Jethro Cobb and Alfred Cobb, having expressed a willingness that notwithstanding a sale of all the lands should take place, that the intention of the testator, should not be frustrated so far as the same is to be collected from the seventh clause of the Will in relation to the charge on the said defendants as to taking care and raising the infant, compel, until they come of age, and being still willing and hereby consenting thereto. It is by the Court further adjudged ordered and decreed that the aforesaid Commissioners or such of them as may act after giving twenty days notice of the time and place of sale, proceed to sell at public auction to the highest bidder, upon a credit of twelve months, the tract or parcel of land in the bill mentioned whereof the testator decd seized (including the reversionary interest of one third, the purchaser however is not to have possession of the widow's dower until the termination of her life estate). That the said Commissioners, or such of them as may act, without regard to the above direction as to a sale upon a credit, receive from the purchaser a sum in cash, sufficient to pay the expenses of sale and costs of suit, and apply the same accordingly. That after deducting the said expenses and costs divide the net amount of sale into four equal parts or shares and for each of the said parts let the bond with ample security, one payable to the legal and proper guardian of each of the infant complainants, and one to each of the defendants - which bonds the Commissioners will deliver to the parties entered to the same under this decree - and make report of their proceedings to the Court in order to a final decree.

A copy

Teste R. Cawson Clk

Cobb

to Zephyr Dixon

Cobb

For Commissioners

Southampton December Court 1838.

Mason Cobb, John M Cobb and Nicholas Cobb, the last two being infants, suing
by the said Mason Cobb their mother and next friend Plffs

against

Jethro Cobb and Alfred Cobb

In Chancery
Dfts

This cause came on this day to be heard by consent of parties, on the bill, answer
and exhibits filed, and was argued by counsel. On consideration whereof the
Court doth adjudge, order and decree that Thomas Marcum and Alfred Cobb
who are hereby appointed commissioners for the purpose aforesaid by a competent
Judge or if needful, do proceed to set apart and allot by metes and bounds to
the Complainant Mason Cobb one third part of the land of which Nicho-
las Cobb died seized and possessed, regard being had in the division to the
quality and quantity thereof, as and for her dower in the said land, and
and that they set up at public sale on the premises, after giving at least
Ten days notice of the day and place of sale, and on a credit of six
months. (except so much as may be necessary to defray the expenses of
this suit, which they will require to be paid in cash) the other two thirds
of the said land including the reversion after the expiration of the said dower
dower interest, requiring from the purchaser or purchasers four bonds
with good security for equal portions of the purchase money, and assign-
ing one of the said bonds to the defendant Jethro Cobb, one to the Defendant
Alfred Cobb, and the other two to the guardian of the infant complainants
John M Cobb and Nicholas Cobb, one to each, or, if there be no guardian
return the last two bonds to the Court to be disposed of by them: and that
they make report &c

Clerks fees \$4.64 fees paid.

Law fees $\frac{10.00}{14.64}$

Attesty J R Edwards Clk

Clerks fees paid J R C.

We have taken, according to the annexed decree four equal bonds, payable six months after date, for one hundred and ninety four dollars and 78¢ cts. and have assigned one to Luther Cobb, for his portion of net proceeds of sales, one to Alfred Cobb for his portion, and two to Alfred Cobb Guardian to Son. M. Cobb and Nicholas Cobb making the whole amt. of net proceeds \$749.13 All of which is respectfully submitted. Given under our hands this 21st day of Aug. 1839

Thos. Hareum Coms.
Alfred Cobb Coms.

Commissioner's Report
of
Sale of Nicholas
Cobb's Lands.

A. D. 1839

Nicholas Cobb Mill

Alfred
For Mr. Jethro Cobb

(St.)

In the name of God. Amen. I Nicholas Cobb of Southampton County & State of Virginia being sick and weak in body but of perfect mind and memory. Thanks be to the Almighty God for the same and calling to mind it is appointed for all - once to be as make and ordain this my last Will and Testament. First of all I desire for all my just debts and funeral charges to be paid out of my small Estate. Secondly I leave my loving Wife Mason Cobb one third of my real and personal estate his single life or widowhood - 3rdly I give and bequeath unto my four sons Jethro, Alfred, John M. Cobb Nicholas Cobb my Land I now possess to be equally divided amongst the four boys before named to them and their heirs forever. - 4thly I give & bequeath unto my son Jethro Cobb. One horse called Luke to him and his heirs forever. - 5th Item. I give & bequeath unto my son Alfred Cobb one filly called Jinnyp to him and his heirs for ever. 6thly I give & bequeath the balance of my estate to be equally divided between my three daughters Barbara Wiley & Susanna Cobb to them & their heirs forever. 7thly I desire my two sons Jethro & Alfred Cobb to have the use of two thirds of my Land until the two young boys come of age John M. & Nicholas Cobb, to take care & raise the said boys. - Lastly. I nominate & appoint my son Jethro Cobb my whole & sole Executor to this my last will & Testament revoking all will or Wills by me before made. In Witness whereof I have hereunto set my hands and seal this 24. day of September 1829.

Nicholas Cobb ^{his} (seal)
mark

Signed Sealed & declared
in presence of
Samuel Daughtery
Thos Hareum
Jesse ^{his} Gardner
mark

At a Court held for the County of Southampton the 20th day of February, 1837.

This last Will and Testament of Nicholas Cobb decd was proved by the oath of Thomas Hareum and Jesse Gardner, two of the Witnesses Thereto, and ordered to be recorded. And on the motion of Jethro Cobb, the only Executor therein named, who made oath and together with Thomas Hareum and Jesse Gardner his securities. entered into and acknowledged a bond in the penalty of Eight Thousand dollars, conditioned as the law directs certificate is granted him for obtaining a probate of said Will in due form.

Teste L.R. Edwards Clk

A Copy Teste L.R. Edwards Clk