1850018 SOUTHAMPTON COUNTY CHANCERY PAPERS

Stith et al vs. GHOLSON et al

4/1850

other SURNames: TURNBULL, Claiborne, Stanke, Taylor, Paschal, FREEMAN, Yates, Cary, Epes

To the Worshipful the County Court of Southampton sitting in Chancery, your complainants, John H Stith R D Turnbull and Lavinia his wife, D A Claiborne and Fanny his wife, Miles Starke and George Starke George Taylor, Henry A Taylor Lewis Taylor, Charlotte Taylor Margaret Taylor and ~~[illegible]~~ Lunsford A Paschal, and Cary Ann (formerly Taylor) his wife and George W Freeman and Ann his wife; the said George Starke and Margaret Taylor being infants sue by their next friend J H Cowper —

Humbly complaining shew unto your worships, that George B Cary late of this County, departed this life on the 26th July last intestate, and possessed of a very large personal and real estate. He left no child, no father, no wife, but one whole sister one half sister, a niece, the descendant of a deceased whole sister and the descendants of two half sisters, surviving — and these your complainants are advised are his whole and sole heirs — Charlotte S Chelson (formerly Cary) is the whole sister, your complainant Ann Y Freeman is the half sister being the daughter of the said George B Cary's ~~[illegible]~~ mother by Col Wm Yates her first husband — Your complts John H Stith and Lavinia Turnbull are children of Nancy Cary dec'd by her first husband John Stith, and your complts Fanny Claiborne, Miles and George Starke are her children by Belfield Starke her second husband — The said Nancy was half sister to the said George B Cary, being a child of his father by his first wife, and your complts George, Henry, Lewis, Charlotte, Margaret Taylor and Cary Ann Paschal (formerly Taylor)

are children of Peggy Taylor dec^{d} (formerly Cary) who was a half sister (in like manner) of the said George B Cary dec^{d}; and your compl^{ts} shew, that Ann Elizabeth Epes wife of B F Epes of Surrey County, in this state, is the daughter of Sally Cary dec^{d} full sister of the said George B Cary dec^{d}. Your compl^{ts} are advised that C L Gholson and B F Epes & Ann Elizabeth his wife, are each entitled to 2/7^{ths} of the estate of the said George B Cary, George W Freeman and Ann Y his wife to 1/7th - Your compl^{ts}, children of Nancy Stith to 1/7th, and your compl^{ts}, children of Peggy Taylor to 1/7th.

Your compl^{ts} further shew that the said Cary was possesed of three plantations - Boykin containing about 1000 acres, Nottoway containing about 1350 acres, and the Home Track containing some 2000 acres. The Home Tract however can not be divided with any propriety as the buildings &c constitute the chief value.

Your compl^{ts} are advised that this Court have the right to decree a partition of the said real estate and they file this Bill for that purpose. They are informed by those well acquainted with the said real estate that the two sevenths of C L Gholson and B F Epes & wife may be easily apigned; and that it is possible that there may be an apignment of 3 undivided sevenths to your compl^{ts}, but that the subdivision into three separate sevenths could not be made so as to operate justly and fairly — That this is clear beyond all doubt & they therefore pray a sale of the real estate which may be apigned to them

Your compl^{ts}, children of Nancy Stake and of Peggy Taylor, further shew to your worships, that while the said George B Cary left a great many acres of land, yet it is not of very great value and they charge that the dividend of each of them would not be over $300 - and this being so, they are advised that this Court has authority to order a sale of the said real estate, altho' the said George Stake and Margaret Taylor are infants - all the other parties interested being regularly before this Court and not objecting.

Your compl^{ts} therefore desire that the real estate of the said George B Cary may be divided & and two sevenths be allotted or apigned to C L Gholson, two sevenths to B F Epes & Ann Elizabeth his wife, and that the balance may be divided into three sevenths equal in value &c if practicable, and respectively apigned, but if the same may not be fairly & equitably done, that then the said three sevenths be sold by & Commissioners under the order of this Court & And even if the division be made into three separate parts of 1/7 each, it would be evident that these sevenths could not be again subdivided — and your compl^{ts}, children of Nancy Stake & Peggy Taylor, for that reason, pray a sale of their one seventh in the event the Commissioners find it practicable to make separate allotments of the said 3/7th.

To tender consideration of all which, and for as much as your complts are without remedy save in this Court where &c To the End therefore that justice may be done, they pray that C & Gholson and B F Epes & Ann Elizabeth his wife may be made parties defendants to this Bill and true answers make to the allegations thereof - That Comrs may be appointed to appraise & divide the lands of the said George Blany dec'd according to the rights of the parties - that a sale may be ordered of the 3/7ths of your complts, upon the usual credits if the same can not be subdivided into three parts, if it can be so divided, then that the 2/7ths of your complts, children of the said George Blanys Two half sisters may be sold &c - That said Comrs may make report &c to Court - And your complts as in duty bound will forever pray &c - May it please your worships to grant &c.

(Exhibits)

Filed in Clerks Office 1850 Mar. Decree as prayed 8/51 Rob's & others

C & Gholson & B Bills

258.

Thomas Hope &
vs
Frederick

The answer of Ed Gholson to a Bill exhibited in the County Court of Southampton against him & B. F. Eborn & wife, by Geo. W. Thomas & Ann G. his wife and others heirs of Geo. W. Cleary dec.

This respondent saving &c.
for answer to so much of said Bill as she is advised, it is material for her to answer says that she has no objection to the facts in said Bill prayed that the said Geo. W. Cleary
she believes that the heirs and their rights are properly set forth, and that she is willing that the prayer of the Bill shall be granted - and having answered &c.

Ed Gholson by
her atto W. H. Gholson

The answer of Benj. F. Eborn & Ann Elizabeth his wife, to the same cause -
These respondents saving to themselves & for answer to so much of the Bill as they are advised it is material for them to answer, say that they believe the allegations of the Bill are true, & they have no objection to the prayer of the Bill being granted & having answered they pray to be hence dismissed &c -

B. F. Eborn & wife
by W. H. Gholson their Counsel

Freeman & wife &c } In the County Court of Southampton.
v. } March Term 1850.
C & Gholson & a & } Decree.

This cause was this day docketed by consent of parties and by like consent came on to be heard on the Bill and Answers, and was argued by counsel: On consideration whereof, the Court doth adjudge, order and decree, that Robert Ridley Joseph H Barham, Samuel Drewry, ~~[illegible]~~ P Vaughan and Thomas Ridley, who are hereby appointed Commissioners for that purpose, any three of whom may act, do appraise and value the real estate of which George B Cary died seized & possessed, and that they so divide and allot the same as to give to Charlotte C Gholson two sevenths thereof in value, to Benjamin F Epes and Ann Elizabeth his wife two sevenths thereof in value - to George W Freeman and Ann Y his wife one seventh thereof in value, to the plaintiffs children of Nancy Tittle one seventh thereof in value and to the plaintiffs children of Peggy Taylor one seventh thereof in value. But should the said Commissioners find that they cannot make an equal and just apportionment of the said three sevenths respectively; then the Court doth adjudge order and decree, that the said Commissioners do assign said three sevenths to the plaintiffs jointly, and that the said commissioners

sell the said real estate so assigned ~~[illegible]~~ to the plaintiffs, after reasonable notice of the time and place of sale, at public

auction, on a credit of one and two years taking bonds with good security from the purchaser, and as a further security, retaining a lien on the land until the purchase money is paid +

And said commissioners will make report of their proceedings with any matters specially stated deemed pertinent by them or which any of the parties may require to be so stated.

+ The said Comrs in taking said bonds, will do so in such sums as to give to the Pffs Geo. W. Freeman & Ann his wife one third part of the amt of sales; to the Pffs children of Nancy Shelt, one third part - being to each one fifth of one third part, and to the plaintiffs children of Peggy Taylor one third part - being to each one sixth of one third, which bonds they will deliver to the parties respectively.

Freeman & wife &
v 3 Shelt &
Ed Shelton &c

March Term 1852

Freeman & Wife

Ghohn B Decree

1850 Supt Court

Freeman & wife
Shelton &c. 3 Decree

This day the
This cause came on again to be heard on the papers formerly read and the report of the comrs appointed to make sale of the real estate in the proceedings mentioned, and was argued by counsel. On consideration whereof the Court approving and confirming the report to which there is no exception doth adjudge, order and decree that the ~~sale be~~ the division & sales be finally closed between the parties and the Court doth further adjudge order and decree that the comrs make deeds to the purchasers. and that the costs of this suit be borne equally by the parties.

Freeman Whitaker
vs
Gholson & al
Repls

1850 April Court

Freeman wife &c-

vs

Gholson &c-

The undersigned Commissioners appointed by a decree of the County Court of Southampton, in this Case at March Term 1850, proceeded on the 20th day of March, to value & divide the lands of which Geo B Cary died seized & possessed and beg leave to submit the following report. They valued the plantation known as Boykins containing about 1037 3/4 acres at $3113-25- the plantation known as Nottoway containing about 1162 acres, embracing land purchased of Wm Parker (about 362 acres) at $3486 - Small tract on Creek near to Westbrook containing 107/4 acres at $200. Land purchased of J G Mason containing about 335 acres at $450. Home tract containing about 1722 acres at $5166- total valuation of land $12415-25- of which sum Mrs Gholson is entitled to 2/7ths or $3547-31 Dr Eppes in right of his wife to 2/7's or $3547-31 - The heirs of Peggy Taylor to 1/7 or $1773-60 - Geo W Freeman in right of his wife to 1/7 or $1773-60. the heirs of Nancy Starke to 1/7 or $1773-60 - They then assigned to Mrs Gholson, Boykins at $3113.25 and she is entitled to receive from the other heirs $434.06. they assigned to B F Eppes & wife, the Nottoway plantation at $3486- & they are entitled to receive from the other heirs $61.31 They assigned to the heirs of Peggy Taylor & of Nancy Starke and Geo W Freeman & wife, the small tract near to Westbrook at $200. the land purchased from J. G Mason at $450- the Home house tract at $5815- from which deduct $434.06 to be paid to Mrs Gholson and the sum of $61-31 to be paid to Dr Eppes, which leaves $5320.63 being 3/7's of the whole valuation The undersigned with the approbation of the said Geo W Freeman & wife and of all the other heirs interested in

the said 3/4's (the two infants acting by their guardians) assigned to John H Stith 335 acres, purchased of I Ly Mason at $450- with the like approbation 300 acres of sd land are to be laid off to Except H Barham (besides the small place already enclosed by him) the sd land to commence where sd Barhams land adjoins the sd land, runs to the residence of the late Gl Bleary and running down the road towards bays bridge, until by a parallel line running west, so as to include the sd 300 acres and for this land. sd Barham has settled with the parties and they are willing that a deed shall be made to him, Now there remained of the Home House tract assigned as aforesaid, between 14 & 1500 acres, which in obedience to the decree aforesaid & with the approbation of the parties, & according to previous notice, the undersigned proceeded to sell at public Auction on the 20th day of March 1850. on a credit of 1 & 2 years and Joshua Pretlow became the purchaser at the sum of $ 4005-00 —— the undersigned also proceeded to sell at public auction the small tracts of 10 3/4 acres near Westbrooks and William Westbrook became the purchaser at the sum of $ 70.00 The sd Pullen and Westbrook have paid the amt of their purchases, & the undersigned as their agent is now willing & ready to make a deed or deeds as may be required. (The sd John H Stith having also settled his purchase)

All of which is most respectfully submitted.

Ro Ridley
Thos. Ridley
Henry B Tindsham

As attorney and agent for all the heirs of Geo B Leary decd who are interested in the sale of his real estate - to wit Wm Ed Gholson, Geo W Freeman & wife, the children of Wm Stith and the children of Wm Peggy Taylor I have this day rec'd from R Ridley & H B Tindsham Esqrs. commrs the full amt of the sales of the real estate of the sd Geo B Leary decd - that is $4005- sale to Pullen - $450 to John H Stith $355 to Jos H Barham & $70- to Westbrook (the interest being deducted for cash) A deed may therefore now be made to the several purchasers

Thos. T. Gholson
April 15. 1850