

1886-13

Sanborn County - Chanery

Kindred, John vs Warrell, Julia
et al

"I divide real Estate if
practicable, if not, sold,
and proceeds divided."

(Warrell, George Eldridge
vs Warrell, William Robert)

Kindred

by

Marcell Fothergill

Deane

69.

(339.)

71

Kindred

W. } Bell. ans &c.

Morrell &c

1865 Dec. Decree as filed

1871 Mar. Rule & Comm.

1880 May 1st Decree to execute Decree
1882

Received by Clerk Circuit
Court Aug. 13th 1873

The joint and several Answer of Edward Beaton Julia Worrell George Eldridge Worrell William Robert Worrell and Eldridge Harrison Story the three last named being Minors, by L R Edwards their guardian ad litem appointed by the Court -

to a Bill in Chancery filed against them in the County Court of Southampton County by Jno Kindred

These Defendants for Answer to the said Bill say that they have no objection to the Appointment of Commissioners for the purposes prayed for - and having answered pray to be hence dismissed &c -

Kindred vs Worrell & others
Decree

Jno Kindred
Counsel for Defendants

This Cause was this day docketed by leave of Court and ^{the Court having appointed L R Edwards guardian ad litem to the infant defendants, &c.} Consent of parties and heard on the Bill together with the Exhibits therewith filed, the Answer of Defendants with Replication thereto, and was argued by Counsel - On Consideration whereof the Court doth order, adjudge and decree that Wm M. Beaton ^{Peper, Harrop, James J. Darden} and Benjamin B. Kindred be and they are hereby appointed Commissioners for the purpose - that they view the tract of land of which John Story did seized and possessed, adjoining the lands of Lewis Beck and others, in the County of Southampton - and if they deem it practicable and to the interest of the parties concerned they are ordered to divide the said land and allot or assign three fifths and one third of one fifth of the same to John V. Kindred - one third of one fifth ($\frac{1}{15}$) to Edward Beaton - one third of

one fifth ($1/5$) to Eldridge Harrison Story, son of
James Story deceased - One third of one fifth
($1/15$) to Julia Worrell - one third of one fifth ($1/15$)
to George Eldridge Worrell and the remaining
one third of one fifth to William Robert Worrell
the three last named children of Micky Worrell deceased.

If a division in kind be impracticable, the said
Peggy Learson is hereby ordered to sell the whole of the said
real estate at some public place in the neighborhood at
auction for Cash in gold or silver Coin having duly
advertised the same ~~and divide and pay over the net~~
proceeds, after defraying the expenses of obtaining and
executing this decree, in like manner as the law
was before directed to be divided ^{and} where any of the
parties ~~are~~ ^{are} minors and have no guardian such
one's share is to be deposited in the Clerk's office
of the County Court of Southampton for safe keeping -
~~that the said Peggy Learson, before proceeding to~~
~~execute~~ ^{that the said Peggy Learson, before proceeding to} make sale of the said real estate is required to ex-
cute, in the Clerk's office of the County Court of Southampton,
bond with sufficient security, in the penalty of Two
hundred dollars conditioned for the faithful discharge
of his duties as such Commissioner.

The said Commissioner is directed to report his proceed-
ing under this decree to the Court in and to a final decree.

To the Worshippful Justices of the County Court of
Southampton County - in chancery
December term 1865

Humbly Complaining sheweth unto your worships
your Orator John I Kinder that John Story departed
this life many years since intestate seized and possessed
at the time of his death of a small tract of land
containing about sixty acres more or less and bounded
by the lands of Lewis Vick and others in the said
County. The said John Story left as his only heirs
at law his children to wit George Story Lewis Story
Lydia Story (who intermarried with one Johnson) James
Story and Amelia or Milly Story (who intermarried
with one Worrell who has since died the said Milly surviving)

The said first three named, viz. George Lewis and
Lydia many years ago and subsequently to the death
of the said John their said father did grant and
convey all their several interests in the said tract
of land to Edward Beaton (copies of which deeds
are herewith filed and marked A, B & C as part of this
Bill) - the said Edward Beaton afterwards by his
Trustee William M Beaton conveyed all his
said interest in the said tract of land to your
said Orator as will appear by a copy of the deed
filed in the Clerk's office of said County (marked
D, and filed as part of this Bill) -

The said James Story has also died ^{intestate} since his
father the said John and left as his only heirs at
law Rebecca Lane's Story James Story and Eldridge
Harrison Story - The said Rebecca Lane has granted
and conveyed all her interest in the said land to your

Orator - the said James Story has granted and conveyed
all his interest in the said tract of land to the said Ed-
ward Beaton - The said Eldridge Harrison is still
a minor.

The said Micky Norrell has also departed
this life intestate, leaving as his only heirs at law Julia
Norrell George Eldridge Norrell and William Robert
Norrell, the ~~two~~ last named being minors -

Your Orator is advised that the said real
estate descended in equal portions ^{of the said John Story} to his ~~children~~ children
viz George Lewis Lydia James and Micky and
that the shares of those who have died have descended
to their children respectively per stirpes -

Your Orator is desirous of having the said real
estate divided in kind if practicable if not that the
whole subject matter be sold at auction and the
net proceeds be divided - and that Commissioners
may be appointed for that purpose, by the Honorable
Court of Equity in which only has your Orator any
remedy in the premises -

That the said parties herein named may be made
defendants to this Bill - Compelled to answer it -
That Guardians ad litem may be appointed to the
infant defendants - Compelled to answer it -

Grant such general relief as Equity may
deem fit and the nature of his case may require -

As in duty bound he will ever pray &c -

Yours &c
Complainant

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Richard & Thacker
Comrs Bond

... of the ...
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Know all men by these presents that we Peleg Carson

are held and firmly bound unto the Commonwealth of Virginia in the just and full
Sum of Two hundred _____ Dollars
Current money of Virginia, to the payment whereof well and truly to be made, we bind
ourselves, our heirs, executors and administrators, jointly and severally, firmly by these
presents. Sealed with our seals and dated this 18 day of December
A.D. 1865

The Condition of the above obligation is such that if the above bound
Peleg Carson as Commissioner appointed by a decree of the County Court of
Southampton County in a suit in Chancery then pending between John S. Kindred Plaintiff
& Edward Beaton & others Deft. for the sale of real estate at December Term
1865

shall faithfully discharge the duties of his said office or trust according to law, then
the above obligation to be void or else to remain in full force and virtue.

Signed, sealed and delivered
in the presence of the Court }
3

Peleg Carson (Seal)
John S. Kindred (Seal)
(Seal)
(Seal)

Southampton County Clerk's Office 18 December 1865.

This bond was acknowledged by the obligors therein & John S. Kindred the
Security made oath that his Estate after the payment of his debts is worth the
Sum of two hundred dollars as he verily believes.

J.R. Edwards Clerk

Kindred

{ Rule & Law

Harrell H

1877 June Court

Executed

W. L. Briggs

The Commonwealth of Virginia,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—GREETING:

We command you to summon

Peleg Barrow

if *he* be found within your bailiwick, to appear before the Judge of our *Courts* —
Court of Southampton County, at the Court house, on the first day of *June* ^{term}
next — to make report under the decree in the case of *Hindred & Worrell* ^{JP}
appointing him Commissioner to sell the land of John Story dec^d

And have then there this writ. Witness, OSWIN WHITE, Clerk of our said Court, at the Court-
House, this *18* day of *May* 1871, in the *95* year of the Com-
monwealth.

O. White

Kindred

4

Worrell

Report of Commⁿ

1880 Mar

Hundred

in

Warrell

The undersigned Commissioner appointed to sell the real estate in the proceedings mentioned, to wit the small tract of land of which John Stoy did seized containing about sixty acres, reports that he ~~and~~ after duly advertising the same sold the said land at ^{in said county of} Baykin's Depot ^{in the neighborhood of said land} on the first day of November 1866 - that Geo D. Hundred became the purchaser of the same for the sum of seventy five ^{in silver} dollars that sum being the highest bid - that said purchaser immediately paid the said sum to the undersigned and is now entitled to a deed for the said land -

Pelig Laroon Commr

Kindred
" }
Worrell }

This Cause was again heard, this day, on the papers formally read and the Report of ~~Belley~~ Carson Commissioner now filed by leave of Court and the Court, confirming said Report doth adjudge order and decree that the said Commissioner execute to Jno J. Kindred, the purchaser of the real estate in the proceedings mentioned, or to such person as he may direct a Deed with special warranty conveying the said real estate -

That the said Commissioner after defraying the ^{legal} expenses of executing said decree pay over the balance of the net proceeds of sale as follows $\frac{3}{5}$ and $\frac{1}{3}$ of $\frac{1}{5}$ to wit $\frac{10}{15}$ to Jno J. Kindred - one fifteenth to Edward Beaton - $\frac{1}{3}$ of $\frac{1}{5}$ to wit one fifteenth to Eldridge Harrison Story, son of James Story deceased -

$\frac{1}{3}$ of $\frac{1}{5}$ viz one fifteenth to Julia Worrell
 $\frac{1}{3}$ of $\frac{1}{5}$ viz one fifteenth to Geo Eldrige Worrell
& the remaining $\frac{1}{3}$ of $\frac{1}{5}$ viz one fifteenth to William Robert Worrell, the three last-named being children of Eliza Worrell deceased -

And the Commissioner is directed to report
to the Court in order to a final decree -

ch. 26

Hundred

or

Warrell

Deuce

May term 1880

To be entered

Geo. W. Benson.

240
120
1330

Kinder 20

M. J. Shree
Marrell

1886

May Term

To be entered

Geo. B. W. S.

✓

Kindred

m J. Deane

Harrell

It appearing to the Court that there has been no order in this Cause for seven consecutive years, it is ordered to be removed from the docket, with leave to any interested party to reinstate on motion.