

1889-09

Southampton County Chancery - Musgrave, R. N. et al vs Pope, Walter

Division of property

Musgrave, Hattie S. Pope

by
Prince, J. B.
G. A. L.

Musgrave & wife
vs. $\frac{1}{2}$ In Chancery.
Pope.

Bill & Exhibits.

Aug 15th 1884. filed

W. J. Bruce, p. q.

To the Hon. Geo. Blow, Judge of the Circuit
Court of Southampton County -
In Chancery.

Humbly complaining shew unto your
Honor your complainants R. N. Mus-
grave and Hattie S., his wife, That
H. P. Pope was in his life-time
seized and possessed of con-
siderable Real Estate lying in the
County of Southampton, among which
is a certain tract or parcel of land
known as the "White House Farm",
containing $1267\frac{3}{4}$ acres, more or less,
and adjoining the lands of J. Wm.
Ridley, Henry Ferguson and R. S. Pope,
and being so thereof seized & possessed,
sometime in the year 1877 departed this
life, leaving a last will and testament,
whereby he gave and devised the said
tract of land equally to his two daugh-
ters, Hattie S. Musgrave, formerly Pope,
the wife of R. N. Musgrave, and Lella
M. Pope, an infant under 21 years of
age, all which will more fully appear
from a copy of said last will and
testament, herewith filed as an exhibit
marked "A" & prayed to be read as a part

of this bill. Your complainants further state that the said tract or parcel of land is in their opinion susceptible of partition between the parties entitled thereto, but, if it be not, then your complainants desire the same to be sold, and the proceeds distributed between the parties according to their respective interest therein. In tender consideration whereof, and inasmuch as your complainants are without remedy save in a Court of Equity where such matters are peculiarly cognizable, your complainants pray that Lucia M. Pope be made a party defendant to this bill and compelled to answer its allegations, that some fit & proper person be appointed guardian ad litem to defend the interest of said minor; that the said Real Estate may be divided between the parties aforesaid, and your complainants' portion allotted to them; and, in case it be not susceptible of division, that the same may be sold & the proceeds divided between the parties entitled thereto, and that Your Honor will grant such other further & general relief as the nature of the case may

require or to Equity may seem meet.
And your complainants will ever pray &c.

W. J. Sebrill, p. q.

The answer of Lalla M. Pore an infant
by I. B. Prince her guardian ad litem
to a bill in Chancery exhibited against
her by R. M. Musgrave wife, in the
Circuit Court of Southampton County.

This respondent saving & reserving
&c. for answer to the said bill says
that she is an infant, & being such knows
nothing of the facts alleged in said
bill, & therefore, submits her rights to
the protection of this Court, & having an-
swered, prays to be dismissed &c.

I. B. Prince, Gdn. ad litem.

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I Harrison I Pope of the
County of Southampton State
of Virginia, revoking all other Wills
by me at any other time made hereby
declare this to be my last Will and
Testament.

Item¹ I commit my soul into the keeping
of God all mighty and humbly trust
I may find acceptance with him.

Item² I desire that my Executors hereinaf-
ter named after my death pay first
my funeral & burial expenses, and
then all other just debts against me.

Item³ I give and bequeath unto my beloved
wife Sally I Pope one fourth part
of my movied Estate - and the following
Chattel property to wit: my carriage
and the horses and harness belonging
to same my buggy & harness, one
hundred barrells of long corn, seven
thousand pounds blade fodder -
five thousand pounds pork, two
mules of her own choice, one yoke oxen
five cows & calves, two carts & wheels for
same, plows, gear & farming implem-
ents sufficient to work two horses -
my cooking utensils and my household
furniture of every kind Except my
secretary, five sows and pigs and all my

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sheep. The above I give to my beloved wife in fee simple.

Item 4th I loan to my wife Sallie A. Pope during her life my home place and the lands thereto attached embracing the Poplar field land and the Pope Field with all the wood land around the Pope field to the swamp that is a line between the Pope field and the Poplar field together with all other lands adjoining the original homestead tract not otherwise herein disposed of

Item 5th I give to my son Russell P. Pope and his heirs forever my plantation known as the "Old Quarters" which I bought of Jas. A. Myricks trustee. This farm and the one on which said J. P. Pope now lives for which I have during my lifetime made him a deed. I value at seven thousand dollars, and in the distribution of my estate, I desire that he shall be charged on his account as one of my devisees for the above lands at that valuation as an advancement.

Item 6th I give to my son Joseph B. Pope and his heirs forever, my secretary, this

with his residence and the farm thereto attached, including nine hundred acres of land for which I have made him a deed during my lifetime. I value at seven thousand dollars. and in the distribution of my Estate, I desire that he shall be charged his account as one of my devisees for the above, at that valuation as an advancement

Item 7th I give to my daughters Sally W. Pope and Lalla M. Pope equally to them and their heirs forever my Freehold or White House farm situated on Cottonway River near Jerusalem. This farm I value at ten thousand dollars. I further give in fee to the said Sally W. & Lalla M. Pope, three thousand dollars each, in money. In this devise these two daughters have each five thousand dollars in value of land and each three thousand dollars in money, making eight thousand dollars each a difference of one thousand dollars more than I have given to my sons R. P. & J. B. Pope. This difference I have made on account of my sons farms being well fixed up and on account of their education

being completed,

Item 8th I give to my son Charles K. Pope and his heirs forever the whole of my "Brown Place" which I value at seven thousand dollars. I also give him in fee two thousand dollars in money, making with the valuation of his land nine thousand dollars the difference here made is attributed to reasons given in latter part of Item 7th and I have further given him one thousand dollars more than my daughters Sally and Lalla to complete his education.

Item 9th I give to my son Thomas J. Pope, at the death of my wife to him and his heirs forever my home place with the lands thereto attached, as set forth in item 4. I further give him in fee my gold watch, and four thousand dollars in money. The farm and watch I value at seven thousand dollars. The reasons why I have given this Child four thousand dollars in money is he may not come into possession of his land for a long time, and I wanted to provide against such a contingency.

Item 10 I give to my daughter Emma Lou. Pope and her heirs forever the whole of my Richard Aarden place formerly owned by W. H. Nicholson, the old Aarden place on the Jerusalem Road, and my farm known as the Lamp Place. I value these farms at six thousand dollars. I also give her in fee three thousand dollars in money she being the youngest child. I have allowed in the gift of three thousand dollars, two thousand dollars for education and one thousand dollars to make her lands make up seven thousand dollars in valuation.

Item 11 After the aforementioned devices are fully paid I give to one Mary Jane Harrison Britt in fee five hundred dollars in money. The said party was formerly of this County but is now in Ohio and married.

Item 12 I desire that my Executors sell as soon as practicable on such terms as they may think best all my Estate not herein disposed of both real and personal,

Item 13 The proceeds arising from all my Estate not herein disposed of I desire

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Equally divided between my seven children
A. J. - J. B. - Sally H. - Isaac H. - Charles
K. - Thomas J. - and Charlie Lou Pope
between them and their heirs forever.
Hence I hereby constitute and appoint my
Sons. A. J. Pope - J. B. Pope & my friend
J. B. Prince my Executors to this
my last Will & Testament.

Witness my hand this 29th day of Jan'y 1877
Witnesses, *H. A. Pope* *Deed*
Joseph E. Bailey,
William A. Reed
Lodis it.

In addition to the land
bequeathed my wife in Trust of my will
I also loan her during her life the
parcel of land purchased by me of
Charles Knight containing about
Sixty acres formerly belonging to
Estate Jno. Pope Decd. At the death of
my wife I give the said land to my
Son Thos. J. Pope in fee Besides the
Executors named in Item 14. I further
appoint my wife Sally A. Pope
Executrix, and Wm. E. Myrick Executor
and I hereby request of the Court in
which my personal representatives
may qualify not to require any

security of either of them
Witness my hand and seal July 12th 1877.

Witness } H. J. Pope Seal
J. L. Barham }
J. C. Bailey }

Codicil No. 2.

It is my wish and
desire and I hereby expressly author-
ize my Executors to continue the
business I am now engaged in with
Geo. W. Prince and J. C. Bailey for
the period of three years from
Oct. 1st 1877. and for that purpose I
authorized them to loan the said
parties limited amount of money
when they go to purchase their
fall stock of goods and the said
parties will repay the same on or
before Jan'y 1st of each year succeed-
ing the loan as has been their custom
with me but in the exercise of this
request I give my Executors the
use of prudent discretion that is
to say, should the said Prince and
Bailey continue to use the same pruden-
ce and diligence in their respective
employments, I wish my connections
with them continued as above indica-
ted. Witness my hand and seal

Aug: 23rd 1877.

H. I. Pope *decd*

Witnesses
Wm L. Gray
C. W. Pope

At a Court held for the County of Southampton on the 19th day of November A. D. 1877.

The last Will and testament of H. I. Pope decd. and the codicils thereto annexed were presented to the Court for probat and the said Will was proved by the Oaths of Joseph E. Bailey and Wm L. Bell, the subscribing witnesses thereto and the codicil dated July 12th 1877. was proved by the oaths of J. L. Barham and J. E. Bailey the subscribing witnesses thereto and the codicil dated August the 23rd 1877. was proved by the oaths of Wm L. Gray and C. W. Pope the subscribing witnesses thereto: Whereupon the said Will and codicils are ordered to be recorded. And Sally A. Pope the Executrix therein named refusing to take upon herself the burden of the execution thereof. On the motion of R. P. Pope, J. B. Pope Wm E. Myrick

and J. B. Prince. four of the Executors
named in the said Will who made
oath according to law and severally
entered into and acknowledged a bond
in the penalty of Twenty Five
Thousand dollars each conditioned
according to law which bond is
ordered to be recorded, Certificate
is granted the said R. Pope, J. B. Pope
Wm E. Myrick and J. B. Prince
for obtaining a probat of the
said Will and Codicils in due form
The Executors not being required
to give Security in the said Will. the
Court requires none

Teste L. R. Edwards Ck.
Attest
J. B. Prince Clk

Statement of
Price & Labor
etc.

R. N. Musgrave & Hattie D., his wife,
have, by deed of bargain & sale, dated
June 20/89 and recorded in the
Clerk's office of Southampton, conveyed
their interest in the land in the
proceedings mentioned to Jos. D. Musgrave,
& it is, therefore, unnecessary for
this suit to be further proceeded with.

Prinice & Sebell,
P. 9.

Musgrave & wife
vs. 3 Report.
Pope

1885. April 30" filed -

Musgrave & wife

vs. $\frac{3}{4}$ Report of Commissioners.
Pope.

We, the undersigned, three of the Commissioners appointed by the Circuit Court of Southampton County, to lay off and divide the Real Estate in the bill mentioned in the above-styled suit, beg leave to submit the following Report.

That, after having first been duly sworn, we have divided the said Real Estate into two parts - to-wit, Lot No 1 lying on the East side of the County road leading from Jerusalem to Boykin's Depot, containing by estimation, 667 acres, more or less & adjoining the lands of J. Wm. Ridgely, and Henry Ferguson; and Lot No. 2, lying on the West side of the aforesaid County road, containing by estimation 600 acres, more or less & adjoining the lands of R. D. Pope, Thos. Vaughan Sr., & the Nottoway Tribe of Indians -; That, after making the said division, we have by ballot, allotted and assigned to Hattie S. Musgrave, the wife of R. N. Musgrave, Lot No 1. bounded and described as aforesaid; and to Lalla M. Pope, Lot No 2, bounded and described as aforesaid; That, we are of opinion that the buildings, and the small excess of acreage on lot

No. I will fairly & properly compensate
for the amount of waste land on this
said lot; and that, having regard to
quality and quantity, lots No 1 & No 2
are equal in value.

All which is respectfully submitted.

Thos. Vaughan Esq

Henry Ferguson

J. W. Riley

Commissioners

Musgrave & wife
on $\frac{1}{2}$ Deere.
Pope

Nov 2nd 1884

Is be entered

Les. Blow.

Entered

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Musgrave wife

vs. $\frac{1}{2}$ Deere -
Pope.

This cause came on this day to be heard upon the Complainants' bill, exhibits therewith filed, the answer of the infant defendant, by J.B. Prince her guardian ad litem, and was argued by counsel. On consideration whereof, the Court doth adjudge order and decree that Thomas Vaughan sr., J. Wm. Ridley, Henry Ferguson, Thos. J. Fox and Geo. W. Turner, who are hereby appointed Commissioners for the purpose, any three of whom may act, having first been duly sworn, do proceed to lay off and divide the Real Estate in the bill mentioned & described, into two equal parts, having regard to quality & quantity, and assign one of said two parts to Hattie S. Musgrave, the wife of R. N. Musgrave, and the other of said two parts to Lalla M. Pope. But, if the said Commissioners should find it impracticable to divide said land between the aforesaid parties, or should be of opinion that the interest of the said parties would be promoted by a sale of the same, in such case they are required

to report the facts upon which their opinion is based, to the Court, and, also, what in their opinion is the fee-simple value of the whole of said Real Estate; and in either case they are required to report their proceedings under this order to the Court. And the said Commissioners are authorized & empowered to employ ~~the~~ competent surveyor to assist, if necessary, in making said partition -

Musgrave wife - 3

or. } decm.

Pope. }

Nov. Decm 1889.

In the entered -

C. H. Hill

Entered page 357

Musgrave Turpe

47.

Pope &c.

This day this cause came on to be further heard upon the papers formerly read and upon the ^{written} statement of Prince & Sebrice, attys. filed among the papers in the cause, and was argued by Counsel. On consideration whereof, and it appearing that nothing further remains to be done in this cause, it is ordered that the same be removed from the docket.

~~59 53 57 100 100~~

Musgrave & wife
~~56~~

vs J. Stat. Rules
53

Pope

In Southampton Circuit Court.

R. N. Musgrave and Hattie S.

his wife..

Pltffs.

against

Lalla M. Pope, a minor by

J. B. Pruett, her ad litem. Defts

} In
} Chancery.

1884

July 29. Summons issued to Aug. Rules..

Aug. Rules. Bill exhibits filed.. J. B. Pruett assigned her ad litem to infant's care. Answer of Infant filed by her ad litem. Final Replication thereon. Decree nisi vs. care.

Sept. Rules. Cause set for hearing as to deft.

Musgrave & wife
vs. $\{$ Deane.
Pope

This day this cause came on again to be heard upon the papers formerly read and upon the Report of Thomas Vaughan Sr., Henry Ferguson and J. Wm. Ridley, three of the Commissioners appointed in this cause, by the Circuit Court of Southampton, at the November term 1854 thereof, of the partition of the land in the proceedings mentioned, between the parties entitled thereto, agreeably to the terms of said decree, and was argued by counsel. On consideration whereof, it appearing to the Court that in the partition made by the said Commissioners, Lot No. 1, containing by estimation 667 acres, more or less, and adjoining the lands of J. Wm. Ridley and Henry Ferguson, it being that portion of the "White Horse Farm", lying on the East side of the County Road leading from Jerusalem to Boykin's Depot, fell to the share of Hattie S. Musgrave, the wife of R. N. Musgrave; and Lot No. 2, containing by estimation 600 acres, more or less, & adjoining the lands of R. S. Pope, Thomas Vaughan Sr., and the Nottoway Tribe of Indians, it being that part

of the "White Horse Farm", lying on the West side
of the said County Road, fell to the share
of Lalla M. Pope, the Court doct adjudge
order & decree that the said Report of the
said Commissioners be confirmed, And
that the partition in manner & form
aforesaid made be held firm & stable.
And it is ordered that the Costs of this suit
be proportionally borne by the parties
thereto. And nothing further remaining
to be done in this cause, it is ordered that
the same be removed from the docket.

Musgrave twice
vs. $\{$ Decree.
Pope

May Term 1855.

To be entered—

W. S. C. Bruce, p. q.

Musgrave Trilo
71 { Sp. in Chy

Poko

1884. Augt Rules.
Cir: Ct

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County—Greeting:

WE COMMAND YOU TO SUMMON

Lalla M. Pope, a minor,
by J. B. Prince, her G^m ad litem—

to appear at the Clerk's Office of our Circuit Court of Southampton county, at the Rules to be holden for the said Court

on the first Monday in

August

next, to answer a bill in Chancery exhibited against

in our said Court by

R. N. Misgrano and Mattie S., his

wife

And this

she

shall in no wise omit; and have then there this writ.

WITNESS, J. B. PRINCE, Clerk of our said Court, this

29th

day of

July

, 188*8*

in the

109th

year of the Commonwealth.

Test.

J. B. Prince C. C.

Musgrave & wife
or. $\frac{1}{2}$ Notice.
Pope.

Sept 25. 1884

I acknowledge service
of within notice -

J B Parier for
as litigant -

20 J.B. Prince, guardian ad litem for
Lalla M. Pope —

Take notice that on the 20th day of
Sept. 1884, I shall apply to the Judge
of the Circuit Court of Southampton
County, at his residence in the City of
Norfolk, for an order in the Chancery
Cause now depending in said Court, in
which we are plaintiffs and you are
defendant, appointing Commissioners
to lay off and divide the Real Estate
in the Bill mentioned —

R. N. Musgrave

Hattie S. Musgrave

By counsel.