1889-12 Southampton County Chancery - Pope, Abner S. By - Guardian - Prince, T.B. vs Pope, Abner, S. etals

sues for sale of 2 pieces of property - then invest proceeds

Infants
Pope, Harrison P.
", Newitt, H.
", Mary J.
", Virginia A.
By
Barrett, R. H.
G-A-L.

To the Hon C. W. Hill. Judge of the Circuit Court of Southampton Co. In Chancery.
Complaining sheweth unto your Honor J. B. Prince Guardian of Abner S. Pope, an infant under six years of age that the said Pope is entitled in fee to 1¼ acres of land at Branchville depot on the Seaboard & Roanoke Rail Road in Southampton Co. and to 3/4 of an acre of land at Newsoms on said Rail Road. That upon the said land at Branchville is a store house and gin house. that upon the land at Newsoms there are no improvements. The said Pope owns a large farm in said County and the reversion in another farm. and has considerable personal estate. In the event of the death of said Pope under 21, and without issue, according to his fathers will, H. P. Pope Newit H., Mary J. and Virginia A. Pope would be his heirs and distributees. Your complainant states that a sale of the lots at Branchville and Newsoms would promote very much the interests of the said infant for the following reasons. Because

Neither parcel of said property is a source of any revenue to said infant, nor has either been for several years. Your complainant has made repeated attempts to rent out the store house and the other lot and cannot do it. He has to pay Insurance and taxes on both parcels of land, and instead of being profitable, they are a dead expense. Neither parcel is appreciating in value, and the store house and gin house are depreciating in value every year. whereas if they could be sold, the money arising from the sale could be profitably used and made a source of actual revenue. All the parties who would be the heirs of said Pope are infants under 14 years of age. The rights of no person will be violated by a sale of said lots. To the end therefore that justice may be done and inasmuch as your complainant is without remedy in the premises except in a Court of Equity where matters of this kind are properly cognizable, he prays that Abner S. Pope, Harrison P. Nevit H. Mary J. & Virginia A Pope all infants under fourteen years of age may be made parties defendant to this bill, that a proper guardian ad litem may be appointed to defend the infants, that the said guardian ad litem may be required to answer upon oath - that the said parcels of land may be sold and the proceeds of sale properly invested under directions of this Court. that all proper orders and decrees may be made and all proper accounts and enquiries directed - and for such other, further, general & special relief as the nature of this case may require or to Equity shall seem meet. And as in duty bound your Complainant will ever pray &c. May it please the Court &c.

L. B. Prince Gdn of
Abner S Pope -

Prince Sebrell p.q.

Southampton County to wit.

This day personally appeared before the undersigned, a Comr. in Chancery for the Circuit Court of the County aforesaid, the above named I. B. Prince Gdn of Abner S. Pope, plaintiff in the foregoing bill and made oath that he believes the statements therein contained are true. Given under my hand this 24 day of Oct. 1887.

B. F. McLemore
Comr in Chancery &c

Pope's Gdn
vs J B Bice &c
Pope &c

Prince & Sebree
p.q.

Popes Gdn ~~150~~ 108

do } Stat: Rules

Popes

J. B. Prince Gd'n Abner S. Pope

vs

Abner S. Pope - Harrison P. Pope - Newit H Pope Mary J. Pope and Virginia A. Pope. infants by ~~B. F. McLamon~~ R. H. Barrett Gd'n ad litem

1887 Sept: 17 - Sum iss'd to Oct: Rules

" Oct. Rules: Process ret'd Executed.

Bill + Ex: filed - ~~B. F. McLamon~~ R. H. Barrett appointed Gd'n ad litem - ~~answer of~~ Gd'n ad litem - filswer of infants by Gd'n ad litem - filed - Gen'l replication

" Nov: Rules: ~~Cause~~ answer of Gd'n ad litem fil'd - Cause set for hearing

Popes Gdn
vs } 3
Popes &c

Commrs Report

Commissioners Office,
Jerusalem, Va. Feb'y 29. 188

The undersigned, in pursuance of a decree entered in the cause of Pope's G'dn vs Popes, &c., by the Circuit Court of Southampton County at its November Term 1887, a copy of which is hereto attached, directing a Commissioner of said Court, among other things, to "enquire whether it would be to the interests of the infants for the lands in the proceedings mentioned to be sold or not, and also, the evidence upon which he basis his conclusions", would report that, after careful consideration of the depositions of witnesses, taken on the 22nd. day of October 1887, and filed with the papers of the above entitled cause, it is his decided opinion that the lands should be sold and the proceeds of sale invested in some safe security from which the parties interested might realize a fair and profitable revenue. For several years the property has yielded nothing whatever in the shape of rents or other income; but, on account of *taxes* *and* *insurance*, it has been, and, is likely to continue to be, an actual expense. As it is, unoccupied and being under the immediate control and supervision of no prudent and judicious management, but subject, at all times, to the wanton trespass of both man and beast, it must depreciate very rapidly in value; and, therefore, a sale deferred much longer, would result in realizing an amount therefor far less than what might now be obtained. The property now is a disadvantage, but a sale thereof, would be decidedly an advantage, since the proceeds therefrom might be utilized for the immediate benefit of the party entitled to them. The witnesses examined are good and reliable gentlemen well acquainted with the property in question, one of them having owned part interest in the lot at Branchville, and their evidence, in the opinion of the Commissioner, is entitled to favorable and weighty consideration. With these reasons, for his opinion, the undersigned Commissioner would respectfully submit this report.

Wm. H. Parker,
Commr in Chancery.

To the
Circuit Court of
Southampton County

Commr's fee
$5.00 charged
to plaintiff

Paid, W. H. P.

130

Pope's Gdn

vs } Depositions

Popes et.

1887 Oct. 25" filed

B. F. M. C.C.

The depositions of J.E. Bailey and others taken before me W.H. Parker a Com: in Chancery for the Circuit Court of Southampton County, pursuant to notice hereto annexed at Jerusalem Va on the 27th day Oct: 1887, between the hours of 8 a.m and 6 p.m to be read as evidence in behalf of I.B. Prince Gdn of A.S. Pope in a certain chancery suit depending in the Circuit Court of Southampton, wherein I.B. Prince Gdn of A.S. Pope is plaintiff and A.S. Pope and others are defendants.

Present. Prince & Sebrell attys-
for pltffs-
R.H. Barrett Gdn ad litem for
the infant defdts.-.

J.E. Bailey, being duly sworn deposes and says as follows-.

(1).Q. What is your age, where do you live, what is your occupation & do you know the parties to this suit?-

Answer. I am 33 years of age, live at Branchville, Va., engaged in farming and know the parties to the suit.

Q Do you know the Store-house & lot belonging to A. S. Pope at Branchville, Va., and also the lot belonging to A. S. Pope at Newsoms, Va.,

A. I do.

Q Do you or Do you not think that the interests of the infants would be promoted by a sale of the said lots and the investment of the money under the order of this Court?

A. I think it would be to their interests to have the lots sold.

Q. What are your reasons for thinking so?

A. My reasons are these: the houses on the property at Branchville, Va., are depreciating in value, there is no rent being received for the property, it is a source of no revenue, it is not likely to appreciate in value, money is being paid out annually for insurance and taxes; and, if the property were sold the money arising from the sale would yield a revenue every year. The lot of land at Newsoms is a small one— not quite an acre— has no buildings upon it at all; and, is a source of no revenue whatever.

Q What do you think is a fair value of the lot at Branchville, Va., and also, of the lot at Newsoms, Va.,

A. I should think that the lot at Branch-

ville ought to sell for $1500.– or $2000.–
and the lot at Newsoms for $100.– or $150.

Q.– Do you think that the rights of any person would be injured by a sale?

A.– Know sir! I do not; and, further this deponent saith not.

J. E. Bailey

Geo. E. Beaton being duly sworn deposes as follows:

Q.– What is your age, where do you live, what is your occupation, and do you know the parties to this suit?

A.– My age is 49, years, live at Branchville, Va., am engaged in farming and the business of a Rail-road agent for the Seaboard road, and know the parties to this suit.

Q.– Have you heard the deposition above of J. E. Bailey; and, if so, do you concur in the correctness of the same.

A.– I do, except as to the value of the property at Branchville,– I think that for that property $1500.– is a fair valuation; and, further this deponent saith not.

George. E. Beaton.

Q.– What is your age, where do you live, what is your occupation and do you know the parties to this suit?

A. Having been first duly sworn, I would state, that I am 48 years of age, am Clerk of the courts of the county, live in Southampton County, at Jerusalem, Va., and, know the parties to this suit.

2 Have you seen the deposition, in this case, of J. E. Baily, and do you, concur in that deposition?

A. I fully concur in the deposition of J. E. Bailey, except as to the value of the lot at Newsoms: that lot ought, I think, to sell for $200. or $250. and, further this deponent saith not.

B. F. McLemore

I, Wm: H. Parker, a Commissioner in Chancery for the Circuit Court of Southampton County, in the State of Virginia, do hereby certify that the foregoing depositions of J. E. Bailey, Geo: E. Beaton and B. F. McLemore were duly taken, sworn to and subscribed before me at the place and time mentioned therein and in the caption thereto, pursuant to the annexed notice. In witness whereof I have hereto set my hand this 22nd. day of October 1887.

Wm: H. Parker, Commissioner in Chancery.

Commr's fee charged to plff $3.00 Paid,
W. H. P.

Witness J E Baily - .90c
" G. E. Beaton .90c
paid. Geo E Beaton.

Pope's G'dn
McLemore
vs Sum
Pope &als:

1887. Oct: Rules
Cir: Ct:

Executed Sept. 26th/87
by delivering a copy of
this summons to B.F.
McLemore. Guard ad litem
J.W. Williams Sheriff

The Commonwealth of Virginia,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON Abner S. Pope - Harrison P. Pope - Newit H. Pope - Mary J. Pope and Virginia A. Pope - all infants, by B. F. McLemore, G'dn 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 October next, to answer a bill in chancery exhibited against them in our said Court by J. B. Prince, G'dn of Abner S. Pope -

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

Witness, B. F. McLemore ~~J. B. PRINCE~~, Clerk of our said Court, this 17" day of Sept 1887, in the 112" year of the Commonwealth.

Teste: B. F. McLemore C. C.

Know all men by these Presents, That we J. B. Prince, W. J. Sebrell and M. W. Turner

are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of Four thousand Dollars, 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. And we, the obligors herein, hereby waive the benefit of our homestead exemption as to this obligation, and also waive any claim, right or privilege to discharge any liability arising under said bond in any currency, funds, counter-claims or offsets other than legal tender currency of the United States.

Sealed with our seals and dated this 16 day of April A. D. 1888

THE CONDITION of the above obligation is such that if the above bound J. B. Prince, who was appointed a Special Commissioner, by decree of the Circuit Court of Southampton County - entered in vacation. April 5th 1888 - in the Chancery Cause of Pope's Gdn &c v Pope &c. - to sell to the highest bidder, the tracts of land in the bill mentioned, shall faithfully perform the duties required of him by the aforesaid decree, and those of any other decree which may be entered in this Cause

~~shall faithfully discharge the duties of~~ ~~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 presence of the Court.

J. B. Prince SEAL

W. J. Sebrell SEAL

M. W. Turner SEAL

SEAL

Pope's Guardn 124

Tr. } Comr's Bond

Pope &c.

1888. Apl 16. filed.

B. F. M. a.c.

Pope's Gdn 115
vs
Pope &c.

Answer of
Gdn ad litem

1887. Oct. 25. filed
B. F. M. C.C.

The answer of R H Barrett Gdn ad litem to A. S. Pope and others to a bill of complaint exhibited in the Circuit Court of Southampton Co, against himself & others by I. B. Prince Gdn of A. S. Pope

This respondent for answer to said bill says. That he is personally acquainted with the lots asked to be sold in the plaintiffs bill, and he thinks the allegations of the bill are true and that it would be to the interests of the infant to have the same sold. And having answered he prays hence to be dismissed &c.

R. H. Barrett
Gdn ad litem

Sworn to before me.

B. F. McLemore C. C

Pope Gdn

vs. } Notice.

Pope &c

I acknowledge legal service of this notice

R. H. Barrett

Gdn ad litem

To R H Barrett Gdn ad litem for A S Pope & others

You are hereby notified, that on the 22 day of October, in the year 1887, at the office of W H Parker ~~B. F. McLEMORE~~, in the village of Jerusalem, Southampton county, Va., between the hours of 8 A. M. and 6 P. M. of that day, I shall proceed to take the depositions of J E Bailey and others, to be read as evidence in my behalf in a certain Suit in Chancery depending in the Circuit Court for Southampton county, wherein I am Pltff and you are deft; and if, from any cause, the taking of the said depositions be not commenced, or, if commenced, be no concluded on that day, the taking thereof will be adjourned from day to day, at the same place and between the same hours, until the same shall be completed.

Your obedient servant,

J B Prince Gdn A S Pope
by Counsel

Popes Gdn
vs &c
Pope &c.

Answer of
Infants by Gdn
ad litem

1887. Oct. 25 filed
B. F. M. c.c.

The joint and several answer of A. S. Pope & other infants, by R. H. Barrett Gdn ad litem to a bill of Complaint exhibited against them in the Circuit Court of Southampton by I. B. Prince Gdn of A. S. Pope-.

These respondents saving and reserving &c for answer to said bill, say that they are infants, and being such submit their rights to the protection of this Court- and having answered they pray hence to be dismissed-&c

R. H. Barrett
Gdn ad litem-

Pope's Gen

2 } Orders

Popes Gr

Pope's Gdn vs Pope &c — Costs —

Summ 20 — 5 Copy 50 ~~70~~

receipt 18 - atty 10 - Dock 18 - Rules
1.00 - return 35 - filing bill 15 -
Answer of Gdn adlitem 15
" of Infant 15 - replication
15 - Depositions 15 - Comm's
report 25 - report of Sale 25
3 Decrees & Copies $2.16. taking
& record Comm's Bond $1.74
Certificate 25 - taxing Costs 40
Filing away papers 25

Clk C.P. $13.77	8 56
Sheff	2 50
Summ &c	16 50
	27 56
	3.00
	30 56

pd & marked on Deposition Comm^rs W H Parker

Pope's Gdn
vs
Pope &c.

Certificate

Pope's Guardn
against } In Chancery.
Popes &c.

I, B. F. McLemore, Clerk of the Circuit Court of Southampton County do certify that the bond required of J. B. Prince, Special Commissioner in the above styled Cause - has been executed with security deemed sufficient by me. Given under my hand Apl. 16. 1888.

B. F. McLemore C.C.

1888

L B Pruner. Comr -

To J M Williams Dr.

Duplicate

To selling lot of A. S. Pope at Newsom.	$5.00
" selling lot of same at Branchville	5.00
	10.00

Paid -.

J M Williams Crier

Suffolk, Va., 1888

Mr J B Prince Comr

To Suffolk Herald, Dr.

Fine Job Work a Specialty.

TERMS:
Transient Advertisements and Subscriptions, Payable in Advance.
Annual Advertisers are Required to Settle Quarterly.
Job Work, Cash on Delivery.

88

Apl 20	To Publishing Notice of Sale of Real Estate at Newsoms and Branchville Pope Gdn &c vs Pope 4 inches 4 weeks	5 00
	" Printing 50 Bills	1 25
		$ 6 25

Recd Payment

J E Brooks

May 21" 88

Popes Gdn
vs 3 Decree
Popes

1887. Nov Term
Cir: Ct

To be entered.
C W Stree

entered. 280

Pope
vs } Report of Comr. I. B. Prince
Pope

In this Cause, Your Comr. begs leave to submit the following report. That pursuant to decree of Apl 5. 1888, Entered in vacation, I have sold the lot of land at Newsoms and Branchville. The lot at Newsoms was bought by J. L. Barham for One hundred and twenty five dollars. It contained about 5/8 of an acre. with no improvements on it. He has paid the whole of the purchase money in Cash.

The lot at Branchville was purchased by Mrs S. A. M. James for $230. It contained about 1 1/4 acres. with no improvements. The purchaser has paid one half of the purchase money and given a bond for balance which I return herewith. I have paid out nothing, because I did not know whether the sales would be confirmed or not. I recommend the confirmation of both.

Respectfully Submitted.

Nov 1. 1888.

I. B. Prince
Comr.

To Judge Cir: Ct.
Southampton Co }

Popes Gdn
vs 3 Decree.

Pope &c

This Cause this day came on to be heard on the Complainants bill, the answer of R H Barrett Gdn ad litem to the infants, sworn to according to law, the formal answer of Abner S Pope and the other infants (all being under 14 years of age) by R H Barrett appointed their Gdn ad litem the depositions of J E Bailey and others with general replication to said answers and was argued by counsel. On consideration whereof the Court without passing upon any question, doth adjudge order and decree that a Comr of this Court enquire report whether it would be to the interests of the infants for the lands in the proceedings mentioned to be sold or not – And also the Evidence upon which he bases his Conclusions – together with any other matters specially stated deemed pertinent by himself or required to be so stated by any interested party – And by consent of parties given in Court, it is ordered that this Cause may be heard in vacation.

Popes Gdn
vs } Decree.
Pope &c.

This day this Cause came on to be further heard on the papers formerly read, and the report of Comr. W.H. Parker made in pursuance of an order entered at the Nov Term 1887, to which there is no exception, and was argued by Counsel. On consideration, the Court doth confirm the said report, and it appearing that it is to the best interest of the parties concerned that a sale of the parcels of land in the proceedings mentioned should be made, the Court doth adjudge order and decree that I. B. Prince who is hereby appointed a special commissioner for the purpose proceed to sell by public auction after 20 days public notice of time and place the parcels of land in the bill mentioned, upon the following terms, one half cash. balance on a credit of twelve months, the purchaser to give bond for the deferred payment with security to be approved by the Commissioner, and the title to be retained for the deferred payments. But the said

Commissioner will not proceed to act under this decree until he shall have executed before the Clerk of the Circuit Court of Southampton a bond in the penalty of four thousand dollars, with security to be approved by said Clerk, conditioned to faithfully execute this and any further decree in this cause. And the said Commissioner will also obtain from the said Clerk his certificate that the said bond has been executed, and publish said certificate with the advertisement of sale. The said Commissioner will make report of his proceedings..

Pope's Gdn
vs &c Decree.
Pope &c.

In vacation
March 1888.

To be entered.
C W Hill
April 5/1888

To the Clerk of the
Cir. Ct: of Southampton
Co.

Pope
vs Z Deane
Papers

1888 Nov Term

To be entered.

C W Bell
Nov 9, 1888

322

Pope
vs } Decree.
Popes

This day this cause came on to be again heard on the papers formerly read, and the report of Comr. I B Prince, reporting sales of lots in the bill mentioned, to which there is no exception and was argued by Counsel. On consideration whereof, the Court doth confirm the said report, and doth decree that the sales therein reported be held firm & binding between the parties. The Court doth further decree that I B Prince collect the bond of S.C.&M Jones returned with his report, and that he then execute deeds with special warranty to the purchasers of the land, that out of the proceeds of sale he pay the costs of this suit & of the sales, and the balance he pay over to the qualified guardian of Abner S. Pope. and make report to Court.

Popes Exor
vs } Decree
Pope

1889. Nov Term

To be entered.
C W Shei

Entered page 858

Roper Exor

vs } Decree

Roper

This day this cause came on to be further heard on the papers formerly read, the report of Com. I. B. Prince filed Feby 15. 1889. reporting collection of purchase money for the lots at Branchville & Newsoms, payment of costs &c. Execution of deeds and payment of balance of $267.09 to himself as Exor of A. S. Roper, to which report there is no exception and was argued by Counsel. On consideration whereof the Court doth adjudge order and decree that the said report be confirmed. Nothing further appearing necessary to be done in this cause, it is ordered to be removed from the docket.

S. A. M. James
to my order
I. B. Prince Com.

To J. B. Prince, Special Commissioner to sell the land of Abner S. Pope at Branchville, Va.

You are hereby directed and authorized to execute the deed for the lot of land at Branchville Va. purchased by me, to me during my natural life and at my death to the children of J. C. James or their survivors in fee. Given under my hand and seal

Feby 14. 1889.

Sallie A M James

Pope Gdn
vs
Pope et. al.

3d Report of Com. J. B. Prince.

In this cause your Com. submits the following report. That he has collected all the purchase money from Mrs. S. A. M. James and executed to J. L. Barham a deed with special warranty for the lot at Newsoms, and to Mrs James a deed with special warranty for the lot at Branchville. The deed to Mrs James is made to her during her life and at her death to the children of J. C. James or their survivors in fee, according to her written request, which request is filed with this report. I have received the following sums of money from the purchasers, viz.—

By cash from J. L. Barham		$125.
" " " Mrs S. A. M. James		230.
		$355
To Commissions —	$16.10 ✓	
" Court Costs	30.56 ✓	
" Auctioneer	10.00 ✓	
" advertising	6.25 ✓	
" 2 deeds —	10.00	
" attor fee —	15.00	87.91
Bal for distribution —		$267.09

This balance I have transferred to

myself as Gdn for A. S. Pope.. There is nothing
further to be done in this cause..

Feby 14. 1889

Respectfully submitted.

I. B. Prince
Commr.

To Judge Circuit Ct.
Southampton Co.

Pope Gdn 112
vs
Pope &c.

Report of Commr.
I. B. Prince
Commissioner

Filed Feby 15.
1889.