

1893-80

Southampton County Chancery - Whitehead, Robert et al vs Screws, Jane et al

Divide real estate

Whitehead, Henry

" , William

" , John

" , Jesse

" , Frances

" , John

Cobb, Silvanus

" , Deborah

Rowe, John

Caroline Rebecca
(wife)

Minors { Whitehead, George H.
" , James M.
" , Anna R.

Edwards L. R.

G. A. L.

~~132~~

~~77~~ 61

Whitehead et al

vs $\frac{3}{3}$ Bill & Exhibits

Rowe & wife et al

1878 April Rules

Griffin pg.

To the Hon George Blom. Judge of the Circuit Court
of Southampton County - In Chancery -

Your Complainants Robert Whitehead, Henry
Whitehead, William Whitehead, John^{W.} Whitehead
Jesse Whitehead, Francis Whitehead, John Whitehead
Children of James Whitehead deceased, Silvanus
Cobb and Deborah his wife, residents of ^{the} said
County, respectfully represent and shew unto your
Honor as follows,

That some time about the year 1865
James Whitehead of said County departed ~~from~~ this
life after having made and duly executed his last
Will and Testament, which was admitted to record
at the term of the County Court of the said County,
a certified copy of which is herewith filed as
a part of this Bill and marked "A", in which
the said Testator left to his wife Elizabeth Whitehead
all of his "Estate, Goods & Chattels" during her life, and
after her death said Estate was to be divided equally
(excepting two small legacies therein mentioned) among his
Children. That the said Testator did seize and possessed
of a certain tract of land lying in the County of Southamp-
ton Virginia, containing one hundred and seven acres
more or less, and bounded by the lands of A. G. Patton
Jr Williams and others,

That since the death of the said James Whitehead
-head, to-wit: in the year 1876, his widow, the said
Elizabeth Whitehead also died, and the said tract
of land remains in kind and undivided among
the heirs at-law of the said Testator. That the following
parties are the heirs at-law of the said Testator

to wit: Robert Whitehead, Henry Whitehead, William Whitehead, Jesse Whitehead, John Whitehead, ~~John Whitehead~~, Francis Whitehead, Jane Searns, daughter of said estate, and who intermarried with Searns Deborah Ann (Whitehead) who intermarried with Sylvanus Cobb, Caroline Rebecca (Whitehead) who intermarried with John Rowe, and Jordan Whitehead, who has since died, and whose widow is also dead, leaving the following parties, Grand Children of the said James Whitehead - as his heirs at law, To wit - John W Whitehead, George H Whitehead, James M Whitehead, and Anna R Whitehead. The last three being minor Children of the said Jordan Whitehead.

That your Complainants being amenable to a Court of Equity as this is, when each cases amenable to early Cognizance, pray your honor to appoint suitable and discreet persons, as Commissioners to divide the real Estate of the late James Whitehead, in kind if practicable, among the parties entitled thereto, if not practicable and advantageous to the parties to be divided in kind, to report that fact to the Court with such recommendations in the premises as they may think necessary.

That the said last-named parties, To wit: Jane Searns, widow of the late Searns, John Rowe and Caroline Rebecca his wife, George H Whitehead, James M Whitehead, and Anna R Whitehead, the last three being minors, by L R Edwms or their Guardian ad litem, may be made parties defendants to your Complainants bill and required to answer specially the allegations therein contained. And that your honor will grant such further and general relief as the nature of the case may require and to Equity may seem meet. And as in duty bound your Complainants will ever pray &c

Griffin Jy

~~#15~~ ~~51~~ ~~57~~ ~~58~~ ~~59~~
Whitchhead &c
v. } Stat. Rules 13

Rowe & wife &c

In Southampton Circuit Court.

Robert Whitehead Henry Whitehead William Whitehead John Whitehead
Jesse Whitehead, Frances Whitehead, John Whitehead Children of James
Whitehead deceased, Silvanus Cobb & Deborah his wife

against

Jane Screws, John Rowe & Caroline Rebecca his wife, George A. Whitehead
James M. Whitehead & Anna R. Whitehead the last three infants by L. R.
Edwards their Guardian ad litem

1878 March 23^d Summons issued

" April R. Summons ret. Executed on Defts Rowe Wife & Jane
Screws. Bill filed L. R. Edwards assigned Gov ad litem
to infant Defts. Decree nisi & Defts Rowe Wife & Screws

" May " (taken on last Monday in May) Bill taken for confessed as to
Defts Rowe Wife & Screws & Cause set for hearing as to them.

" " J. Decree for partition &c.

1880 May - Death of Henry Whitehead suggested

Paul and John C. Smith, Executors, May Term 1882

Robert Whitehead & others Defts
against
John C. Smith & others Pls
In Chancery
Sept

This day this Cause came on again to be heard
in the presence of the Court, and the report of
Special Commissioner Robert Whitehead, this
day filed by him & the Court and it was
argued by Counsel, on Consideration whereof
the Court confirming the said Report, doth
Judge, Order, and decree that Commissioner
Whitehead, after paying the Superior Costs
of this Suit, pay out of the funds now
remaining in his hands of the Cash pay-
ments made on the day of Sale of the
Tract of Land mentioned in said Report, to
the heirs at Law of James Whitehead decd.
as they are severally entitled, thereto, except
in the case of the Infant Children of
Jesse Whitehead decd. one of the heirs at
Law of the said James Whitehead decd.
Whose distributive Share, the said Court is
directed to pay to their legal Guardians
And the Court doth further Judge,
Order and decree, that the said Court
Whitehead, shall withhold for Collection,

after filing with the Clerk of the Court a receipt
for the same, the Bonds filed with his Report, as
the Generalty become due, & payable, and
thence the functions of said Land,
desire to pay, and to said Bonds before
their maturity, the said Commissioner is
hereby directed to withdraw them as
due & collect the amounts, due, with
interest thereon, & pay the same to the
heirs at law & the said James White.
He is also directed, as to balance
of Bonds now in hand, taking their receipts
for the same, & reports to Court his
proceedings under this decree.

A Copy
J. K. Tyler J. C.

Colt \$10 44
Sh 4 50
Law 14 50
\$31. 44

Whitehead
vs
Sons & Co

Whitehead & Co

vs

Ross & wife

for one

Nov Term Cir Ct 1880

To be entered

There is nothing in this
record tending to show that
it would be to the interest
of the infants - that their
proportion of the land in the
Meadows mentioned should be
sold. The record is not
clear on this point.

Whitehead and others

vs

Rover and others

This cause was again heard this day on the papers formerly read and the report of Special Commissioners A G Butler, J W Williams and E L Slory, to which no exceptions have been filed, and was argued by Counsel On Consideration whereof the Court Confirming said report doth adjudge order and decree that the tract of land mentioned and described in the bill of the Complainants as lying in the County of Southampton be sold at public auction after due publication of the time and place of said sale at four or more public places in Southampton County and advertised for four weeks in the Franklin Gazette a newspaper published at Franklin in the County of Southampton to the highest-bidder. Said sale to take place at Jerusalem in said County before the Court-house on some Court day, and on the following terms to wit: One fourth of the purchase money to be paid in cash, the balance on a credit of one two and three years in equal installments the purchaser to give security for the deferred payments with security approved by the Clerk of this Court. With a waiver of the homestead, title to be retained until all the purchase money is paid.

And for the purpose of executing this decree Robert Whitehead is hereby appointed a Special Commissioner, to sell said tract of
over

land, but he shall not proceed to act as such Commissioner until he shall have been entered in the Clerk's office of this office, before the Clerk there of a bond in the penalty of Twelve hundred dollars conditioned for the faithful performance of the provisions of this decree and all other decrees to be entered in this suit. And the said Robert-

Whitehead Commissioner, so appointed, is ordered to report to this Court his proceedings herein in order to a final decree.

And ~~it is~~ the death of Jesse Whitehead having been suggested at the last term of this Court who left Sarah, L. ~~Edward~~ Whitehead, Jesse Whitehead, Edick Whitehead & Joseph Whitehead, the last three being minors, as his heirs at law the Court doth, ^{further} advise order and decree that L. R. Edwards Clerk of this Court be appointed directed to protect their interests in their suit as their next-friend.

To the Hon Great Snow Judge of the Circuit Court
of Southampton County

We the undersigned Commissioners appointed at the
May Term of the Circuit Court 1878, to enquire into
and report whether partition can be conveniently
made of a tract of land mentioned and described
in the bill of the Complainants in the suit of
Whitehead and others against Rowe and others
could be divided in kind among the heirs
at law of James Whitehead deceased, we have
to make the following report: That, after
careful examination ^{of the premises} and enquiry concerning
as to whether a division in kind could be
made of the tract of land of which the said
Whitehead died seized and possessed, we find
that such a division cannot be made, because
of the number of the parties interested therein, nor
can it be allotted to any of the parties who will accept
it and pay therefor to the other parties, either in whole or
in part, because of the inability of ~~any~~ of the parties
to pay for the same, and your Commissioners report further
that they believe a sale of said land will ^{promote} ~~benefit~~ the
interest of the parties entitled to a division of the same,
in as much as there is no one of the parties whose interest
is sufficient to justify either one of them to keep up the
land by improvement or otherwise, and in the absence
of such improvement, said tract of land is greatly
depreciating. We therefore recommend to the Court that
said land be sold at public auction for the benefit
over

of the heir of the said James Whitehead deceased,
as a sale of that character would, in our
opinion, best promote the interest of the parties entitled
therein.

Respectfully Submitted

A. G. Patton

J. W. Williams

E. L. Story

} Counsellors

Whitehead v. s.

vs

Amr. v. s.

Counsellors Report-

A. G. Patton

E. L. Story

J. W. Williams

Freed May 5th

This day Personally appeared before me, John F.
Dittman and made oath that he delivered John
Rowe twice a copy of this Summons on the
30th day of March 1878. Given under my
hand this 30th day of March 1878.

Jas R Tyler
Commissioner in Chy

Whiteheads

vs } Summt in
Chy.

Rowe wife & others

1878 April Rules.

Executed by delivering
Jane Stevens a copy of
this Summons on the 29th
day of March 1878

W W Porter 29th

The Commonwealth of Virginia:

To the Sheriff of Southampton County---Greeting:

WE COMMAND YOU TO SUMMON *John Rouse and Caroline R. his wife, Jane Scuss, George N. Whitehead, James N. Whitehead and Ann R. Whitehead, the last three in fault.*

if _____ to be found within your bailiwick, 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 *April Rules* to answer a bill in Chancery exhibited against them in over said Circuit Court by Robert Whitehead, Henry Whitehead, William Whitehead, John Whitehead, John Whitehead, Jesse Whitehead, Frances Whitehead and Silvanus Cobb and Selrah R. his wife

and have then and there this writ.

Witness, **Littleton R. Edwards**, Clerk of our said Court, at the Court House this *23rd* day of *March* 187*8*, in the *102nd* year of the Commonwealth. *M Edwards Clk.*

Whitehead & as

vs

Ross & wife

Upon the suggestion of the
death of Jesse Whitehead this cause
was continued & be revived in the name
of the said Whitehead & children by their
next friend

Whithead & Co

vs

Rowe & wife

Jane Whithead
decease suggested

To be entered

Geo B. B. B.

Know all men by these presents, that I, James Whitehead, of the County of Southampton and State of Virginia, being of both Sound Mind & Memory, do hereby make and Ordain this my last will & Testament in manner and form as follows, to wit,

1st It is my will and desire that all my just debts should be paid.

2^d To my son Elliott Whitehead I give and bequeath the sum of Forty six dollars & Ninety five Cents, over and above the proportion which may accrue to him from a Subsequent division of my effects.

3^d To my daughter Elizabeth Whitehead, I in like manner give & bequeath no further but

4th And lastly it is my will & desire that my wife Elizabeth Whitehead shall have and hold my entire Estate, goods and Chattels, during her life, & I direct & that no sale of my property goods or Chattels be made till after the decease of the said Elizabeth Whitehead, after which I desire a fair sale and a just & equal division of all the proceeds arising from such sale, (after Elliott Whitehead and Elizabeth Whitehead shall have received their extra portions according to the 1st & 2nd articles of my will,) then an equal division of the residue between all of my lawful heirs. I also do hereby appoint & Ordain my wife Elizabeth Whitehead & my son Henry Whitehead Executors of this my last will and Testament. In Testimony Whereof, I hereunto set my hand and Seal this 1st day of May A.D. 1843.

Witness,
James Whitehead, (Seal)

Samuel B. Williford }
 Jeremiah Williford }

At a Court held for the County of Hampshire,
 the 16th day of October 1843. The last will and
 Testament of James Whitehead dec. was proved by
 the Oaths of Samuel B. Williford & Jeremiah
 Williford, the Subscribing witnesses thereof & ordered
 to be recorded. And on the Motion of Elizabeth
 Whitehead the Executrix therein named, who made
 Oath & together with James I. Bryant & Harrison
 I. Moore, her Securities, entered into and ack-
 nowledged a bond in the penalty of Four hundred
 dollars, Conditioned as the law directs;
 Certificate is granted her for obtaining a
 probate of the said will in due form.

Teste,

J. K. Edwards Ck

A Copy of

Teste,

Jas R. Tyler J. C.

(Dec 30)

"Acting Clk"

James Whitehead's
 Executors
 &
 James I. Bryant
 &
 Harrison I. Moore

Whitehead & others

Q. S.

Rowe & wife & others

Answer of George A
Whitehead, James M.
Whitehead, and
Anna R Whitehead
infants by Maj L. R.
Edwards their Juror
ad litem

Whitehead et al

^{vs}
Rowe & Wife et al

The answer of George & Whitehead, James M. Whitehead and Anna R Whitehead, infants, by Maj L R Edwards their guardian ad litem assigned them by the Court to defend their interest in this suit to the foregoing Bill filed against them and others in the Circuit Court of Southampton County by Robert Whitehead and others.

The defendants saving and reserving to themselves all benefits of just exceptions & said Bill, answer and say that being infants under 21 years of age, and being ignorant of the law, they submit their interest to the care and protection of the Court.

And having answered pray to be hence dismissed &c

J R Edwards
Gm. ad litem J^r

Whitchard & als
29 } Dance
Rowe & als

May Inn 1898

To be entered

Geir Blod

