

1797-013

Chancery Causes'. Eley Fulgham, by & c. VS Allen Fulgham

Isle of Wight County

To the Justices of the Peace of Wright County,

Sitting in Chancery —

Eley Tulehame.

infant under the age of 21 years, by John Towlin his next
friend, complaining, Shews — That his father Michael
Tulehame has lately died leaving a last will & testament,
which has been since duly proved in the Court of this County
& of which a copy, duly attested, is hereto annexed as a part
of this bill — That in it the Testator devised all his land
in this County, to the Complainant & his brother Allen Tulehame
in fee simple, to be equally divided between them, so
as to assign that part whereon the Testator formerly resided
to the Complainant, & the other to Allen, — but directed
that Allen should have the use of the whole of it till
the Complt should attain the age of 21 years upon cer-
tain terms & conditions. — & That the Complt, being
desirous of obtaining his just rights in the said land,
after called on the other devisee Allen for that
purpose & requested him to comply with the will of
his father upon this subject — But ~~notwithstanding~~
~~notwithstanding the said Allen has~~, the said Allen has
not only positively refused to take the land until the
Complt shall arrive to the age of 21 years upon the
terms & conditions mentioned in the will, but has also
hereto, under various pretences, refused & still refuses to
suffer or agree to a division thereof — Where-
fore, & for as much as the Complt is only & properly
relievable in a Court of Chancery, — & in order
that the s^d Allen Tulehame may answer this bill — That
a division of the said land may ^{be} now had between him
& the Complt agreeably to the will of their father
or that ~~the said Allen~~ the said Allen may be compelled
or that ~~he may~~ come forward & comply with the
terms & conditions annexed to the estate devised to

...the Compt's age of 18 years — & that the
Compt may have such other & further relief in
this case as may seem proper — He calls for
the Compt's writ of Subpoena &c

To the bill exhibited in this Court by Eley Fulg-
ham, an infant, by John Tomlin his next friend,
Compt, agt Allen Fulgham, Deft, the following
answer is given — The Defendant admits the bill
of the Compt to be true, & having considered the de-
vice to him of the whole of the land mentioned in the
bill from the Testator's death to the time of the Compt's
attaining the age of 18, under the terms & conditions
annexed to it, too disadvantageous to be accepted, —
therefore declines taking it; & is willing that the
land should now be divided between the Compt
& himself as the Compt has prayed for, having
for this purpose the sanction of this Court, —
of ~~the Court~~ to be dispensed &c

I the name of God amen. the 26th day of January in the
year of our Lord 1794 I Michael Fulgham, of New Wight County,
and parish of Newport being sick and weak in body but of perfect
mind and memory, thanks be given unto God, Therefore calling
unto mind the mortality of my body, and knowing that it is
appointed for all men once to die, do make and Avow this
my last Will and Testament, that is to say, principally and first
of all, I give and recommend my soul into the hands of God, that
gave it and for my body I recommend it to the earth to be
buried in a Christian like and decent Manner, at the discre-
-tion of my Executors nothing doubting but the General resurrection
I shall receive the same, by the mighty power of God, and as
touching such worldly Estate wherewith it hath pleased God
to bless me with, I give devise and dispose of the same in
the following manner and form (to wit) Item I give and
bequeath to my daughter Kell and I nes and her Heirs lawfully
begotten of her body forever, One Negroe Girl named Esther,
also One small feather bed and furniture, One Cow and a
yoke, that is called Ham and One loom that is in the house
to her and her Heirs forever, — Item I give and bequeath to my
son Allen Fulgham, One Negroe boy named Jacob to him &
his Heirs lawfully begotten by him forever, also One feather
bed and furniture whereon he commonly lies, One Walnut
chest, One Cow with calf that was called his, One bay mare,
and One Gun, to him and his Heirs forever, — Item I give and
bequeath to my daughter Betsey Fulgham, One Negroe Girl
named Fann, and One by the name of Cole, to her and her
Heirs lawfully begotten of her body, also One feather bed and
furniture whereon she commonly lies, One pine chest, One loom,
One brimble Cow that wears the bell for yearling to her &
her Heirs forever, — Item I give and bequeath to my son Eley,
One negroe boy named Jee, and One Negroe Girl by the name
of Rejick to him and his Heirs lawfully begotten by him, also One
feather bed and furniture, whereon I commonly myself, One poplar
chest, and all that is therein, and four Pound Cash, in the
stead of a Cow and Yearling, and all that part of his
Grand

Grandfather Tamlin's Estate, that falls to me, also twelve
pounds Cash at the age of Eighteen to buy him a horse
all this to him and his heirs forever — I then I give and
bequeath to my two daughters above mentioned, all that
part of my Estate that come from their Grandfather, Uncle,
and Aunt to them and their heirs, also I give to my two
sons Allen Fulgham and Eley Fulgham, my whole tract
of Land, to be equally divided, and my still also to my said
two sons, but to remain on the plantation, where she now
stands but be for the use of both my sons, the plantation where
I now live, I give to my son Eley Fulgham, and the other to
my son Allen, to them and their heirs forever, but this much
to be reserved, — I lend the plantation that I do give to my
son Eley to my son Allen, to make what profit he can off
till such time that my son Eley, arrives to the age of Eighteen,
at which time he is to receive his Estate, if his Guardian
or I think him capable to take care of it, —
I leave my negroe woman Hannah, and negroe boy, —
my old mare to remain on the plantation that I now live,
to ~~help~~ work to help raise the children, and to pay for the
schooling of my son Eley, there to remain, and to work untill my
son Eley, arrives to the age of Eighteen, that is to say, sixteen years
from the present date, I desire that my son Eley should have
half the profit that can be made clear the Expences, at such
times the negroe woman Hannah is to be sold, and the money
Equally divided between my four children (Viz:) Holland
Jones, Allen Fulgham, Petsey Fulgham, & Eley Fulgham, and
such as pots, pewter, and all other Household furniture such
as is not given in legacies to be appraised and laid off in lots,
and each child to draw for his lot, I do hereby appoint John
Tamlin, and John Woodward Executors of my whole and sole
Estate, also I appoint John Tamlin Guardian to my son Eley, as
Witness I have hereunto set my hand and seal the Day and date
first written —

Signed Sealed & declared
in presence of the
Subscribers Viz:

John Woodward
Jesse Fulgham
Mills Stevens

The words I desire that my son Eley
should have half the profits that
can be made, clear of the Expences
before mentioned is interlined before
signed —

At a Court held for Isle of Wight County the 2^d Day
of January 1799. — This will was presented in Court
and proved by the Oaths of John Woodward, Jesse
Fulgham, and Mills Stevens the Witnesses thereto
and ordered to be Recorded —

A Copy Teste

J. Young Dec. Sec.

D. Allen & Mills
Fulgham

Will
Fulgham's

Copy Michael

Fulgham

v. } Bills

Fulgham

— Answer.

May '97

Induly. Decree

Aug. '97

Rept. sub. & Decree &c.

Isle of Wight County

May Session 1797.

Eley Fulgham an infant under the age of
twenty one years by John Famlin his next friend

Compl.

against

Subhancing

Allen Fulgham

Deft.

By consent of the parties by their Counsel, the bill and answer in this Cause are filed, and heard thereon, whereupon it is decreed and ordered that Jesse Fulgham, John Woodward, James Johnson Senr. and Matthew Famlin or any three of them taking with them the surveyor of this County, make equal division between the Complainant and the defendant, of the land in the Bill mentioned, and assign to the Complainant that part whereon the Tutor formerly resided, and the other to the defendant, and make report thereof to the Court in view to a final Decree.

Attest Teste of

Gentlmen According to the Last will of Michael Fulgham Deced wherein he desires the division of his lands between his two sons Allen Fulgham and Eley Fulgham we have met and with the assistance of the Surveyor have made and equal division of the lands of the sd Testator that is to say beginning at a Dogwood standing nine poles southward from the old original corner of John Smiths thence for the dividing line between the Brothers Allen and Eley running a course North 70th East along a line of new marked Trees to a Dogwood a corner Tree of Thorton Turner which corner is now a corner between the two Brothers Allen and Eley Fulgham.

Done the 2nd Day of May 1797

John + Fulgham

Matthew Famlin

James Johnson

John Woodward

Fulgham 10. friend

as: } copy done

Fulgham

August 1997.
Copy with volume notes
-ingby -

Fulgham 10. friend
as: }
Fulgham 2

Michael Tullyham died leaving a Will directing an equal division of his land betw. his sons Allen, & Eley. The latter is under age. J. Lomlin his next friend.

Get a copy of the Will & proceed in friendly suit in Ch^{ty} to obtain a partition.

Persons to act as Comm^s. Jesse Tullyham, John Woodward, Capt. James Johnson sen. & Math. Lomlin.

W^m. M. M. Robinson. I request you to act for me in obtaining a partition of the land above-ment^d as above proposed. —

Witness

Asa Woodley

Allen & Tullyham
marks

^X
Tulgham
v. 3 memo.

Tulgham

— for pretty
sent in Ch^{rs}