1867-003

EXR. OF SAMUEL R. HARRELL VS J.F.J. MITCHELL & O.H. SAVAGE

1867

NANSEMOND COUNTY
(SUFFOLK)

CHANCERY CAUSES

SURNAMES: MORGAN,

Morgan Ex of Hanna

vs

Intervenor &c

Exhibit filed
with Bill

withdrawn

Norfolk, Va. October 25 1866.

M J. R. Kibby

To The Norfolk Virginian, Dr.

(J. RICHARD LEWELLEN & CO.)

To Advertising

October 5	H. A. Morgan exr complainent against Mitchell	4 sqr-4 wks	$7 00

Received payment
J Richd Lewellen & Co

Nansemond County to wit:

I, Henry A. Morgan Executor of Saml. R. Harris dec'd, being sworn do declare that J. H. J. Mitchell and O. A. Savage, justly owe to his Testator the sum of Four hundred & fifty dollars, with Interest from the 1st day of January, 1862, subject to a credit of $300. on the 18th of February 1862, due by Bond payable to Jas. K. Cotten & now belonging to said Testator's Estate —

That the said Demand is just, and that there is present cause of action therefor, and that both the defendants are as he verily believes, non residents of Virginia, and that he believes that the said J. H. J. Mitchell, has estate belonging to him in Nansemond County, wherein the said suit is — to wit: a Tract of Land in Nansemond County, containing by estimation Two Hundred & Sixty-six & ½ acres, more or less, and adjoining the Lands of Wm. B. Whitehead, Bernard's Mill Pond & others.

This affidavit is made to obtain an attachment under the law against non Residents —

1866. Septr. 10th Sworn to before me in my Office.
Peter B. Prentis Clerk

H. A. Morgan Exr.
of S. R. Harris dec'd

Henry A. Morgan
Esq.
vs
Schlichenmeyer
J. F. J. Mitchell &
O. H. Savage

Filed 10th Sept. 1867
Clk

I, J. Richd Lewellen, Editor of the "Virginian" a Newspaper published in the City of Norfolk, in the State of Virginia, do hereby certify that the order hereto annexed, has been published once a week, for four successive weeks in the Newspaper aforesaid.

Given under my hand this 5th day of November 1866.

J. Richd Lewellen

VIRGINIA.—At rules held in the Clerk's office of the Circuit Court of Nansemond County, on Monday, the 1st day of October, 1866:

Henry A. Morgan, executor of the Last Will and Testament of Samuel R. Harrell, deceased, Complainant,

against

J. F. J. Mitchell and O. H. Savage, Defendants,

IN CHANCERY.

The object of this suit is to recover of the defendants, $450, payable on the first day of January, 1862, subject to a credit of $[illegible] paid on the 18th day of February 1862, and to subject the real estate of the defendant, J. F. J. Mitchell, in the county of Nansemond, to the payment of the same. The plaintiff having filed his bill and the defendants not having been served with the summons in this suit, or with the attachment thereon, and it appearing by affidavit filed that the defendants are not residents of the State of Virginia, it is ordered that the said defendants, J. F. J. Mitchell and O. H. Savage, do appear here within one month after due publication hereof, and do what is necessary to protect their interest, and that a copy of this order be published in the "Norfolk Virginian," a newspaper published in the city of Norfolk, once a week for four successive weeks, and posted at the front door of the Court House of Nansemond county, on the first day of the next County Court.

A Copy—Teste:

PETER B. PRENTIS, C.

JOHN R. KILBY, p. q. oc5—law4w

Please sign Receipt to me

P.B.P

Henry A. Morgan,
Exr: &c

vs

Sentch: & Pub:

J. F. J. Mitchell &
O. H. Savage

Virginia: At Rules, held in the Clerk's office of the Circuit Court of Nansemond County, on Monday the 1st day of October 1866:

Henry A. Morgan Executor of the Last Will and Testament of Samuel R. Harrell deceased. Complainant.

against. } In Chancery

I. F. J. Mitchell and O. H. Savage. Defendants

The object of this suit is to recover of the defendants $450. payable on the first day of January 1862. subject to a credit of $300. paid on the 18th day of February 1862, and to subject the real Estate of the defendant I. F. J. Mitchell, in the County of Nansemond, to the payment of the same. The plaintiff, having filed his Bill, and the defendants, not having been served with the summons in this suit or with the attachment thereon, and it appearing by affidavit filed that the defendants, are not residents of this State it is ordered that the said defendants, I. F. J. Mitchell and O. H. Savage, do appear here within one month after due publication hereof and do what is necessary to protect their interests; and that a Copy of this order, be published in the "Norfolk Virginian", a news paper published in the City of Norfolk, once a week for four successive weeks; and posted at the front door of the Court House of Nansemond County, on the first day of the next County Court:

John R. Kilby. p.q.

Teste:

Peter B. Prentis. Clerk

Henry A. Morgan,

Ex. &c.

vs. } or. Pub

J. F. J. Mitchell & Ors.

Savage

The Commonwealth of Virginia,

To the Sheriff of Nansemond County---Greeting.

YOU ARE HEREBY COMMANDED TO SUMMON J. F. J. Mitchell and O. H. Savage

to appear at the Clerk's Office of our Circuit Court for the County of Nansemond, on the first Monday in October next, 1866, being rule day, to answer a bill in chancery, exhibited against them by Henry A. Morgan, Executor of the Last Will and Testament of Samuel R. Harrell deceased

and unless they shall answer the said bill by the next rule day thereafter, the Court will take said bill for confessed, and decree accordingly.

And have then and there this writ. *Witness*, PETER B. PRENTIS, Clerk of our said Court, at his Office, this 10th day of September 1866, and in the 91st year of the Commonwealth.

Peter B. Prentis, *Clerk.*

Sheriff will, in his return, note the day on which this process is executed on each Defendant.

Memo:

The Sheriff is hereby directed to attach the land in Nansemond County belonging to the defendant J. F. J. Mitchell containing by estimation, Two Hundred and Fifty-six and a half acres, more or less, and bounded as follows: by the lands of Wm. B. Whitehead, Bernard's Mill pond, & others.

Teste,
Peter B. Procter, Clerk

Mch. 69

Henry A. Morgan
Exr. of Samuel R.
Mansell, decd.

vs.

Sum'n in Chy. &c

J. F. J. Mitchell &
O. H. Savage &c.

To October Rules 1866.

Po: S. Ho: 1 day 14

Cir: Co

By virtue of this process, I did, on the 14th day of September 1866, attach the land in Nansemond County belonging to the defendant J. F. J. Mitchell containing by estimation, Two Hundred and Fifty-six and a half acres, more or less, and bounded as follows: by the lands of Wm. B. Whitehead, Bernard's Mill pond & others — The within named J. F. J. Mitchell & O. H. Savage are in custody of the Commonwealth

Thos Eley Shff

Morgan Co. of Harris Head

vs

Mitchell & Savage

Proper affidavit having been made in this case, The Clerk will endorse on the process an order to the Sheriff of Hammond County to attach the land in Hammond County, belonging to the defendant J. H. J. Mitchell situated in said County and containing by estimation Two Hundred and sixty-six and a half acres, more or less and bounded as follows, by the lands of William B. Whitehead, "Bernard's Mill pond" & others.

John R. Kelly
plts. Atty.

Dec. 10 1866

Directions for
clerk.

To the Hon: Richard H. Baker, Judge of the Circuit Court of Nansemond County – in Chancery sitting –

Complaining, shew unto the Court, Your Complainant Henry A. Morgan ~~xxxxxx~~, Executor of the Last Will and Testament of Samuel R. Hanell deceased – Your Complainant respectfully represents to the Court and says That J. T. J. Mitchell and O. H. Savage, on the 18th day of February 1861 executed their writing obligatory to Jas. K. Costen for four hundred and fifty dollars, payable on the first day of January 1862, and that on the 18th of February 1862 there was paid on said Debt the sum of Three hundred dollars – (which writing is filed herewith & marked (A).) That the said Debt was thereafter transferred ~~by Costen~~ to said Samuel R. Hanell and became his property – That the said Henry A. Morgan has duly qualified as Executor of said Samuel R. Hanell dec'd: That the said Debt (subject to said Credit) is now due, and that there is present cause of action thereon, and that the said Debt is a just one: That the said J. T. J. Mitchell and O. H. Savage are non residents of Virginia, and that the said J. T. J. Mitchell has estate in the County of Nansemond, Virginia, where this suit is pending, to wit: a tract of Land in Nansemond County, containing by estimation Two Hundred & Sixty-Six & a half acres, more or less and bounded by the Lands of William B. Wheelhead, Bernard's Mill pond, and others ~~~~

And your Complainant prays that the said Land may be made liable to the payment of your Complainants' demand, by sale or otherwise –

In consideration whereof, and as this Court has jurisdiction – To the End your Complainant

pray that the said J. D. J. Mitchell and C. L. Savage, non residents, as aforesaid, may be made defendants hereto, and be compelled to answer the allegations herein: That all proper orders of publication may be made in the cause, and that the Lands aforesaid may be sold or otherwise disposed of, to pay the demand aforesaid, and that all further relief may be granted Consistent with Equity &c.

John R. Kilby P. Q

Kirby Co. V

Henry N. Morgan Ex.
of Saml. A. Harris dec'd

vs. Bill

J. H. J. Mitchell &
A. H. Savage

Nam? Cir.. Ct.

Morgan, Extr: &c
vs Ch: Notes

Mitchell Sol:

1866. Sept: 10th. Affidavit filed - & Sumt. in Ch: with allock' &c ret. on Oct: Rules '66

" Octo: 1st Bill & Exhibit filed - Or: Pub: award'd 6 " copies:

" Nov: 6th. Or: of Pub: having been published and posted according to law & no cause, cause set for hearing on motion of Sol Gl's: Atto:

1867. Mch: 18th: Dismissed

Clay: H. Ms.