1884-009
Nansemond Co. (Suffolk) Chancery Causes: Mills H. Eure vs Frederick W. Hunter et al

Savage & Smith J, Smith & Hunter J, Copeland, Savage, Smith, March, Clarke

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON Fred: W. Hunter, L. R. Hunter, W. S. Hunter, Trustee, Thomas W. Savage and Mark Smith, late Merchants and Partners, trading under the name and style of Savage & Smith, John R. Copeland, Caroline Hunter, and Mark Smith and W. S. Hunter, late Merchants and Partners, trading under the name and style of Smith & Hunter,

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held for the said Court, on the first Monday in September *next, to answer a Bill in Chancery, exhibited against them in the said Court by* Mills H. Enos

and have then and there this Summons. Witness, PETER B. PRENTIS, Clerk of our said Court, at his office, this 14th *day of* August *1878. in the* 103rd *year of the Commonwealth.*

Teste: Peter B. Prentis. *Clerk.*

(Wright & Rawls. p. 9

Mills H. Enue

vs } Summ. in Chy.

Fred: W. Hunter & al.

To Septr: Rules, 1878.

Executes a copy of the within Answer to
S. P. Hunter Fred W. Hunter
Thos M. Savage
Chas. Smith Solon R. Copeland, Executors Hunter
August 28th 78

Joshua L. Fulgham Solr

Pro: B. No: 1. page 116
Cir: Co:

Commissioner's Office,

SUFFOLK, NANSEMOND COUNTY, Va.

H. Septemb 1880

To Wills & Eure

Plaintiffs,

and

Fred: W. Hunter and others. -

Defendants.

You are hereby notified that I have fixed upon the 21. *day of* September *next, to take and settle, at my office, the following accounts, to-wit:*

All accounts of the land of Fred: W. Hunter in the bill and proceedings mentioned with the annual and fee simple values thereof, the liens thereon if any, and their priorities, with any other facts by me deemed pertinent. -

required to be taken by the decree of Nansemond Circuits *Court, rendered on the day of* October 1878 *in a suit in Chancery depending in said Court, in which you are parties, plaintiffs and defendants; at which time and place you are required to attend.*

Given under my hand as Commissioner in Chancery of the said Court, the day and year first aforesaid.

Robt. R. Bentis,
Commissioner. -

State of Virginia
County of Nansemond, to wit:

This day Robt. R. Pleuts personally appeared before me A.C. Withers a Notary Public for the County of Nansemond in the State of Virginia and made oath that he executed the within notice by delivering a true copy thereof to Fred. W. Hinder in person this 13. day of September 1880.

Given under my hand this 13. September 1880.

Mills & Cuno
Fr. M Comm Notice
Ent: 10 Minutes 4.

At a Circuit Court continued and held for Nansemond County, the 11th: day of October, 1878.

Mills H. Eure . . . . . Plaintiff.

against } In Chancery

Fred: W. Hunter, L. R. Hunter, W. S. Hunter, Trustee, Thomas W. Savage and Mark Smith, late merchants and partners trading under the name and style of Savage & Smith: John R. Copeland, Caroline Hunter and Mark Smith and W. S. Hunter late merchants and partners, trading under the name and style of Smith & Hunter. Defendants.

This Cause came on this day to be heard upon the Bill and Exhibits filed, and the defendants failing to plead, answer or demur, and was argued by Counsel: On Consideration whereof, the Court doth adjudge, order and decree, that one of the Commissioners of this Court, do take an account of the land of defendant, Fred. W. Hunter, in the Bill and proceedings mentioned with the annual and fee-simple values thereof, the liens thereon, if any, and their priorities, with any other facts by him deemed pertinent. And that the said Commissioner do also take an account of the indebtedness of the said L. R. Hunter to the said Savage & Smith, John R. Copeland, Caroline Hunter, and Smith & Hunter: That the said Commissioner do also take an account of the land of Defendant, L. R. Hunter, in the Bill and proceedings mentioned, with the annual and fee-simple values thereof, the liens thereon, if any, and their priorities, with any other facts by him deemed pertinent or required by either of the

parties, and make report thereof to the Court.

A Copy.

Teste,

Peter B. Prentis. Clerk

Moses H. Enq.
Copy Decree
Fred. W. Hunter Ad.

Mills H. Earl

vs

Fred. W. Hunter and others

This cause come on this day to be heard upon the bill and exhibits filed and the defendants failing to plead answer or demur, and was argued by counsel. On consideration whereof the Court doth adjudge order and decree that one of the Commissioners of this Court do take an account of the land of defendant Fred. W. Hunter in the bill and proceedings mentioned with the annual and fee simple values thereof the liens thereon if any & their priorities with any other facts by him deemed pertinent. And that the said Commissioner do also take an account of the indebtedness of the said L. R. Hunter to the said Savage & Smith, John R. Copeland, Caroline Hunter, and Smith & Hunter. That the said Commissioner do also take an account of the land of defendant L. R. Hunter in the bill & proceedings mentioned, with the annual and fee simple values thereof, the liens thereon if any, & their priorities with any other facts by him deemed pertinent or required by either of the parties & make report thereof to the Court.

Mills & Co.

vs

Fred. W. Hunter et als.

Decree for account

To be entered

"

October Term 1878.

To be entered

Geo. Bond.

(stricken)

Entered O. B. No 1 - p. 405

Mills H. Eure

vs.

Hunter & al.

The objects for which this suit was instituted having been ac= complished, on the motion of the Plaintiff by his attorney it is ordered that the same be dis= missed

Mills H. Evans

vs. } In Chy:

Hunter et al

April 15th. 1884

order

~~Dft~~ To be entered

Geo Blow -

Ent'd Ord Book Liber 665

This deed made this 8th day October 1877 between Lemuel R. Hunter of the first part, W. S. Hunter Trustee of the second part and messrs Savage & Smith, John R. Copeland, Caroline Hunter and mess Smith & Hunter of the third part Witnesseth. That for and in consideration of the sum of One dollar to him in hand paid by the said W. S. Hunter, the receipt whereof is hereby acknowledged, the said Lemuel R. Hunter, doth grant, bargain, sell, and release unto the said W. S. Hunter, his whole real estate with all appurtenances thereunto belonging together with his stock, household and kitchen furniture, farming implements, and crops of corn, fodder, cotton peanuts &c. In trust to secure the parties of the above third part.

In witness whereof I have hereunto set my hand and seal, the day and date above written.

Lemuel R. Hunter (Seal)

In the Clerks Office of Nansemond County Court, the 8th day of October, 1877.

This Deed of trust was acknowledged by Lemuel R. Hunter and thereupon admitted to record.

Teste-

C. H. Causey - D.C.

A Copy: Teste,

Peter B. Prentis. Clerk.

X mf

Lemuel R. Hunter

In } Copy Deed of Trust

W. S. Hunter, Trustee, for

Savage & Smith et al:

"D"

WHEREAS, by a decree of the Circuit court of Nansemond county, made ~~on the~~ at the May ~~day of~~ Term thereof, in the year one thousand eight hundred and seventy-four, in the cause therein pending, wherein J.R. King & Co. suing for F.W. Hunter & als were plaintiffs and John B. Mauck's Personal Representative & als. were defendants, it was decreed and ordered that Wilbur J. Kilby (who was appointed commissioner for that purpose), proceed to sell the real estate whereof the said Jno. B. Mauck died seized and possessed, on the terms and conditions named in the decree: And whereas, the said Wilbur J. Kilby, commissioner as aforesaid, pursuant to said decree, did advertise the said lands as directed, and did on the 12th day of October, 1874, before the court-house door of said county (being court-day), sell at auction as directed the real estate aforesaid, when the following parcel was purchased by Fred. W. Hunter at the price of Two Hundred Dollars ~~dollars and cents~~—that is to say, a tract of land in said county containing One Hundred and twenty-four acres, ~~more or less, and bounded as follows~~: of which the said Jno. B. Mauck died seized and possessed, situated in Holy Neck Township, in said County and bounded by Somerton Creek and the State line, the same having been sold and purchased subject to the Dower interest therein of Margaret E. Clarke, formerly the wife of said John B. Mauck, deceased.

and of the purchase money, he, the said Fred. W. Hunter paid in cash the sum of $61 74/100, and Hiram executed ~~his bond~~ with Samuel R. Hunter his three bonds, each as security for $46 82/100, the deferred payments: And whereas, by a further decree of the said court, made ~~on~~ at the February ~~day of~~ Term thereof, 1875, in said cause, it was decreed and ordered that the said Wilbur J. Kilby commissioner as aforesaid,

collect of the said Fred: W and Samuel R. Hunter the ~~said sum of~~ principal of said Bonds

~~$~~ and all interest thereon, and make to the said Fred: W. Hunter

a deed with special warranty, in the usual principal of said bond

form, for the real estate aforesaid: And whereas the ~~said sum of money~~, with all interest thereon, has been paid: This deed, therefore, made this 12th. day of March one thousand eight hundred and seventy-five, between the said Wilbur J. Kilby, as commissioner aforesaid, of the one part, and the said Fred: W Hunter of the other part, witnesseth: That the said Wilbur J Kilby as commissioner aforesaid, in consideration of the said premises, and in execution of the last aforesaid decree, doth grant, with special warranty, unto the said Fred: W. Hunter and to his heirs and assigns forever, the land aforesaid, and its appurtenances, subject to the said Dower interest of said Margaret E. Clarke therein.

Witness, the following signature and seal.

Wilbur J. Kilby, Commissioner [SEAL.]

In the Clerk's Office of Nansemond County Court, April 12th 1875.

This Deed was this day acknowledged before me, in the office by Wilbur J. Kilby, Commissioner, and thereupon admitted to record.

Teste,

W. E. Eckon, Clerk.

A Copy:

Teste,

Peter B. Prentis. Clerk.

Xmd

Wilbur J. Kilby, Commr.

In } Copy deed

Fred. W. Hunter

"B"

A Judgment obtained in the Clerks Office of the Circuit Court of Nansemond County and confirmed at a Court held and closed for the said County, on Monday the 15th day of April 1878.

Costs
Clk. $3.70
11th May 3.50
Sff. 1.00
$8.20
Fi: Fa: 20th Apl: 1878

Mills H. Eure . . . . . Plaintiff.

against { In Debt

Fred: W. Hunter and L. R. Hunter . . Defendants.

The Judgment obtained at the rules not having been set aside, and the plaintiff being now entitled to a final judgment: it is therefore considered that the plaintiff recover against the defendants, Five Hundred dollars, the debt in the declaration mentioned, with interest thereon at the rate of Six per centum per annum from the 1st. day of January, 1868, till paid, and his costs, by him, about his suit, in this behalf expended. And the said Defendants, in mercy &c.

But this judgment shall be subject to a credit of One hundred and seventy-five dollars, paid 8th. November, 1875, as per endorsement on note.

A Copy.

Teste:

Peter B. Reades. Clerk

The following is a Copy of the Fi: Fa which issued on the foregoing Judgment together with the Sheriff's return thereon

"The Commonwealth of Virginia.

To the Sheriff of Nansemond County, Greeting:

We Command you, That of the goods and chattels of Fred W. Hunter and L. R. Hunter, in your bailiwick, you cause to be made the sum of Five Hundred (5-00) Dollars with interest thereon at the rate of six per centum per annum, from the 1st day of January, 1868, till paid, which Mills H. Evans, lately in our Circuit Court of Nansemond County, recovered against them for debt. Also, Eight (8) Dollars and twenty (20) Cents, which to the said Mills H. Evans, in the same Court were adjudged for his costs by him about his suit in that behalf expended; whereof the said Fred W. Hunter and L. R. Hunter are convict, as appears to us of record, and that you have the same at the Clerks Office of our said Circuit Court, at Rules directed by the Law to be held in and for Nansemond County, on the first Monday in July next, to render unto the said Mills H. Evans of the Debt and costs aforesaid. And then and there have this writ.

Witness, Peter B. Prentis, Clerk of our said Court, at his office, this 20th day of April, in the year of our Lord 1875, and in the 102nd year of our Independence.

Costs:

Clerk	$3.70
Attorney	2.50
Sheriff	1.00
U. S.	1.00
	$8.20

Teste:

Peter B. Prentis. C. C.

Endorsed— "Memo This execution is entitled to a credit of

One Hundred and seventy-five (175) Dollars, made Nov: 8th 1875: as per endorsement on the note.

Peter B. Prentis. Clerk

Sh'ffs: Return "I can find no property upon which to levy the within execution or any part thereof.

J. L. Fulgham. Sh'ff:"

The following is a copy of the note together with the endorsement thereon, upon which the foregoing judgment was founded:

"$500- Octo: 1st 1867. (No: 1)

Ninety days after date we promise to pay to the order of Mills H. Eure, Five Hundred Dollars for value received

Due Jany: 1st: 1868. Fred: W. Hunter (Seal)

L. R. Hunter (Seal)"

Endorsed- "Nov: 8th 1875: Received One Hundred and Seventy-five dollars, in part payment of the within.

M. H. Eure"

Copies,

Teste,

Peter B. Prentis. Clerk

Nansemond Cir: Co:
Clk's Office
Aug: 13th- 1878

X mss

Mills H. Eure

vs } Copy Judgt. &c

Fred W. Hunter & L. R. Hunter

"A"

To the Honorable George Blow, Judge of the Circuit Court of Nansemond County

Humbly complaining sheweth unto your Honor your orator Mills H. Eure that on the 15th day of April 1878 he obtained in the said Court a judgement against Fred. W. Hunter and L. R. Hunter of the said County for five hundred dollars with interest thereto at six per centum per annum from the 1st day of January 1868 till paid and $8.20 costs, which said judgement is subject however to a credit of $175. paid the 8th November 1875, on which said judgement a writ of fieri facias was duly issued from the clerks Office of the said Court directed to the Sheriff of the said County returnable to July rules 1878 which was placed in the hands of the said Sheriff to be executed and was on the return day thereof returned by the said Sheriff with the following return endorsed thereon to wit: "I can find no property upon which to levy the within execution or any part thereof" J. L. Fulcham, Sheriff." all of which will more fully appear from a copy of the said note, judgement order execution and return hereunto filed marked

"A" and prayed to be taken as a part of this bill. Now your orator further states that the said Fred. W. Hunter is seized and possessed in fee simple of a tract of land lying and being in the said county containing one hundred and twenty five acres more or less bounded by ~~the lands~~ Somerton Creek and the state line being the same land of which Jno. B. March died seized and possessed, the said land now being subject to the Dower interest of Margaret E. Clarke formerly the wife of Jno. B. March deceased. And your orator is informed and advised that his judgement is a lien under the Statute Law of Virginia on the said real estate and that the rents and profits of the said real estate will not satisfy the said judgement in five years. All of which appears by a copy of a deed from W. J. Kelly commissioner, to F. W. Hunter conveying to the said Hunter the said land, marked "3" and prayed to be taken as a part of this bill.

Now your orator also further states that the said L. R. Hunter is seized and possessed in fee simple of a tract of land in the said county containing

two hundred & ninety two ——— acres more or less bounded and adjoining the lands of J.H. Smith, W.S. Hunter and J.R. King ———

and that your orator is advised that his judgement is a lien under the statute law of Virginia on the said real estate — that the rents and profits of the said real estate will not satisfy the said judgement in five years. Your orator further states that on the 8th day of October 1877 after he had filed his said suit against the said F.W. Hunter & L.R. Hunter but before he obtained judgement therein, the said L.R. Hunter made a deed of trust to W.S. Hunter Trustee (his son) in which he conveyed all the said real estate and all his property to the said W.S. Hunter Trustee &c "to secure Messrs Savage & Smith, John R Copeland, Cowherd Hunter and Messrs. Smith & Hunter". All which will appear from a copy of said deed of trust herewith filed marked "D" and prayed to be taken as a part of this bill. Your orator further states that he believes that the said deed of trust

is a fraud on his rights, that it was made with the intention of preventing him from forcing his said judgment on the said real estate, that the said L. R. Hunter owes nothing or but very little to the said Savage & Smith, John R. Copeland, Coralie Hunter and Smith & Hunter. Your orator further states that the rents and profits of both the aforesaid tracts of land, added together will not satisfy the said judgment in five years.

In tender consideration whereof, forasmuch as your orator is remediless in the premises save by the aid of a court of equity where matters of this kind are alone and properly cognizable your orator prays that the said Fred. W. Hunter, L. R. Hunter, W. S. Hunter trustee; Thos. W. Savage and Mark Smith, partners in the firm of Savage & Smith; John R. Copeland, Coralie Hunter; Mark Smith and W. S. Hunter partners in the firm of Smith & Hunter all be made parties defendant to this bill and required on their corporal oaths to answer the same according to the best of their knowledge and belief as fully and particularly as if the statements of

this bill were again here repeated unto the said defendants thereto specially interrogated: That the said Tract of Land (125 acres more or less) belonging to the said Fred. W. Hunter be sold, subject to the Dower interest of the said Margaret E. Clarke, to satisfy your Orator's judgement. And inasmuch as the said Land is only assessed at $200 and will not therefore fully satisfy the said judgement your Orator prays that one of the Commissioners of the said Court be required to take accounts of the indebtedness of the said L. R. Hunter to the said Savage & Smith, John R. Copeland, Caroline Hunter, & Smith & Hunter and to report the same to the said Court and that the real estate of the said L. R. Hunter be sold, first to satisfy the said indebtedness to the parties mentioned in the said deed of trust and the remainder first to satisfy your Orators judgement and the balance if any as the Law directs, and that your Honor will grant unto your Orator such further and general relief as may be consistent with equity and the Law requires May it please &c and your Orator will ever pray &c

Mills Mc Ewan by
Wright & Rawls Attys

W. T. Rawls p.q.

Nansemond County Civil:
This 13th day of August 1878 Mills
H. Eure personally appeared before me
a Notary Public for the said county
and made oath that all the alle-
gations in the foregoing bill or com-
ing within his own knowledge he
knows to be True and all others relying
upon the knowledge or information
gotten he believes to be true.
Given under my hand this ~~20th~~ 13th day
of August 1878.

R H Rawls
Notary Public.

Wright & Rawls P.2.

Mills H. Eiva Plff.

vs

Fred W. Hunter
and others Defendants.

Bill.

1880. Octo 21st: Rec'd &
R.H. Rawls, Esq: Atty: at Law
dollars & 24/100 my fees in full
in the Cir: Law suit &c &c
W. & F. R. Hunter, endorsed $2.50 Taxes
on the within & issued ca. Sa:
Peter B. Fowler Clerk

Mills H. Enne

vs } Chy: Rules

Fred: W. Hunter Dal:

1878 Aug: 14th: Summons in Chy: issued to Septr: Rules, 1878:

Septr: 2nd Bill & Exhibits: filed & Conditional Decree vs defts:

Octr: 7th: Conditional Decree confirmed & cause set for

hearing on Pltf's Counsel.

" 11th. Decree for Accts:

1879. Apl: 12th Continued (Octr: 16) Continued

1880. Apl: 24th: Continued

Clay: Notes