1894-038
Nansemond Co (Suffolk) Chancery Causes: Noah Howell vs Lydia Mary Whitfield, infant et al

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON Lydia Mary and Kinchen Whitfield, both infants, under the age of twenty-one years.

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* Noah Howell

and have then and there this Summons. Witness, PETER B. PRENTIS, Clerk of our said Court, at his office, this 16th *day of* August 1883, *in the* 108th *year of the Commonwealth.*

Teste: Peter B. Prentis, *Clerk.*

Randolph Chancery

Noah Howell

vs. Summons in Chy:

Lydia Mary and Kinchen
Whitfield, infants

To Deptr: Rules, 1883.

Pro: B. No. 1. Page
Cir. Ca.

Virginia

At Rules in the Clerk's Office of the Circuit Court of Rockingham County On Monday the 3rd day of September 1883

Noah Howell — Plaintiff

Against In Chancery

Lydia Mary and Reuben Whitesell. both infants under the age of twenty one years. — Defendants

On the Motion of the Plaintiff by Counsel, Peter B Painter is appointed guardian ad litem to the infant defendants in this suit: And it is Ordered that notice be given the said guardian of his appointment, by serving on him a copy of this order

Teste:

Peter B. Painter. Clerk

1883. September 3rd I hereby acknowledge service of the foregoing order, and that I have received a copy thereof.

Peter B. Painter

guardian ad litem

Noah Howell
vs
In Chy:
Lydia Mary Whitfield Lal
infant

Order appointing
gdn: ad litem

To

Noah Howell - - - - - - Complainant

and

Lydia Mary and Kinchen Whitfield - - Defendants

and

Pelia B. Prentis, Guardian ad litem of said defendants, both under the age of fourteen years—

You are hereby notified that on the 22d. day of September, 1884, at the Clerk's office, in Suffolk Va. (at which Time and place you are required to attend) I shall take, state and settle the following accounts which are to be taken and reported to the Circuit Court of Hanover County, pursuant to a decree of said Court rendered the 11th of October, 1883 - in a certain suit in Chancery pending in said Court in which you are plaintiffs and defendants.

1st: An Acct of the amount and value of the personal and real estate of Whitfield deceased & the fee simple and annual value of said Real estate

2d To report whether or not a sale of said infant defendants real estate would be for their benefit - or is necessary to be had from any reason whatever - and if necessary to report the evidence showing said fact.

Given under my hand as Commissioner in Chancery of said Court the 10th day of September 1884

Comm'r in Chancery

Howell
vs
Whitfield—

Pursuant to an order of this honorable Court made at the October term thereof, 1883, the undersigned, a master Commissioner of this Court respectfully submits the following report——

Account No-1

The value of the personal estate of which the decedent Whitfield was possessed is merely nominal—

The fee simple value of the real estate of said decedent is $

The annual value is

Your Commissioner further reports that after a full and complete investigation of the case he recommends a sale of said land and submits the evidence on which he bases his opinion

John X. Fulcham. Sheriff of Rensselaer County deposes and says—

That he knows the tract of land in the bill mentioned— That it is rapidly depreciating in value and the buildings and fences fast decaying— and a sale

of said Report at this time will be to the Principal Benefit of the parties interest.

J L Fulgham Sheff

Howell

vs

Whitfield

By Consent of parties entered into in open Court it is ordered that decree may be entered herein in vacation

Howell
vs
Whitfield

1865 October
Rough draft -
To be entered

Geo. Stone

Howell
vs
Whitfield

This cause came on this day to be heard on the bill and the answer of the infant defendants by Peter B. Prentis, their guardian ad litem, and was argued by counsel -

On consideration whereof the Court doth adjudge order and decree that a Master Commissioner of this Court do take, state and report to Court the following accounts

1st - The amount and value of the personal and real estate of which the father of the infant defendants died seized and possessed -

2nd An account of the real estate of which the defendants' father died seized and possessed in Nansemond County, its annual and fee simple values

And said Commissioner is hereby required specially to consider and report to Court, whether or not a

sale of said real estate will be necessary to pay debts and for the maintenance and education of said infants And said Commissioner will report any other matter specially stated, deemed pertinent by himself or which either of the parties may require to be so stated

~~And the Court is continued &c~~

And report whether or not it will be to the manifest interest of the infants to sell said real estate and report to Court the evidence showing that fact

And the Cause is Continued

Stanwell
Vs
Whitfield

Oct 3 Oct Term 11th

Rep. Answer

Ev. in evidence

Exhibits

Exhibit

Plea in Bar 3 pages - 630

Deed of division 2 pgs -
Deed to Turner - 3 pages
1 1/2 -

Notes of the Survey, made in part March 17th 1882 and completed on March 14th 1883, in the case pending, in the Circuit court of Nansemond, wherein Dempsey Hare is plaintiff and Richmon D. Whitfield is defendant. Beginning at an old oak Stump near the Chappell Road and running S. 33¼° W. 3.14 links to what is called the Hardy gones path, thence along the aforesaid path, S. 12½° W. 1.82 links thence S. 10½° W. 2.21. thence S. 27½ W. 3.43. thence S. 25½° W. 2.13. to James D. Whitfield's line, thence corps said line, along said old path, S. 29½° W. 2.45. thence S. 31° W. 6.00. thence S. 29° W. 1.64. thence S 22½ W. 3.00 thence S. 7¼° W. 2.56 to a marked pine on R. D. Whitfields line, the above notes is a part of the line claimed by the plaintiff. thence from the above marked pine N. 64° W. 2.88. to a pine marked as a corner tree thence N. 45° E. .81 links to a pine, thence N. 42° E. 3.10 to a Red oak marked, thence N. 36¼° E. 2.41 to a pine, thence N. 14° E. 2.86 to a Sweet Gum thence N. 15¾° E. 8.33 to a Red oak (claimed) as a corner tree between R. D. Whitfield and James D. Whitfield thence N. 67° E. 2.52 to a pine, thence N. 32° E. 3.25 to a persimmon tree on Whitfields lane thence along the side of the lane by a marked post-oak N. 16° E. 6.12 to a post on the Chappell road, thence along the road S. 84° E. 3.50. thence S. 53. E. 2.84 to a Sweet-Gum, thence S. 26° E. 2.75. to and in a Branch, the last-named notes, being claimed

by James L. Whitfield and Richmon D. Whitfield
thence up the Branch N. 55 3/4 W. 2. 42 to a
point, in the flat near the head of the Branch
thence N 52 1/2° W. 4. 42. to the old oak Stumps
the beginning. — the last two holes or courses and
distances being claimed by Dempsey Hare the plaintiff
Area four acres two roods and two poles. —
March 14th 1883.

Bev. D. Baker Co Surv.

Noah Howell

vs

Lydia May & Kincheu

Whitfield Sothes.

It appearing that there has been no order or proceeding for five years in this cause it is ordered that it be Stricken from the docket with leave to re-instate within One Year from this date.

Noah Howell

Vs

Lydia May &
Ruchen Whitfield

Dismissed under
the 5 years Rule
April 13th 1894
To be entered

Entered in Chancery
Order Book
No. 2 Page 538

The joint and separate answers of Lydia Mory and Kinchen Whitfield, infants under the age of twenty one years, by Peter B Prentis their guardian ad litem assigned to defend them, in this suit, to a Bill of Complaint exhibited against them, in the Circuit Court of the County of Hanover by Noah Powell.

These Respondents reserving to themselves the benefit of all just exceptions to the said Bill, for Answer thereto, or so much thereof as they are advised, that it is material they should Answer, by their said guardian ad litem answer and say,

That they are infants of tender years and by reason of their infancy, are incapable of understanding or taking care of their rights and interests: they therefore by their said guardian commend themselves and their rights and interests to the protection of the Court, and pray that no decree or order may be pronounced, which will tend to their prejudice, And having fully answered, these Respondents pray hence to be dismissed with their reasonable costs in this behalf expended, and will ever pray &c.

Signed).

Peter B. Prentis.

Gdn: ad litem

Nicholas Howell

vs In Chy:

Lydia Mary Whitfield & al defts

Answer of Infants.

Virginia:
Nansemond County, to wit:
In the Circuit Court of said County
To the Hon'l. George Blow, Judge of said
Court:

Humbly Complaining, sheweth unto
your Honor, your orator Noah Hunter,
acting Guardian of Lydia Mary and Rinehen
Whitfield, infant children of [illegible] Whit-
field deceased, that the said infants are
seized in fee simple of a certain tract
of land lying and being in the County
of Nansemond aforesaid, containing
fifteen acres more or less
Now your orator is advised, and there-
fore alleges, that the sale of the said
land would greatly promote the inter-
est of the said infants, for the reasons
that the value of said land is rap-
idly depreciating for want of proper
care and attention to the build-
ings, fences, ditches and fields-
that very little if any revenue is received
from the said land; that the said
infants are respectively of the tender
~~age~~ age of Seven and Eight years;
that they are possessed of no other
property or income; and that in

consequence of their limited and impoverished circumstances, and of their tender years, it is all important that their estate should be made as available as possible, so as to provide for their education and maintenance. That there is already due to your orator a considerable sum of money for the board and clothes of said infants, and there is also due a bill for medical attendance to their father, the late Richard Whitfield, to Dr John T Kelly

Forasmuch therefore, as your orator is without remedy at law, and can only have relief in a court of equity, where such matters are alone cognizable and relievable, to the end therefore, he prays that the said Lydia Mary and Kinchen Whitfield, infants under the age of twenty-one years, may be made parties defendant to this bill and that they by a guardian ad litem to be assigned them, may be required to answer the several allegations of this bill as fully and particularly as if specially interrogated thereto; and

that your honor will decree that the proper account be taken and if it appear that the interest of said infants will be best promoted by a sale of said land, that a decree may be entered accordingly, upon such terms and conditions, and in such manner as the Chancellor Court may deem expedient— and that such other and further relief will be granted as may be consistent with equity and the case may require—

And your orator will ever pray &c

Rawlins & Beaver p.q.

Rawles & Causey p.g

Sarah Howell

2d Sue Chenney

Whitfield dec

Paid

Thos Parker & Wife

124 a.m

$73.75

Richard Whitfield

Noah Howell.

$\frac{4}{25}$ Chy: Notes

Lydia Mary & Kinchen Whitfield infants.

1883. Aug: 6th: Summons Chy: issued to Septr: Rules, 1883.

" Septr: 3rd: Bill filed – Peter B. Prentiss appld & adm: as Letem to defts: who filed their answer to which there was a genl: replin: & the Cause set for hearing on mo: of Defts Counsel

Clay: Notes