

1816-035 SOUTHAMPTON COUNTY
CHANCERY PAPERS

POWELL and Wife VS. SMITH and Wife et al

6/18/6

other SURNAMES: TURNER, Suter,
BROWN, Kersey

to the worshipful Court of Southampton County in Chancery sitting - Humbly
complaining shew unto your worships, your orator and oratrix John D. Powell and Elizabeth
D. Powell, his wife, late Elizabeth D. Smith, widow and relict of Henry Smith deceased,
late of the said County of Southampton, that the said Henry Smith departed this life on the
day of 1812 in the said County, having first duly made & published
his last will and testament in writing, which was established in the Court of the said County
of Southampton, and ordered to be recorded, as a will of personal estate only -
that the said Henry Smith therefore died intestate as to his real Estate - that the said
Henry Smith died seized & possessed of the following tracts or parcels of land, situate,
lying and being in the said County of Southampton - to wit, of one tract pur-
chased by him, in his lifetime, of a certain Edmund Pinner, containing by Estimation three
hundred and eighty acres - subject to the Dower therein of M^{rs} Lister - of one other
tract, purchased by him, in his lifetime, of a certain Beilston Brown, containing by Estimation
five hundred acres - of one other tract, known by the name of the old place,
containing by Estimation eleven hundred acres - and of one other tract, whereon his
mansion house stood, containing by Estimation, two thousand, five hundred acres - which last
mentioned tract is encumbered with the Dower Estate of a certain Aggy Kersey -
Your orator & oratrix by leave to state to your worships, that the said Henry
Smith left a widow, to wit, your oratrix, who hath since, in due solemn form of law,
been united in the holy state of matrimony, to your orator, John D. Powell - and two
children, to wit, Mary D. Smith, who hath since intermarried with a certain Henry Smith,
and a son, Abalom P. Smith, who is yet an infant under the age of twenty one years -
Your orator and oratrix are advised, that your oratrix is entitled to one third part
of each of the aforesaid tracts or parcels of land, for the term of her natural life,
as her Dower therein - but, so it is, may it please the Court, that the same
cannot be reduced into possession & enjoyment, without the aid & interposition
of a Court of Equity, where matters of this sort are properly cognizable - to the End
therefore, that the said Henry Smith, and Mary D. Smith, his wife, and the said

Abraham P. Smith, by his guardian ad litem, may be made defendants to this bill, and be compelled to answer all singular the allegations herein contained, & that as fully as if the same were herein again repeated, & they thereunto particularly interrogated - that your worship will thereupon decree, that one third part of each of the aforesaid tracts or parcels of land, be allotted out a part to your petitioner, as her power therein, & that the remaining two third parts thereof be equally divided between the said Mary D. Smith, and Abraham P. Smith - that any other general relief be granted in the Premises, which may be found consistent with Equity & good Conscience - May it please your worship to grant the formerwrits writ of Subpoena, commanding &c. and as in duty bound, your petitioner will ever pray &c.

Jth for complainants.
(Signed) John D. Powell

June 10 - 1816

For This is to request you to purchase in behalf of myself & wife for her third part of all the lands in the common wealth of Virginia belonging to the Estate of Henry Smith deceased

John D. Powell

To the worshipful Court of Southampton County in Chancery sitting - We Jointly & severally answer of Henry Smith, and Mary D. Smith, his wife, late Mary D. Smith, daughter of Henry Smith deceased, and Abraham P. Smith, infant son of the said Henry Smith deceased, by William Phillips, his guardian ~~ad litem~~, ad litem, to the bill of complaint exhibited against them, in this Court, by John D. Powell and Elizabeth D. Powell, his wife - The said Defendants, ~~saying~~ Henry Smith and Mary D. Smith his wife, and Abraham P. Smith, infant son of the said Henry Smith deceased, by the said William Phillips, his guardian ad litem, saving themselves to themselves, all every benefit of Statute whatsoever to the said bill, for answer thereto say, that they cannot give assent to the allegations in the said bill contained, & have no objection to the decree prayed for in the said bill - and they pray to be hence dismissed &c.

(Signed) Henry Smith
W Phillips

John D. Powell and Elizabeth D. Powell his wife, late Elizabeth D. Smith, widow & executrix of Henry Smith deceased -

against Henry Smith and Mary D. Smith, his wife, and Abraham P. Smith, infant son of the said Henry Smith deceased, by William Phillips, his guardian ad litem

This cause was this day docketed by the Court of said County, and was heard upon the bill, and the answer of the Defendants, and was argued by Counsel; whereupon the Court doth adjudge, order and decree that James Harris, Arthur Williamson, Allen Jones & Joseph Gilliam, or any 3. of them, attended by the surveyor of Southampton County, do allot and set a part to the complainant Elizabeth D. Powell, for the term of her natural life, one third part of the following tracts or parcels of land, situate, lay & being in the said County, of which her late husband ^{Henry Smith deceased} died seized, to wit, one third part of a tract or parcel of land, containing by estimation 380 acres, which the said Henry Smith deceased, in his lifetime, purchased of a certain Edmund Turner, one third part of a tract or parcel of land, containing by estimation 500 acres, which the said Henry Smith deceased, in his lifetime purchased of a certain Briston Brown, one third part of a tract or parcel of land, containing by estimation 1100 acres, known, in the lifetime of the said Henry Smith deceased, by the name of the old place, and one third part of another tract or parcel of land,

520