

1840-009 SOUTHAMPTON COUNTY
CHANCERY PAPERS

FAIRCLOTH VS. JOYNER

s/1840

other SUR NAMES: Everitt,
Everett

1712

Peter Faircloth

to } Bill, 40
3 }

Joseph Soyner

Baker

1834 March Debit as folio 8th

1840 May Report net.

S. Sampson & Co. Co.

To the Worshipful the Justices of the County Court of Southampton, in Chancery sitting. Humbly complaining, sheweth unto your Worships, your Orator Peter Faircloth an infant suing by Collins W. Barnes his guardian & next friend, that Sally Everett, formerly of the said County of Southampton, was in her life-time seized and possessed of a considerable real estate consisting of a tract or parcel of land containing about three hundred and seventy five acres, and afterwards sometime in the year departed this life leaving a last will and testament, which was duly proved in the County Court of the said County of Southampton; an attested copy of which is here offered to and prayed to be considered as a part of this bill: By which said last will and testament the said Sally Everett devised the said tract of land equally between your Orator ^{absolutely} and one Joseph Boyner of the said County ^{for life}; and your Orator further sheweth that he hath by his said guardian and next friend, several times since the death of the said Sally Everett, applied to the said Joseph Boyner to have an equal division of the said tract of land effected pursuant to the provisions of the said last will and testament; and your Orator well weth that the said Joseph Boyner would have complied therewith, without suit, as in conscience & equity he ought to have done. But now so it is, the said Joseph Boyner hath

without wholly refused to comply with such
your orator's reasonable requests. In Tender
Consideration whereof, & for as much as your
orator is without remedy in the premises ~~without~~
except in a Court of Equity, where such mat-
ters are properly cognizable: To the end there-
fore that the said Joseph Soyner may
true and perfect answer make, upon his
Corporal oath, to all & singular the premises
herein mentioned as fully and particularly as
if the same were here again repeated and
interrogated; that your worship will de-
clare a division of the said tract or parcel
of land as above suggested, that is to say, in-
to two equal moieties, whereof your orator
may be entitled to one, & the said defendant
the other; and that your orator may have
such other and further relief in the premises
as the nature of his case shall require, &
as to your worship shall seem meet. May
it please you

N. W. Baker Esq.

The answer of Joseph Soyner, ^{to a bill of complaint} exhibited against
him in this worshipful Court by Peter Faircloth
an infant suing by & Collin W. Barnes
his next friend, the complainant — This de-
fendant saving and reserving to himself
all exceptions to the said bill, for answer
should or to so much thereof as he is advised

it is material for him to answer unto,
he answers and saith, that as far as he
is advised the allegations charged in the
said bill are substantially true & correct, &
he is willing that such a decree may be
made in the premises as the complainant
requires, or as to the Court may seem right
and proper under the circumstances of
the case. and this respondent having answered
& prays to be hence dismissed with his costs
in this behalf sustained &c

Peter Faircloth } This cause came on
to } this day ~~before~~
Joseph Soyner } to be heard, by consent
of parties, on the bill
and answer, and exhibit filed, and was ar-
gued by counsel, on consideration whereof
the Court being of opinion that the land
in the bill mentioned is liable to division
as set forth in the bill of Complaint, doth
adjudge, order and decree, that Henry
Wendred, Britton Bryant & Jacob Barnes, or
any two of them, assisted by a competent
surveyor if needful, do divide the land de-
vised by Sally Everett by her last will and tes-
tament, and set apart and allot one moiety
thereof to the complainant Peter Faircloth,
^{in person} and the other moiety thereof to the defendant
Joseph Soyner, ^{for & during his life} and make report &c

Fairchild

Eliza B. B. B.

Boyer

For Comm. for. ing

Southampton March Court 1834

Peter Faircloth an infant suing by William W. Raines his guardian
and next friend

Plff³

? J. H. K. M. C. C.

against

Def^t

Joseph Joyner

This cause came on this day to be heard by consent of parties on the bill and answer, and exhibit filed, and was argued by Counsel. On consideration whereof the Court being of opinion that the land in the bill mentioned is liable to division as set forth in the bill of Complaint, doth adjudge, order and decree that Henry Sturges, William Bryant, or Isaac Barnes, or any two of them, assisted by a competent Surveyor if needful, do divide the land devised by Sally Everett by her last will and Testament and set apart two allot one moiety thereof to the complainant Peter Faircloth in fee simple, and the other moiety thereof to the defendant Joseph Joyner for and during his life and make report thereof to Court in order to a final decree.

Test. James Rochelle Clk

Faircloth.

v. } Report

Joyner

1840 May

Pursuant to the annexed decree we Henry Kindred and
Jacob Barnes the only surviving Commissioners named
in said decree have viewed the land of which Sally
Everett died seized and papered with a view to a
division as by said decree we were directed and
we disagreed in opinion as to a righteous division
Thereof, Respectfully Submitted to the Court

Jacob Barnes com. Com.
Jan^y. 10th 1840

Richard H Baker Esqr.
Southampton Court house.

Depin Mr. Joseph Jorgun wishes Mrs. Sally Ennotts land
divided agreeable to her will you will therefore
please see the will & draw a petition for the
division agreeable to the direction of the same I have
understood that Mr. Jorgun is entitled to half the land
during his life I am the Guardian for the other
divisor; in my name as it may become necessary
I will pay you my part of the fee on sight
Yours with much respect
Collier W. B. B. B.

P. Fairclough

v. G. Mearns

For. Logans

Sally Everett divided her land & plantation equally
to Peter Fawcett an infant for whom Collin W. Barnes
is guardian, & David Coyne - tract containing about
375 acres - land to be divided by Henry Knapp Boston
Soyant & Jacob Barnes or any two - After he of any
competent surveyor -