

1853-024 SOUTHAMPTON COUNTY
CHANCERY PAPERS

GARDNER

VS. GARDNER + d, by + c
4/1853

313.

Cornelia D. Gardner
vs 3/ Bice &c

E. D. Gardner & others.
Prentiss, Atto.

1853 July Decree as filed
" Nov: Rept.
" 4th Comp?

Southampton Co. Court

To The Worshipful Court of Southampton
County, In Chancery sitting:

Your Complainant Cornelia D. Gardner
respectfully represents, That sometime during
the year 185, one Benjamin F. Gardner, an
Infant, of the County aforesaid, died, intestate
and without issue, and at his death was entitled
to two slaves named Simpson and Rosetta.

That the said Benjamin F. Gardner, left no
father or mother, but left your complainant,
a Sister of the whole blood and Eugenia D. Gardner
and Abram L. Gardner a Sister and Brother of the
half blood, his heirs and distributees at Law.

That the said Benjamin F. Gardner
was not indebted at the time of his death, and your
complainant is advised, that the said slaves belong
to her, and the said Eugenia D. and Abram L.
Gardner, your complainant being entitled to
one half, and the said Eugenia D. and Abram L.
Gardner the other half, to be equally divided between
them. Your Complainant is anxious to have
the said slaves divided between the heirs entitled,
or sold for a division amongst them, and is
advised that this Court has power to decree a sale
and make division of the proceeds of sales of said slaves,
when a division in kind is impracticable.

To the end therefore, ~~she~~ prays that the said Eugenia
D. Gardner and Abram L. Gardner, who are Infants
may be made defendants hereto, that some suitable
person may be assigned their Guardian ad litem to
defend them in this suit. that they answer all the allega-
-tions of the Bice, fully and promptly. that your worships
will decree a sale of said slaves upon a reasonable credit
and divide the proceeds amongst those entitled. and that such
other and further decree may be made in the premises, as con-
sists with Equity &c.

Prentiss. Atto for the
Complainant

The Joint and Separate Answer of Eugenia D. Gardner and Abram L. Gardner, Infants, by L. R. Edwards, their Guardian ad litem to the foregoing Bice.

These Respondents now and at all times saving and reserving to themselves all just exceptions to said bice, for answer thereto, answer and say, that they are Infants and consequently unable to admit or deny the allegations of the Bice and throw themselves upon the Court for the protection of their rights in the premises &c

(Signed)

L. R. Edwards Guardian ad litem
Comple.

Cornelia D. Gardner
vs 3 Dece

E. D. Gardner and Abram L. Gardner Infants. Defts.

On the motion of the Complainant by her Counsel, L. R. Edwards is appointed Guardian ad litem to the infant defendants; and the Complainant having filed her bice and the defendants by their Guardian ad litem their answer, to which the Complainant filed her replication. This Cause was this day docketed, and came on to be heard by consent of parties and with the assent of the Court, upon the Bice, answer, and general replication thereto and was argued by Counsel: On consideration whereof ^{being of opinion that a division in kind cannot be made,} the Court doth order, adjudge and decree that William M. Jones, ^{and Joseph S. Lawrence} who are hereby appointed Commissioners for the purpose, proceed to sell at public auction to the highest bidder on a credit of six months (except for enough to pay costs of suit and expenses of sale, which they will pay to those entitled) after having advertised the same at two or more public places in the County and at the door of the Court house, for at least ten days, negro slaves named Simpson and Rosetta and in that Bice mentioned, and the Commissioners will divide the net amount of sales into four parts, and take one bond with good and

approved security, for two of said ^{parts} and made payable to the Complainant Cornelia D. Gardner. One bond with like security, made payable to the legal guardian of Eugenia D. Gardner for one of said parts, and one bond with like security, made payable to the legal guardian of Abram L. Gardner for the remaining part. And the said Commissioners will deliver over the bond made payable to the Complainant, to her, and the other two bonds to the legal guardians of the infant defendants and make report of his proceedings to this Court. But the Commissioners will make no sale, until they execute before the Clerk of this Court in his Office, bond with security in the penalty of \$1500, conditioned according to Law.

Gardner

Co. D. 2nd

Gardner

Southampton County Court. February Term 1853.

Cornelia D Gardner

against

Eugenia D Gardner. and Abram L Gardner

Plff

In Chancery

Defts

On the motion of the Complainant by her Counsel S. R. Edwards is appointed guardian ad litem to the infant defendants; and the Complainant having filed her bill and the defendants by their guardian ad litem their answer to which the complainant filed their replication. This cause was this day docketed and came on to be heard by consent of parties and with the assent of the Court upon the bill, answer and general replication thereto and was argued by Counsel: On consideration whereof the Court being of opinion that a division in kind cannot be made, doth adjudge, order and decree that William M Jones and Joseph J Lawrence who are hereby appointed Commissioners for the purpose proceed to sell at public auction to the highest bidder on a credit of six months (except for enough to pay costs of suit and expenses of sale which they will pay those entitled) after having advertised the same at two or more public places in the County and at the door of the Court house for at least ten days, negro slaves named Simpson and Rosetta and in the bill mentioned. And the Commissioners will divide the net amount of sales into four parts, and take one bond with good and approved security for two of said parts and made payable to the Complainant Cornelia D Gardner - One bond with like security, made payable to the legal guardian of Eugenia D Gardner for one of said parts and one bond with like security, made payable to the legal guardian of Abram L Gardner for the remaining part - And the said Commissioners will deliver over the bond made payable to the Complainant, to her, and the other two bonds to the legal guardian of the infant defendants. But the Commissioners will make no sales until they execute before the Clerk of this Court in his Office bond with security in the penalty of \$1500. Conditioned according to Law.

Clk's costs \$3.00

Attesty

Teste. S. R. Edwards Clk.

• Clk's fee paid.

S. R. E

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In obedience to the decree of Southampton County Court,
 'Garner vs. Garner & heirs' annexed, we the undersigned
 Commissioners having advertised the time and place of
 sale by four advertisements, one of which was posted up
 at the Court house door, one Court-day previous to the
 day of sale, proceeded on Wednesday the 2nd day of March
 1853 and sold the two slaves in the bill mentioned, at
 public sale, to the highest bidder on a Credit of six months
 when Jacob J. Williams became the purchaser of Simpson
 for the sum of \$576.00

& Wm M Jones of Rosetta for the sum of 876.00
\$952

we then deducted 5 pr. Cent Comm on \$300 and 2 pr Ct
 on \$652 - and \$10 att. fee and \$3. Cts fee making . . 41.00
\$910.96

As the purchasers refused to give bond but paid
 the cash; we received it and paid Cornelius D. Garner
 the sum of \$455.48

and to Wm M Jones we paid for Eugenia
 D. Garner the sum of 227.74

& to the same as heas? for A. D. Garner 227.74
\$910.96

Taking receipts for the same, which accounts for the
 purchase money aforesaid? Respectfully submitted

Jos. J. Lawrence

Wm M Jones

KNOW ALL MEN BY THESE PRESENTS, That we *William M Jones*

are held and firmly bound unto the Commonwealth of Virginia, in the just and full sum of *fifteen hundred* Dollars, for the payment of which, well and truly to be made, we bind ourselves, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this *21st* day of *February*, 185*3*

The Condition of the above Obligation is such, That whereas the above bound

William M Jones

has by a Decree of *the County Court of Southampton*

C pronounced on the *21st* day of *February*, 185*3*, in a cause therein pending wherein

Plaintiff and

been appointed Commissioner to make sale of certain the said cause described.—Now if the said

Defendant,
Estate in

shall faithfully discharge duties as such Commissioner under said decree, then this obligation to be void, else to remain in full force and virtue.

Signed, Sealed, and delivered)
in presence of }

M. M. Jones **L.S.**

Elisha Jones **L.S.**

Jos. J. Lawrence **L.S.**

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