1861-019 SOUTHAMPTON COUNTY CHANCERY PAPERS DAY vs. DAY et al 2/1861

other SURNames: Comann, Hart, Coman, Pope

Day

v. Bill & answer

Day &c.

1849 December. Decree as filed

1850 Feby. Report.

" Mar " Confm.

1861 Feby. Pet: of A. L. Norman

& Decree as filed to deliver land

fees paid

To the worshipful County Court of Southampton County in Chancery sitting —

Humbly complaining shew unto your worships your complainant William B Clay that some time since his father Richard Clay departed this life intestate, seized of a certain tract of land and leaving a widow Sarah I. Clay and four children, viz, Wm B. Clay Louisa Clay (who subsequently intermarried with John A L Leomann, became the mother of one child by the said Leomann, viz Aurelius Leroy Leomann (who is still living but under age) and died) Georgianna Clay (who subsequently intermarried with Etheldred Hart became the mother of two children both of whom are dead, and departed this life herself also) and Susan E Clay who has intermarried with the said John A L Leomann and is still living.

And your Complainant is advised that the said tract of land has descended to him together with certain others who are defendants hereto, viz one third, in value, of the whole of said land to the widow Sarah I. Clay as her dower, one fourth of the remaining two thirds to Wm B. Clay in fee-simple, one fourth to John A L Leomann during his natural life and after his death then to his son Aurelius Leroy Leomann in right of his mother Louisa, one fourth to Etheldred Hart during his natural life in right of his wife Georgianna, and the remaining and last fourth to John A. L. Leomann in right of his wife Susan.

And as your Complainants [illegible] ans.

ions for a division and ~~a~~ remidy at law and only relievable in equity, therefore he humbly prays that your worships would make Sarah B. Hay, Aurelius Leroy Leomann by his guardian ad litem L R Edwards, Ethelred Hart, and John A L. Leomann wife parties defendant to this bill, and compel them as full and perfect answers make to the allegations therein contained as if they had been thereunto more fully & specially interrogated; and that your worships would appoint Commissioners to make sale of the said land for the purpose of effecting a just and lawful division, and grant such other and general relief the premises considered as equity may dictate and the nature of Her case may require — and as in duty bound will ever pray &c ---

Kindred Hy

Separate Answer
of Sarah B. Hay, Aurelius L. Hay by his guardian ad litem L R Edwards, Ethelred Hart and John A L. Leomann wife —

These defendants saving all advantage that may be taken of the errors & insufficiencies in the said bill, for answer say that they have no objection to the decree prayed for appointing Commissioners to make sale of the said land for division &c, and having answered pray to be hence dismissed.

Kindred
pd

Wm B. Hay
vs
Hay et alias

Decree

This day this cause was docketed by leave of court and Consent of parties and came on to be heard on the bill and answer and was argued by Counsel: — On Consideration whereof the Court doth order adjudge and decree that Harrison P. Pope, John Parham and William B. Hay be appointed Commissioners (any two of whom may act) — that they sell to the highest bidder, giving proper notice in their discretion, of the time and place, all that tract of land lying near "Pope's Store" in the County of Southampton, whereof Richard Hay died seized, that they require of the purchaser one fourth of the purchase money in cash and for the remainder several bonds with good security, ~~bearing~~ ordinary interest nine months after (and said Commissioners are ordered to withhold the title to said land until all of the purchase money is paid) — that they divide said money and said bonds as follows (first reserving enough of the money to pay the expenses of obtaining and executing this decree) and assign them thus (viz) one fifth of the whole amount (after deducting the expenses as aforesaid) to the widow Sarah J. Hay in lieu of her dower, one tenth of the remaining four fifths to Ethelred Hart in lieu of his life interest in the portion to which his wife Georgianna would have been entitled, and

one third of the remainder to Wm. B. Kay, one third to John A. Leonann in right of his wife Susan and one third to the guardian of Aurelius Leroy Leonann for the benefit of said infant (and if no guardian should apply in a reasonable time the said commissioners are directed to deposit the said infant's portion with the County Court or with the clerk of said Court as its agent, for safe keeping). — And the said Commissioners are ordered to report to the Court in order to a final decree.

But they are not to act until they have given in the clerk's office, a bond and security conditioned in the penalty of eight hundred dollars for the faithful performance of the foregoing duties.

To the Worshipful County Court of Southampton

Humbly complaining sheweth unto your Worships your Petitioner John A L Coman that he is the father of Anthony Lucy Coman who was and is plaintiff defendant to this suit who was entitled to one third of the proceeds of the sale of the said land, a bond for which amount was returned by the Commissioners to Court and deposited to the credit of the cause - That the said Anthony Lucy Coman died under age without owing any debts & that your Petitioner is his sole heir - In tender consideration of all which he prays that the Court will make an order that the bond of Benja E Pope & Sio C Pope for $57.19 be delivered to your Petitioner

Chamblis D Mapson
for Petitioner

Day
vs
Day

This day this cause came on again to be heard on the papers formerly read and on the petition of John A L Coman on consideration whereof the Court doth adjudge order and decree that the bond of Benja E Pope & Sio C Pope for $57.19 filed in this cause be delivered to John A L Coman

Feb 18th 1861 Rec'd of I N Edwards Clerk of the County Court of Southampton the bond of Benj'a E Pope & Sup C Pope of $57.19 mentioned in the within order

Jno. A. S. Cormack

Test
E W McClenney

Day

v 2 3 Copy Deeds

Day Bk

1850 Feby

Southampton County Court. December Term 1849.

William B Day — Pleff
against
Sarah B Day & others — Defts. } In Chancery

This day this cause was docketed by leave of Court and consent of parties and came on to be heard on the bill and answer and was argued by Counsel. On consideration whereof the Court doth order adjudge and decree that Harrison B Pope, John Barham and William B Day be appointed Commissioners (any two of whom may act) that they sell to the highest bidder, giving proper notice, in their discretion of the time and place, all that tract of land lying near "Popes Store" in the County of Southampton, whereof Richard Day died seized, that they require of the purchaser one fourth of the purchase money in cash, and for the remainder Several bonds with good Security on demand and bearing interest nine months after (and said Commissioners are ordered to withhold the title to said land until all of the purchase money is paid) that they divide said money and said bonds as follows (first reserving enough of the money to pay the expenses of obtaining and executing this decree) and assign them thus Viz, one fifth of the whole amount (after deducting the expenses as aforesaid) to the widow Sarah J Day in lieu of her dower, one tenth of the remaining four fifths to Ethelbred Hart in lieu of his life interest in the portion to which his wife Georgiana would have been entitled, and one third of the remainder to William B Day, one third to John A. D Comanr in right of his wife Susan and one third to the guardian of Aurelius Leroy Comanr for the benefit of said infant. and if no guardian should apply in a reasonable time the said Commissioners are directed to deposit the said infants portion with the County Court or with the Clerk of said Court as its agent, for safe keeping. And the said Commissioners are ordered to report to the Court in order to a final decree. But they are not to act until they have given in the Clerks Office a bond and Security conditioned, in the penalty of eight hundred Dollars for the faithful performance of the foregoing duties.

Costs $12.38.

A Copy Teste. J R Edwards Clk

To The Worshipful Court of Southampton County

We Harrison P. Pope &

John Barkum (Commissioners to the above Deed) (Day or Day December Term 1849) Sold on the 28th day of December 1849 All the land named in said deed after giving sufficient notice of time, and place of sale; at public auction To Benj. E. Pope for Two hundred & sixty six & 66 cts — one fourth Cash or enough to defray the expenses of said deed, and the balance on a credit of nine months — and have paid out the monies arising therefrom as follows Towit —

Amt bill for		$266.00
To Paid Commissions	$13.30	
" Do Clerks fee	2.38	
" Do Lawyers fee	10.00	
" " Dyer	2.00	27.68
Nett Balance distributed as directed		$238.32
To paid 1/3 to Sarah B. Day	$47.66.4	
" " 1/10 of Remainder to Ethelred Hart	19.06.5	
" " 1/3 of Balance to Wm B. Day	57.19.7	
" " 1/3 " " " J. A. L. Coman	57.19.7	
" Returned 1/3 to the County Court the portion allotted to Junius Leroy Coman infant child	57.19.7	238.32

Respectfully submitted this 18th day of Febry 1850. by

Harrison P. Pope Comm

E. A. Hicks

Receipt

2

1850 Nov 27th Rec'd of Jno. Barham & H. P. Pope Commissioners appointed to sell the Land of belonging to Sally Day myself in right of my wife & others Ben. E. Pope's Bond for Nineteen Dollars & 06/100 and 5 mills ~~bonds paid~~ dated the 28th day of Dec 1849 and due nine months after date in favor for my portion of said land

E Thul D A Hall

J. A. L. Comans's
Receipt

1850 March 11th Rec.d of Harrison Poss and John Barham Commissioners appointed to lay off the Land belonging to Polly Ivey myself in right of my wife and others Ben E. Poss bond for fifty seven dollars and 19/100 dated the 28th day of Decr 1849 and due nine months after date infavor for any portion of said Land.

Ben E Poss

for John A. L. Bowden

John. I. Knudsen's

Receipt for

Obtaining Deed

Received of Harrison P. Pope one of the Commissioners acting under a decree from the County Court of Southampton sitting in chancery to sell the land belonging to the ~~dec'd~~ heirs of Richard B Kay, the sum of ten dollars in full for attending said decree.

Febuary 14th 1850 -

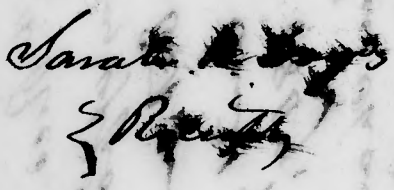
Jno I. Kindred
Atto at Law

William B. Hays
Receipt

1850 Janry 26th Recd of N. P. Pope & John Barham ~~the sum of~~ Commissioners appointed to sell the land of Richard B Days Est. by a decree obtained for that purpose December term 1849 the sum of fifty seven Dollars 68/100; on a Bond executed by Benj. E. Pope the purchaser of said land for that amount the same being my proportion of the part of the nett proceeds of said land

William B Day

Witness
James K. Burns



1850 January 26th Recd of A. E. Pope & John Barbee
Commissioners appointed to sell the land of
Richd. B. Bays Est ~~a Bond Executed~~ by a decree
of the County Court of Southampton at January
December term 1849, a Bond executed by Ann
E. Pope the purchaser of said land, for the
sum of forty eight Dollars & was the same being
my proportionable part of the next proceeds of the
sale of said land

Test

Collen W Barnes

Sally Bays

John. Barbars

Receipts

1849 January 28th Recd of Harrison P. Pope (one of the commissioners acting under a decree of the County Court of Southampton December Term 1850 Day vs Day) the sum of Two Dollars in full for my services as Crier of the land named in said decree ——

John Barham

Enfield NC. January 17th 1861.

Mr Post

Dear Sir

Since I received your last letter I have consulted a lawyer relative to the bond due my deceased Son by you now in the clerks office of Southampton Co. he informed me that all that was nessesary was to prove to the court the death of my Son & the court would instruct the clerk to deliver the Bond over to me I now enclose you the evidence of his death a certificate from Capt. S L Fremont the Gen Superintendant of this Road, also one from the Rev Jno G Whitfield who preached his funeral & attended his burial which I suppose will be sufficient, Mr Whitfield told me his Brother Robert would attend to the business for me as he always attended Southampton Court, now will you please hand him these two certificates & ask him to attend to it for me & get the bond out of the office on monday next (it being court day) and deliver the bond to you & you then can forward me the money for Mail you can pay him whatever his price will be & deduct it from the amt due on the bond, should Mr Whitfield not be at court you can get any lawyer you choose to attend to it Please be so kind as to have it attended at this court & you will greatly oblige

Your Obt Friend
John A L Corcoran

P.S If I can possibly ~~can~~ come over I will come to Newsoms on Saturday morning on the 12th & come to yr house from Newsoms & go with you to court. Should I not come please attend to the business for me & forward the money as early as you can. I want to send my little daughter to school.

The Land was sold under a Decree of the Court by A P Pope & Jno Basham as Comrs and bond was made payable to the Son of John & L Comann an infant & was deposited in the Clerks office This Land ~~later~~ belonged to the heirs of Richd B Day. Jno L Comann married one of the Daughters of Day, who was the mother of this Child, the mother died before the Land was sold, denied the sale, Comann has married another one of Days Daughters Since which time, that Child to whom the Bond was made payable, has been killed as per evidence herein annexed.

please say To whom This Bond belongs, if To Comann say how I can get it out of the office Comann want the money, and I wish To pay it

B E Pope

Give E Mapenburg these papers let him To get the bond out of the office if he can & send it to me by you Take Mapenburg aside that I may send A To Comann also fetch me back this letter

B E Pope

The Land was sold 8 or 10 years ago

Know all men by these presents that we John Barham Harrison
Pope & Wm. D. Clarke

are held and firmly bound unto the Commonwealth of Virginia in the just and full Sum of Eight hundred ——— Dollars to the payment whereof well and truly to be made we bind ourselves our heirs executors and administrators jointly and severally firmly by these presents. Sealed with our Seals and dated this 25 day of December 1849

The Condition of the above obligation is such that whereas by a decree of the ~~Circuit Superior~~ Court ~~of Law and Chancery~~ for the County of Southampton pronounced on the 14 day of November 1849. in a Suit in Chancery therein depending between Day and Day ~~Pl~~ ——— ~~Plaintiff~~ and Barham & Pope. ~~Defendants~~ the above bound were appointed Special Commissioners for the purposes set forth in the said decree. Now if the said Barham & Pope shall faithfully discharge their duties as such Commissioners under the decree aforesaid then the above obligation to be void or else to remain in full force and virtue —

Witness

John Barham (Seal)

Harrison P. Pope (Seal)

W. D. Clarke (Seal)

In the Clerk's Office of Southampton Circuit Superior Court of Law & Chancery for Southampton County on the 25 day of December 1849

This day W. D. Clarke ——— this Security to the above bond made oath and saith that his estate after the payment of all his just debts is worth the Sum of Eight hundred Dollars —— the penalty of the said bond

W. D. Clarke (Seal)

Subscribed & sworn to before me the day & year aforesaid

J. R. Edwards Clk