

1865-003

SOUTHAMPTON COUNTY
CHANCERY PAPERS

DREWAY vs. PRINCE and Wife et al

4/1865

see also Suit of same style 1868.

other surnames, Holt, Malloy,

Drewry

Bill. ansr to

Prince of

1864 Dec. Dec. as filed to
1865 March. Report

" " Conf. E. C. Prince & Co
to them

Mr H. Drewry

to them

[Faint, mostly illegible handwriting in the right margin, possibly bleed-through from the reverse side.]

To the Worshippful County Court of Southampton County
In chancery - December term '64

Your Complainant William H. Drury respectfully
represents that his brother James H. Drury departed this life during
the present year having previously executed his last will and testament
which was duly admitted to probate in the County Court of this
County at the term thereof 1864, a copy of which is herewith
filed (marked A) as part of this bill - A copy of the
last will and testament of James Holt who reported this
life in the year 1861 and which was admitted to probate in
the County Court of said County at the term thereof 1861
is also filed as part of this Bill (marked B)

The said James H. Drury by his said will devised
bequeathed his negro - slaves and chattels in part to your complainant
and one third - to the children of Mary Jane Mallory deceased
whose names are Martha E., Mary F. and ^{Mary} Louisa Mallory
one third and to Mrs Martha F. Price ^{all minors} ~~and the wife of~~
Wm E. Price one third, with certain conditions named
in the said will.

Your Complainant therefore prays as he is
without remedy save in a Court of Equity that the
Court will make the last named parties defendants to
this bill and compel them to answer &c -

That Commissioners may be appointed to make a division
of the said slaves of which the said James H. Drury died
possessed in accordance with his said will and that of
the said James Holt -

And pray such other and several relief as equity
may dictate and the nature of the case may require -
He will ever pray &c -

Ans J. Kincaid
Pl.

The first and several answers of of
William E Prince & Martha F. his wife, of Martha
E. Mallory Mary F. Mallory and Anna Louisa
Mallory (the three latter minors) children of Mary
Jane and James Mallory, who answer by
J.R. Edwards hereby appointed Guardian ad litem by
County Court of Southampton County to a bill filed
against them by in the said Court by Wm H.
Drewry.

These defendants for answer say
that they have no objection to the decree prayed for
and having answered pray to be hence dismissed with
the costs &c.

I I Kinred P.D.

Wm H. Drewry

by ~~Wm E. Prince~~ ^{Decey} ~~Shirley~~ ^{Walters}

This cause was this day heard on the bill and Exhibit
its filed therewith the answer thereto together with the reply
therein and was argued by Counsel - On Consideration whereof
the Court with adj. de ader and decree that James Drewry
Joseph W. bland, John Williams and Francis T. Ridley be and
they are hereby appointed Commissioners (any three of whom
may act) that they divide the negro-slaves of which James
H. Drewry died possessed into three equal shares or as
nearly so as practicable except those received by the said
James by the last will and testament of his Aunt / Mrs Nancy
Walt which they are hereby directed to assign to Wm H. Drewry
~~and~~ allot or assign one just share to Martha F. Prince
wife of Wm E Prince - one share or Third to the children of
Mary Jane Mallory to wit Martha E. Mallory, Mary F.
Mallory and Anna Louisa Mallory to be held by them in
equal shares or undivided for their equal benefit - ^{requiring the payment of small sums from one to another to equalize said division} and the
other third to Wm H. Drewry - All of the said negro slaves
to be held by the said parties hereto named subject to the Condi-
tions of the will of the said James H. Drewry and Nancy Walt -
And the said Commissioners are directed to report to the Court in order
to a final decree.

Drumry

to { Co. Deerd

Prince Alfred &

Southampton County Court December Term 1864.
William H Drewry

Plaintiff

In Chancery

against
William E Prince & Martha F. his wife & Martha E. Mary F.
& Anna Louisa Mallory infants by L R Edwards their guardian
ad litem

Defendants

This cause was this day heard on the bill and exhibits filed therewith, the answer of thereto together with the replication and was argued by Counsel. On consideration whereof the Court doth adjudge order and decree that James Drewry, Joseph W Cloud, John Williams and Francis J. Ridley be and they are hereby appointed Commissioners (any three of whom may act) that they divide ~~divide~~ the negro slaves of which James H Drewry died possessed into three equal shares or as near so as practicable except those received by the said James by the last will and testament of his aunt Mrs. Nancy Holt which they are hereby directed to assign to Wm H. Drewry - and allot or assign one just share to Martha F Prince wife of Wm E Prince - one share or third to the children of Mary Jane Mallory to wit. Martha E Mallory, Mary F. Mallory and Ann Louisa Mallory to be held by them in equal shares or undivided for their equal benefit and the other third to Wm H. Drewry - requiring the payment of Small Sums from one to another to equalize said division - All of the said negro slaves to be held by the said parties herein named Subject to the conditions of the wills of the said James H Drewry and Nancy Holt. And the said Commissioners are directed to report to this Court in order to a final decree.

A Copy

Teste

L R Edwards. 66

1865 March 6th

To the Court of Southampton City V^a

Pursuant to the foregoing decree we the undersigned Commissioners proceeded to carry out the same the statement which follows will show our proceeding 1st the valuation of all the slaves, 2nd the division into three equal parts to the parties as directed in your decree.

Theophilus	\$5000
Austin	4500
Monroe	4000
Catherine	4500
Susan & child	3500
Martha	2500
Harry	2500
Giles	3000
	<u>32500</u>
	<u>10833</u>

Lot No 1 was drawn by
 Dr Wm & Prince & Wife &
 Monroe \$4500
 Catherine 4500
 Harry 2500
 What to pay to Lot 1 \$11000
 No 3 - 3000
\$10500

Lot No 2 was drawn by Martha
 E. Mary & Anna & Mallory
 Susan & child \$5500
 Theophilus 3000
\$10500

Lot No 3 was drawn by W & Denny
 Martha \$2500
 Austin 4500
 Giles 3000
10000
 To be paid by W & Denny 3000
\$10500

Respectfully Submitted,

John Williams
 Jos. W. Claud
 L. J. Ridley

Nancy Holts
will

Drury
& } Exhibit

Prince & wife &

In the name of God, Amen, I Nancy Holt of the County of Southampton and State of Virginia, do make and publish this to be my last will and testament in manner and form as follows, hereby expressly revoking all will and testaments heretofore made by me, to wit:

Item 1st I give to my three nieces, Nancy D. Martin, Frances J. Gundy and Mary E. Short one thousand dollars ^{each} under this provision, if either of the above named parties die without issue to attain the age of twenty one years or marry, it is my will and desire that the surviving sister or sisters or their descendants shall heir the portion of such deceased party. Such descendants taking the share which their deceased parent would take if living, provided such descendants live to attain the age of twenty one years or marry.

Item 2^d I give to my two nieces Nancy J. Drury and F. A. V. Mason one thousand dollars each, under this provision if they leave any descendant to arrive to the age of twenty one years or marry, otherwise if they or either of them should leave no such descendants such legacy or legacies I direct to be returned to my estate for the benefit of my residuary legatees.

Item 3^d I give to my niece Martha F. Drury one thousand dollars provided she leaves any descendant who may attain the age of twenty one years or marry, otherwise I give the said legacy to her surviving brothers or brother or their descendants, if such descendants or descendant attain the age of twenty one years or marry, such descendants taking the share which their deceased parent would take if living, if no such descendant then the said legacy is to revert back to my estate for the benefit of my residuary legatees.

Item 4th The specific legacies given in the first, second and clauses of my Will I expect to be raised and paid out of money due my estate, but should it be ascertained after a settlement of my just and legal claims that my said moneyed estate is insufficient to pay the said legacies in full, it is my desire under such circumstances that the said legacies be scaled among the said legates taking the same proportion from each of said legacies. It is not my will or intention that my servants shall be sold to pay such legacies or for any other purpose, but to be provided for as I shall direct hereafter direct.

Item 5th It is my will and desire that all my slaves be divided into three equal parts, one third of the same I give to my brother Sam^l. Drury, one third to my brother James Drury provided they live to receive them, but should either or both die before getting possession of them, then I give the said slaves intended for them to such of their children as may attain the age of twenty ^{years} ^{one} or marry, such descendants taking equally the share of their respective parents. The remaining third of my slaves I give to my two nephews William H. and James H. Drury equally divided between them, on this condition that should either of them die leaving no issue, I give his portion to the survivor and should both die leaving no

if one I give his portion to the ~~survivor~~ child or children to arrive at the age of twenty one years or marry I give their portion and all their interest to my brothers Samuel and James Drury in the same manner and with the same directions and provisions as applied to the other property herein given to them.

Item 6. I give to my two brothers, Samuel & James Drury to be equally divided with the same provisions and in the same manner as applied to the other property between them two thirds of the balance of my estate of every kind ~~property~~ herein before given them. - the remaining third of said balance I give to my two nephews William H & James H Drury with the same provisions and in the same manner as their portion of my slaves hereinbefore is given to them, that is, if they both die without child or children to arrive to the age of twenty one years or marry, the same with all profits arising from it, is to go to my brothers Samuel and James Drury in the same manner and with the same provisions as applied to the gift of their portion of my slaves -

Item 7. I constitute and appoint my brothers Samuel & James Drury my whole and sole executors to this my last will and testament and hereby request the Court to which this will may be presented for probate not to require my said Executors above named to give security or obtaining administration on my estate -

In testimony whereof, I have hereunto set my hand and Seal this 22^d day of February 1860.

Signed and acknowledged before us
Present at the same time.

Nancy Holt. (Seal)

John W. Grizzard
Fabian G. Harris.

At a Court held for the County of Southampton August 19th 1860

This last will and testament of Nancy Holt dec^d was proved by the oaths of John W. Grizzard and Fabian G. Harris the subscribing witnesses thereto and ordered to be recorded and on the motion of Samuel Drury and James Drury the executors therein named who made oath and entered into bond and acknowledged a bond in the penalty of fifty thousand dollars conditioned according to law but without security the will directing that none should be required) certificate is granted them for obtaining a probate of the said will in due form.

Teste.

JR. Edwards

Attest. Teste JR Edwards

Is M. Drury's

Will.

Drury

is } Exh't:

Prince & wife

In the name of God, Amen, I James A Drewry of the County of Southampton, State of Virginia, do make and publish this to be my last Will and Testament in manner and form following, that is to say.

Item 1st I give my tract of land to my brother William A Drewry provided he will pay two thousand dollars as I will hereafter direct. I also give him one third part of the balance of my estate. Should my said brother die leaving no will disposing of this property I then direct it shall descend to his children or such of them as may arrive to the age of twenty one years or marry. If there should be none I then give the said property to my nieces & nephews descendants of my sisters Mary Jane Mallory and Martha F Prince or such of them as may live to such age or marry.

Item 2nd I give one third part of my negroes & money to my three nieces, Pattie, Mollie and Anna Mallory, also one thousand ^{dollars} to be paid by my brother for the consideration of the land at such time as he is put in possession of the same provided my said nieces live to arrive to the age of twenty one years or marry. Should either die before such period then to the survivors & if all three should die before such period then the said property shall descend to my nieces & nephews descendants of my sister Martha F Prince & my brother Wm A Drewry or such of them as may arrive at the age of twenty one or marry. And furthermore I appoint my brother Wm A Drewry guardian of this property for my said nieces & I desire that this property shall not be moved from this County.

Item 3rd I give one third part of my negroes & money to my sister Martha F Prince during her natural life. also one thousand dollars for the same period. the one thousand dollars to be paid by my brother for the consideration of the land when he is put in possession of the same. At my said Sisters death the said property shall descend to her child or children or such of them as may arrive to the age of twenty one years or marry, and if none then the said property shall descend to my nephews & nieces descendants of my brother Wm A Drewry & my sister Mary Jane Mallory or such of them as may live to the age of twenty one years or marry.

I constitute & appoint my brother Wm A Drewry my whole & sole Executor to this my last Will and Testament. I request of the Court before which this will may be brought for probate not to require Security from my Brother, Administrator of my Estate. In testimony whereof I have hereto set my hand & seal this 5th day of September 1861.

Assigned & acknowledged
in the presence of {

James A. Drewry

(Seal)

Fabian S Harris
David R Newsum.

At a Court held for the County of Southampton on the 18th day of July 1864
A writing bearing date the 5th day of September 1861 purporting to be the last Will and
testament of James A Drewry dec^d was produced in Court in order to be proved and the
subscribing witnesses thereto being in the Confederate Service as Soldiers, John A Peters and
David A Drewry being sworn and examined and from their evidence it is the opinion of the
Court that the said writing and the signature of Jas A Drewry thereto is wholly in the
hand writing of the said Jas A Drewry Whereupon it is ordered that the said writing be
recorded as and for the last will and testament of the said James A Drewry dec^d And on the
motion of William A Drewry the executor therein named who made oath and entered into and
acknowledged a bond (the will directing no security to be taken) in the penalty of fifty thousand
dollars conditioned as the law directs. Certificate is granted him for obtaining a probat of the
said Will in due form -

Teste

J R Edwards Clk

Attest

Teste

J R Edwards Clk