

1867-1/8

SOUTHAMPTON COUNTY
CHANCERY PAPERS

WHITFIELD VS. WHITFIELD et al 12/1867

Other SURNAMES: Hargrave,
BRYANT, Ferguson

Mary Whitfield

or 3.

Geo M. Whitfield, bal.

Deere

1867 Sept. Deere as filed

" " Nov. Report.

" " Decr. Report. Confirmed

County

To the worshipping County Court of Southampton,
In Chancery

Humbly Complaining Respectfully represents to your worshipps, your Oratrix ^{Mary Whitfield} as follows -

That John Hargrave departed this life in the year 1863, having duly executed his last will and testament which was admitted to record in the County Court of the said County, on the fifteenth day of February in the year 1864, - And a copy of the same is hereinth filed as part of this Bill, marked A.

By the said will, the said John Hargrave gave and devised to your Oratrix together with George W. Whitfield of ~~the County of Southampton~~ ^{the County of Southampton} and Margaret Ferguson wife of Elliott Ferguson a certain tract of land described in the said will, situated in the said County, and bounded by the lands of Samuel Vick and others, which said tract of land is supposed to contain four hundred acres more or less, and was devised to the said parties by the said testator, in equal undivided shares; to the three for names absolutely in fee, but with certain conditions - the said Margaret Ferguson, as will be seen by reference to the said will.

Your Oratrix the said Mary Whitfield is desirous of having a division of the said real estate, and being without remedy save in a Court of Chancery as ⁱⁿ this ~~Worshipping~~ Court, she therefore prays that discreet and proper persons may be appointed to allot or assign to each one of the said parties such portion or share as each may be justly and legally entitled to -

that the said George W. Whitfield, Lydia Bryant and Albert Bryant her husband, Margaret Ferguson and Elliott C. Ferguson her husband, all of whom are adults, may be made parties defendant to this Bill, and compelled to answer its allegations specially so that your worship would grant such further and general relief as equity may dictate and the nature of the case may require -

And as on duty bound your nature will ever may

Jno. I. Kendrick
per

The Joint and Separate Answer of
Elliott C. Ferguson & Margaret Ferguson, his wife
to a Bill filed against them in the County Court of
Southampton County, by Mary Whitfield.

These defendants, for answer to so
much of the Complainant's Bill, as they are advised,
it is material for them to answer, say -

that they have no objection to the Court's
granting a decree appointing Commissioners to de-
termine the real estate as hereinafter -

and having arrived pray to be dismissed, with
their costs &c.

Jno. I. Kendrick
per

Mary Whitfield
or

George W. Whitfield & others

Decree

This Cause was this day docketed by leave
of Court and Consent of parties and by the like leave and Con-
sent came on to be heard on the Complainant's Bill, the
together with the Exhibits therewith filed, the Answer of the
Defendants with the Replication thereto, and was argued
by Counsel: On Consideration whereof the Court doth adjudge
order and decree that Thomas B. Morrill Samuel Vick
Parker D. Story and Goodwyn D. Leutler (any three of
whom may act) be and they are hereby appointed Commis-
sioners for the following purpose, - that they divide

and devised by John Hargrave in his last will and tes-
tament to Mary Whitfield, George W. Whitfield, Lydia
Whitfield and Margaret Ferguson ~~as directed by the~~
~~last testament~~ ^{by proper notes and books} and allot or apportion one just and equal
share to each of the said four parties, that is to say
one share to Mary Whitfield, one share to George
Whitfield one share to Lydia Bryant and her hus-
band Albert Bryant and the remaining share to Mar-
garet Ferguson and her husband Elliott C. Ferguson;
the said four parties as

and to state specially Their reasons therefor.

And in either case they are required to
report to the Court in order to a further decree.

Whitfield

& } Copy done

Whitfield &

Southampton September Court 1867.

Mary Whitfield

Pff

In Chancery

against
George W Whitfield & others

Plffs.

This cause was this day docketed by leave of Court and Consent of Parties and by the like leave and Consent came on to be heard on the Complainant's bill together with the exhibits, therewith filed, the answer of the defendants with the replication thereto, and was argued by Counsel. On consideration whereof the Court adjudge, order and decree that Thomas B Worrell, Samuel Vick, Parker A Story and Goodwin D Butler, any three of whom may act, be and they are hereby appointed Commissioners for the following Purpose - that they divide into four equal shares all the real estate bequeathed and devised by John Hargrove by his last Will and Testament to Mary Whitfield, George W Whitfield, Lydia Whitfield and Margaret Ferguson, and all to or assign by proper votes and bounds one just and equal share to each of the said four parties, that is to say, One share to Mary Whitfield, one share to George W Whitfield, one share to Lydia Bryant and her husband Albert Bryant and the remaining share to Margaret Ferguson and her husband Elliot C Ferguson: to be held and possessed by the said four parties as directed by the testator, in his said last will and Testament. The said Commissioners so acting are directed to employ the services of a competent Surveyor if deemed necessary by them or a majority of them; And if they should find that a division in kind of the said real estate cannot be effected consistently with the interest of the parties entitled thereto they are ordered to report such opinion to this Court and to state specially their reasons therefor. And in either case they are required to report to the Court in order to a further decree -

A Copy

Teste

LR Edwards Ck

Whitfield
to { Report

Whitfield

1867. Nov. 6th.

Agreeably to a Decree of the County Court of Southampton County, dated September Court 1867. - We the undersigned Commrs. having examined the lands bequeathed by John Horgrave to the parties mentioned in said Decree, and found it to be impracticable to make an equal division in kind among them, we have, by the mutual agreement of the said parties, divided the said lands between them as follows. - To Margaret Ferguson and her Husband Elliot C. Ferguson $47\frac{1}{2}$ acres land, more or less, bounded by their lands, and by the land of J^r. B. Jenkins, also the sum of thirty dollars to be paid to them by the other three legatees, to wit, ten dollars each, which said sum of \$30.00 they are not to refund under any Contingency or Circumstances. - The balance of the said lands we have divided into three equal parts in value, to the best of our judgment, and allotted to George W. Whitfield fifty two acres, more or less, on which stands the houses whereon Ex^{or} Tick formerly resided, and bounded by the lands of Samuel Tick, Joel Tick and M^{rs}. Polly Stephenson, and a new line between said George W. and his Mother, M^{rs}. Mary Whitfield, beginning at a small post oak in Samuel Tick's line, thence South, nearly three hundred yards to a forked sweet gum in a small branch, running through the field; thence down the run of the branch to a holly; thence S. 35° E. 5 poles to a red oak, near the end of old pond-dam; thence S. 5° W. 13 poles to a stringwood

standing on the run of said branch below the old dam, thence
down the run of the branch to a water oak, standing near
the path, below the old machine dam in Polly Stephenson's
line. — allotted to M^{rs} Mary Whitfield one hundred and
three acres, more or less, and bounded by the lands of Robert S. Barnes,
Samuel Tick, George W. Whitfield, as above described, Polly Stephenson
and a short new line adjoining the lands allotted to Lydia Bryant
and her husband, Albert Bryant, between M^{rs} Polly Stephenson
and Robert S. Barnes' corners, in the old machine run, — or a
little on the North side of the run. — And allotted to Lydia
Bryant and her husband, Albert D. Bryant, the tract of land
lying South of the old machine run, supposed to contain one
hundred and twenty acres, — and bounded by the lands of Robert
S. Barnes, Jacob Jordan's heirs, or assigns, Polly Bryant, G. D. Butler,
Margaret Backus, Polly Stephenson, and Mary Whitfield as
above mentioned.

Respectfully submitted to the Court.

Theo. W. Norrell.

Samuel Tick

Goodwin, D. Butler

Parlier, D. Story